

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BUNGE MILLING, INC.)
Petitioner,)
)
v.) PCB _____
) (Permit Appeal – Air)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

NOTICE OF ELECTRONIC FILING

TO: Don Brown, Clerk of the Board
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, IL 60605
Don.Brown@illinois.gov
(Via Electronic Mail)

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
epa.dlc@illinois.gov
(Via Electronic Mail)

PLEASE TAKE NOTICE that on February 13, 2023, **Bunge Milling, Inc.**, electronically filed with the Office of the Clerk of the Illinois Pollution Control Board the APPEARANCE OF THOR W. KETZBACK, APPEARANCE OF NORA J. FARIS, CERTIFICATE OF E-MAIL SERVICE and PETITION FOR REVIEW OF FEDERALLY ENFORCEABLE STATE OPERATING PERMIT AND REQUEST FOR STAY OF CONTESTED CONDITIONS, a copy of which is hereby served upon you.

/s/ Thor W. Ketzback
Thor W. Ketzback

Dated: February 13, 2023

Thor W. Ketzback
Nora J. Faris
Bryan Cave Leighton Paisner
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APPEARANCE

I hereby file my appearance in this proceeding, on behalf of Bunge Milling, Inc.

/s/ Thor W. Ketzback
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APPEARANCE

I hereby file my appearance in this proceeding, on behalf of Bunge Milling, Inc.

/s/ Nora J. Faris
Nora J. Faris

Nora J. Faris
Bryan Cave Leighton Paisner
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Chicago, IL 60601
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CERTIFICATE OF E-MAIL SERVICE

I, the undersigned, on oath state the following:

That I have served the NOTICE OF ELECTRONIC FILING, APPEARANCE OF THOR W. KETZBACK, APPEARANCE OF NORA J. FARIS, CERTIFICATE OF E-MAIL SERVICE and PETITION FOR REVIEW OF FEDERALLY ENFORCEABLE STATE OPERATING PERMIT AND REQUEST FOR STAY OF CONTESTED CONDITIONS by e-mail upon the following persons:

Illinois Pollution Control Board
 Attn: Clerk’s Office
 60 E. Van Buren Street, Suite 630
 Chicago, IL 60605
Don.Brown@illinois.gov
 Via electronic mail on February 13, 2023

Division of Legal Counsel
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794-9276
epa.dlc@illinois.gov
 Via electronic mail on February 13, 2023

That my e-mail address is Nora.Faris@bclplaw.com.

That the number of pages in the e-mail transmission is 560.

That the e-mail transmission took place before 4:30 p.m. on Monday, February 13, 2023.

/s/ Nora J. Faris
 Nora J. Faris
 Bryan Cave Leighton Paisner
 161 N. Clark St., Suite 4300
 Chicago, IL 60601
Nora.Faris@bclplaw.com
 314-259-2209

Dated: February 13, 2023

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Respondent)	

PETITION FOR REVIEW OF FEDERALLY ENFORCEABLE STATE OPERATING PERMIT AND REQUEST FOR STAY OF CONTESTED CONDITIONS

NOW COMES Petitioner, Bunge Milling, Inc. (“Bunge” or the “Company”), by and through its attorneys, who hereby petition the Illinois Pollution Control Board (the “Board”), pursuant to Section 40 of the Illinois Environmental Protection Act (the “Act”) (415 ILCS 5/40 *et seq.*) and 35 Ill. Adm. Code Part 105 and request a hearing before the Board to contest certain conditions contained in Federally Enforceable State Operating Permit (“FESOP”) 96020027, issued by the Illinois Environmental Protection Agency (the “Agency” or “IEPA”) on January 4, 2023 (attached as “Exhibit A”). Bunge further requests that the Board issue a stay of the challenged conditions during the pendency of this appeal. In support of its Petition, Bunge states as follows:

I. BACKGROUND

1. Bunge is the owner and operator of a grain elevator and corn milling facility located in Danville, Vermilion County, Illinois (the “Facility”).
2. Since 2003, the Facility has operated pursuant to a Clean Air Act Permit Program (“CAAPP”) permit issued by IEPA.
3. In 2011, Bunge submitted a FESOP application to IEPA for the Danville Facility. Bunge submitted a supplement to its application in 2013, providing the Agency with updated information

about the Facility's operations and emission units. In 2021, ten years after submission of the initial FESOP application, the Agency provided Bunge with a draft of the FESOP for the Company's review and comment.

4. In July 2022, Bunge submitted comments on the draft FESOP to IEPA, raising a number of practical and procedural issues with the permit, more fully described at Section II below. (Comments and supporting information attached as "Exhibit B.")

5. The Agency largely disregarded these concerns, and on August 5, 2022, IEPA issued a draft of the FESOP for public comment that contained numerous conditions Bunge previously identified as problematic during its initial review in July 2022.

6. Bunge reiterated its concerns with the draft FESOP in a set of formal comments submitted to the Agency on September 2, 2022, via the public notice and comment process. (Attached as "Exhibit C.") IEPA responded to those comments via email on January 4, 2023 (attached as "Exhibit D"), indicating, without a detailed explanation, that the Agency had rejected a number of Bunge's suggested revisions. The final FESOP permit (the "Permit" or the "FESOP") was issued by IEPA on January 4, 2023, and Bunge received the Permit on January 9, 2023. IEPA did not incorporate Bunge's reasonable comments and revisions in the final Permit, resulting in the imposition of permit conditions that are arbitrary, unlawful, inaccurate, and/or technologically and economically infeasible.

7. Bunge submits this Petition appealing the conditions outlined in Section II and requests a stay of those conditions pending the resolution of this appeal.

II. ISSUES ON APPEAL

a. Obsolete or conflicting construction permits must be superseded by the FESOP Permit.

8. Condition 1.c of the issued FESOP provides: “This permit supersedes all operating permit(s) for this location.”

9. However, the Facility remains subject to several historic construction permits, a number of which contain emission limits or conditions that are inaccurate or that have become obsolete. (See “Exhibit E” for construction permits referenced in this Section II.a.) For example, the historic construction permits identified in Table 1 below contain emission limits lower than those in the issued FESOP, creating inconsistent compliance obligations with respect to the listed emission units.

Table 1. Inconsistent Emission Limits in Historic Construction Permits

Construction Permit No.	Date Issued	Emission Unit	Construction Permit Limit	FESOP Limit
11050002	8-1-2011	4880-0034-0007	PM 0.25 lbs./hr. 1.1 tpy	PM 0.77 lbs./hr. 3.38 tpy
C7203005	6-26-1984	4900-0005-0001	PM 0.23 lbs./hr. 8.5 tpy	PM 0.47 lbs./hr. 2.07 tpy
82020007	6-28-1982	4860-0018-0049	PM 0.5 tpy	PM 1.13 tpy

10. Several historic construction permits contain implied restrictions in the form of operational limits—such as caps on hours of operation or on total throughput—which numeric emission limits were based upon. For example, Construction Permit 87010029 (issued February 25, 1987) contains an implied limit of 8,100 hours of operation per year, and Construction Permit 96010107 (issued January 26, 1996) contains implied limits of 8,112 hours of operation per year or 420 tons

per hour of throughput. These implied limits conflict with the FESOP and subject the Facility to inconsistent compliance obligations.

11. Other historic construction permits contain specific recordkeeping requirements not reflected in the FESOP. For example, Construction Permit 02080017 (issued August 27, 2002) requires the Facility to maintain a file of estimated emissions from the units covered by the permit—a requirement that is absent from the FESOP.

12. In its comments to the draft FESOP, Bunge suggested revising Condition 1.c to include all construction permits covering the Facility, in addition to all existing operating permits. Bunge requested this change to ensure that the Facility would not be subject to inaccurate or obsolete conditions in historic construction permits that could conflict with Bunge’s FESOP obligations.

13. The Agency indicated in its response to Bunge that “[c]onstruction permits in Illinois cannot be superseded by an operating permit.” (See “Exhibit D.”) However, the Agency invoked no statutory or regulatory basis for that assertion, and existing guidance on supersession of construction permit conditions undermines the Agency’s position.

14. Although the U.S. Environmental Protection Agency (“US EPA”) has rejected permit supersession conditions in the past, it has done so specifically in the context of Title V permits—not FESOPs. *See, e.g.*, US EPA, *Supersession and Credible Evidence Language in Title V Permits* (July 28, 1998) (attached as “Exhibit F”). US EPA’s rationale rests on the premise that a “Title V permit incorporates into one document and provides for the implementation of all applicable requirements of the Clean Air Act that apply to a permit holder.” *Id.* at 1. “By definition, applicable requirements” (such as construction permit conditions) “need to exist apart and independent of the Title V permit. Rescission of an underlying preconstruction permit by the

terms of a Title V permit would result in the nullification of the terms of the preconstruction permit as ‘applicable requirements’ which must be incorporated into future Title V permits.” *Id.*

15. The same “nullification” concerns do not apply in the context of a FESOP. The Facility’s FESOP does not incorporate state construction and operating permits by reference as “applicable requirements,” unlike a Title V permit (such as the Facility’s existing CAAPP permit, which *does* incorporate pre-existing permits).

16. Even in the context of Title V permits, US EPA has approved language designed to “alleviate the regulated community’s concern about enforcement of multiple permits or requirements.” *Id.* at 2. For example, US EPA has allowed the following language in Title V permits in lieu of an express supersession condition: “This permit shall be used as the primary document for determining compliance with applicable requirements established by previously issued permits. Compliance with the conditions of this permit shall be deemed in compliance with any applicable requirements as of the date of permit issuance.” *Id.*

17. Because the issued FESOP does not expressly supersede existing construction permits, the Facility could continue to be subject to compliance obligations (and the potential for enforcement of those obligations) for numerous construction permits—even though those permits contain emission limits or conditions that are outdated, incorrect, or in direct conflict with the terms of the FESOP. The lack of decisive language in the FESOP regarding which permit’s terms prevail in the event of a conflict or inconsistency augments this regulatory uncertainty.

18. Supersession of existing construction permits will not result in environmental harm. The problematic conditions in the construction permits are inaccurate and/or obsolete or have been replaced with corresponding conditions in the FESOP. Bunge will continue to comply with emission limits and testing, monitoring, and work practice requirements applicable to the Facility.

Supersession of outdated construction permits is merely a matter of ensuring regulatory clarity for the Facility moving forward.

19. In light of the foregoing, Bunge requests that Condition 1.c of the FESOP be amended to read: “This permit supersedes all operating and construction permit(s) for this location.” Alternatively, Bunge requests language affirming that the FESOP “shall be the primary document for determining compliance with applicable requirements established by previously issued construction permits.”

b. Permit Condition 9.a must be clearly limited to the context of an initial compliance demonstration.

20. Permit Condition 9.a provides: “Pursuant to 40 CFR 60.11(b), compliance with opacity standards in 40 CFR Part 60 shall be determined by conducting observations in accordance with Method 9 in appendix A of 40 CFR Part 60, any alternative method that is approved by IEPA or USEPA, or as provided in 40 CFR 60.11(e)(5).”

21. In its public comments to the draft FESOP, Bunge requested that Condition 9.a be revised to clearly limit application of the testing methods referenced in the permit to the context of an initial compliance demonstration. (*See* “Exhibit C.”) The Agency refused to amend the condition, noting that the “language in Condition [9.a] is taken from the underlying regulatory language” in 40 C.F.R. § 60.11(b). (*See* “Exhibit D.”)

22. Although the limiting language Bunge requests is not present in 40 C.F.R. § 60.11(b), the Agency ignored other relevant regulatory language that would support limiting Condition 9.a to the initial compliance demonstration context. For example, the compliance demonstrations for opacity in the FESOP relate to the particulate matter (“PM”) standards at 40 C.F.R. § 60.302, Subpart DD that focus on compliance with opacity limits *at initial start-up*. *See* 40 C.F.R. § 60.302(a) *et seq.* Because the § 60.302 PM standards (to which the opacity compliance

demonstrations in the FESOP relate) refer to initial demonstrations of compliance, Condition 9.a should be limited to that context.

23. Bunge therefore requests that additional language be added to Condition 9.a to clarify that the listed compliance determination methods apply only during an initial compliance demonstration.

c. Permit Condition 12.c must be revised to reflect correct emission unit names and emission limits provided by Bunge.

24. In its public comments to the draft FESOP (“Exhibit C”), Bunge requested the following revisions to Condition 12.c of the Permit:

- i. change PM10 emission limit for “Bldg. 102/105 General Aspiration” to 2.46 tons per year (“tpy”);
- ii. change hourly emission limit for “Bldg. 112 Vacuum” from 0.00 pounds per hour (“lbs./hr.”) to 0.01 lbs./hr.;
- iii. change annual PM10 emission limit for “Pneumatic Lift Receiver for WG260 Transfer” to 0.51 tpy;
- iv. change annual “PCM Hammermill” PM10 emission limit to 0.49 tpy;
- v. change annual “USG Secondary Extruder Transfer” PM10 emission rate to 3.00 tpy; and
- vi. change name of “#5 Pulvocron” at p. 20 of Permit to “#6 Pulvocron.”

25. The Agency did not incorporate these changes in the final FESOP. According to the Agency, “[t]he proposed changes to the emission limits were not supported by the application that was submitted prior to the public notice and comment period.” (See “Exhibit D.”)

26. The Agency’s contention is incorrect. Bunge provided relevant supporting information—including suggested emission limits and the justification for those proposed changes—to the

Agency in July 2022, ahead of the public comment period, which began on August 5, 2022. (*See* “Exhibit B.”) This information should properly be considered part of the Company’s FESOP application materials, as it was submitted during the pre-public notice period for the Agency’s review and consideration in connection with the permitting decision.

27. It is worth noting that it appears IEPA actually did attempt to incorporate some of Bunge’s suggested revisions. For example, Bunge requested that the PM10 emission rate for the “USG Hammermill” be revised to 0.49 tpy, and that revision was reflected in the final issued FESOP. Recommended changes to the emission rates for “Bldg. 105/115 General Aspiration” were also revised in accordance with Bunge’s recommendations. As noted above, the supporting information for these revisions was submitted to IEPA prior to the public notice period and was clearly reviewed and incorporated by the Agency in the final FESOP.

28. Meanwhile, the improper limits for the “Pneumatic Lift Receiver for WG260 Transfer,” the “PCM Hammermill,” and the “USG Secondary Extruder Transfer” appear to have been the result of a clerical error. For example, the correct values for the “Pneumatic Lift Receiver for WG260 Transfer,” the “PCM Hammermill,” and the “USG Hammermill” are listed in the permit, but the values appear to have been input incorrectly; they are off by one line in the table in Condition 12.c. To the extent these improper values are the result of a clerical error, IEPA has no valid objection to their revision.

29. The emission limits proposed by Bunge are derived from grain loading factors that are based on extensive stack testing data, past manufacturing guarantees, and operational parameters from equipment at the Danville Facility and similar grain handling/milling facilities operated by Bunge. These limits are achievable and can be demonstrated. In contrast, the challenged emission limits in the FESOP are inaccurate, not readily demonstrable, or simply infeasible. For example,

the FESOP lists the PM and PM10 emission limits for the “Building 112 Vacuum” unit as 0 lbs./hr.—a standard that is impossible to achieve.

30. Therefore, Bunge requests (i) reconsideration of its proposed emission limits and justification data previously submitted to the Agency and (ii) revision of the challenged limits as outlined in ¶ 24 above.

d. Use of a 365-day rolling measurement is unnecessary to demonstrate compliance with annual emission limits.

31. Condition 12.f of the FESOP requires Bunge to determine compliance with annual emission limits using a 365-day rolling total, calculated on a daily basis, for all 135 emission units at the Facility.

32. In its comments to the draft FESOP, Bunge requested that compliance with emission limits instead be determined using a 12-month rolling total, calculated on a monthly basis.

33. The Agency denied this request, stating that, because the permitted PM10 emissions of the Facility exceed 95% of the major source threshold, short-term emission limits and recordkeeping must be conducted on a daily basis “to ensure that the source never exceeds the annual emission limits on a rolling basis.” (*See* “Exhibit D.”)

34. However, the Facility’s potential to emit (“PTE”) of 98 tpy of PM10 is based on a theoretical 24/7/365 operating schedule, assuming that *all* equipment is running *all the time*. In reality, the Facility cannot operate all equipment at the same time, continuously. That fact is borne out by the Facility’s actual annual emissions of PM10, which have ranged between 27.3 and 32.9 tpy since 2011—well below the Facility’s PTE. Even assuming the Facility processed the maximum possible grain throughput, and based on the loading and flow limits set forth in Conditions 12.a-12.e, operated all equipment 24 hours a day year-round (which would never be the case in practice), the emission limits and the overall PTE still would not be exceeded.

Therefore, the likelihood of the Facility “exceed[ing its] annual emission limits” or the major source threshold under normal operating conditions (i.e., non-continuous operations at less-than-maximum throughput) is purely hypothetical, mathematically impossible and does not provide a sound reason for requiring calculation of emissions on a daily basis.

35. A 365-day rolling total is unnecessary to demonstrate compliance with permit limits and promises no additional environmental benefit over a 12-month rolling measurement. The 365-day rolling total emissions monitoring required by Condition 12.f is purportedly designed to ensure the Facility does not exceed its PTE for PM₁₀. Because it is substantially impossible for the Facility to exceed its PTE limits in the first place, IEPA’s imposition of a 365-day rolling limit rather than a 12-month rolling limit is wholly arbitrary and does not warrant such a significant increase in administrative burden.

36. IEPA has previously approved of 12-month rolling total recordkeeping for the Facility. Under the Facility’s CAAPP permit, for the portions of the process at issue in this appeal, compliance was demonstrated on a 12-month rolling basis, and the FESOP at Conditions 12.g. and 12.h. already utilizes a 12-month rolling total to demonstrate compliance for certain combustion units. *See* FESOP, Condition 12.i. A 12-month rolling total is practicably enforceable and has proven to be a workable method to measure and maintain compliance at the Facility. *See* U.S. EPA, Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and § 112 Rules and General Permits (Jan. 25, 1995) (requiring averaging times for emission limits to be practicably enforceable) (“Exhibit G”).

37. On the other hand, calculating emissions on a daily basis for all 135 emission units at the Facility would impose a significant administrative burden—assuming it is even possible for Facility personnel to catalog and calculate daily emissions for each of these sources.

38. In addition, the FESOP mandates certain housekeeping practices (including a requirement that air pollution control devices be checked daily) and supplies extensive work practice standards designed to minimize fugitive emissions and ensure compliance with relevant permit limits. *See* FESOP, Conditions 10.a and 11. These requirements, which are integrated into daily operations at the Facility, obviate the need to measure emissions on a 365-day rolling basis rather than on a 12-month rolling basis.

39. The 365-day rolling total and daily emissions calculations required by Condition 12.f are not administrable. Bunge requests that Condition 12.f be revised to accommodate its proposed 12-month rolling calculation method—a pragmatic approach that reduces administrative burden while continuing to assure compliance with relevant permit limits. Likewise, Bunge requests that references to “hours/day” or “daily” emissions in Conditions 23.a.vii and 23.a.viii be revised to “hours/month” or “monthly” emissions to align those provisions with Bunge’s proposed changes to Condition 12.f.

e. The Permit’s initial stack testing requirements are infeasible and unnecessary.

40. Condition 18.a.ii of the Permit requires Bunge to complete stack tests of all 135 emission units at the Facility within 90 days of permit issuance.¹ Per Condition 18.c, written test plans must be submitted at least 60 days prior to the required testing.

41. The 90-day stack testing requirement in Condition 18.a.ii is unnecessarily onerous, and the Agency’s abbreviated timeline for completion of the required testing is wholly impracticable.

¹ Note that, in its response to Bunge’s comments on the draft FESOP, the Agency appeared to limit the applicability of the stack testing requirement in Condition 18.a.ii to “emission units that have emissions of the pollutant of concern. . .and that are equipped with pollution controls. . .” (emphasis added). *See* Exhibit D. However, the FESOP does not contain explicit language limiting the testing requirements to emission units equipped with pollution controls. To the extent any stack testing requirements (either initial compliance demonstration or periodic monitoring requirements) remain in the final permit following this appeal, Bunge requests that those requirements be clearly limited to emission units equipped with pollution controls. Bunge further notes that such requirements should not apply to emission units for which equipment is properly characterized as inherent process equipment rather than pollution control equipment.

Coordinating onsite testing with environmental consulting firms and submitting written test plans within a mere 30 days of permit issuance is not realistic. Completion of stack tests and visual emissions observations for all 135 emission units in only 60 days following submission of the written test plans is similarly unworkable. The coordination required to schedule the tests, coupled with the multiple site visits necessary to complete the tests, would be expected to take much longer than the 60 days allotted.

42. Furthermore, stack testing is not physically possible for all emission units, many of which may lack the appropriate test ports or connections to conduct such testing. Other emission units are not reasonably and safely accessible. A representative stack test, as required by U.S. EPA's stack test guidance, may not be possible based on facility operations. *See* U.S. EPA, Clean Air Act National Stack Testing Guidance (Apr. 27, 2009), at 14–16 (“Exhibit H”). For example, not all of the Facility's 135 emission units are operated on a regular basis or at the same time as other units, and in some cases, equipment is idled indefinitely due to lack of customer demand for the product manufactured using that equipment. Stack tests for these units will need to be run under artificial conditions rather than in the context of actual production, producing test results that could not be considered representative of actual Facility operations. In addition, testing of all 135 emission units at the Facility will impose significant costs—including lost plant productivity during testing and the expense of the tests themselves (up to approximately \$6,000 per unit, not including potential modifications required to actually conduct the testing, such as installing test ports or building scaffolding or permanent platforms for access to certain units).

43. NSPS limits, such as those found in the FESOP, must be “achievable.” *See, e.g., Nat'l Lime Ass'n. v. Env'tl. Prot. Agency*, 627 F.2d 416, 430 (D.C. Cir. 1980) (new source performance standards must be “achievable” pursuant to Section 111 of the Clean Air Act) (“Exhibit I”); 42

U.S.C. § 7411(a) (“The term ‘standard of performance’ means a standard for emissions of air pollutants which reflects the degree of emission limitation *achievable* through the best system of emission reduction which. . .the Administrator determines has been adequately demonstrated.”) (emphasis added). In addition and by analogy, even certain non-NSPS state limits incorporated into the FESOP must be achievable. To be considered enforceable as a practical matter, emission limits must be coupled with “method[s] to determine compliance including appropriate monitoring, record keeping and reporting.” *See* U.S. EPA, Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and § 112 Rules and General Permits (Jan. 25, 1995), at 6 (“Exhibit G”). It follows, then, that compliance monitoring methods such as testing—which are part and parcel of the corresponding emission limits—must also be achievable.

44. The unreasonably short timeline allotted for conducting the required tests poses an insurmountable logistical challenge and cannot be considered “achievable.” Because the means to demonstrate compliance with an emission limit is considered a part of the overall limit, the scope of testing required by IEPA also unlawfully makes the FESOP’s emission limits more stringent than the standalone numerical limits issued in prior construction and/or operating permits. As such, Bunge requests that the 90-day stack testing requirement be removed from the FESOP. Elimination or revision of this requirement will not undermine compliance with the emission limits in the FESOP, as Conditions 10.a, 11, 12.f (revised in accordance with Section (d), above), and 18.a.i collectively would provide an adequate mechanism for monitoring and demonstrating compliance with permit conditions.

- f. **The 365-day rolling total emissions calculation requirement in Condition 12.f and the 90-day and 5-year stack testing requirements in Condition 18.a.ii are arbitrary, unnecessary to demonstrate compliance with Permit limits, and beyond the Agency's authority to impose.**

45. In addition to the 365-day rolling total emissions monitoring and 90-day stack testing requirements described in Sections II.d and II.e, respectively, the FESOP requires further stack testing of all emission units at least once every five years. *See* FESOP, Condition 18.a.ii.

46. Like the 365-day rolling total emissions monitoring and 90-day testing requirements, the five-year stack testing requirement is over-burdensome and unnecessary to demonstrate compliance with permit limits. Other monitoring and emission control requirements have historically been sufficient without the addition of a periodic stack testing requirement; for example, the Facility's existing CAAPP permit did not contain a requirement to regularly conduct stack testing of all emission units.

47. The stack testing requirements at Condition 18.a.ii (both initial start-up and periodic requirements) are arbitrary, unnecessary to protect human health or the environment, and beyond the Agency's limited authority to "fill gaps" in the regulatory regime for air emissions. The requirement to monitor emissions on a 365-day rolling total basis, rather than a 12-month rolling basis, is similarly flawed.

48. Although this petition focuses on a FESOP rather than a CAAPP permit, the CAAPP standards provide guidance as to the type of monitoring provisions that are necessary to ensure the adequacy and enforceability of a permit. The Facility would require a CAAPP permit if the FESOP provisions that limited emissions below CAAPP permit applicability thresholds were inadequate or unenforceable. Section 39.5(7)(d)(ii) of the Act provides, with respect to emissions monitoring requirements:

“[T]he permit shall: (ii) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), require periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of the source’s compliance with the permit. . .The Agency may determine that recordkeeping requirements are sufficient to meet the requirements of this subparagraph.”

415 ILCS 5/39.5(7)(d)(ii).

49. This provision affords the Agency limited authority to “gap-fill”—i.e., to include monitoring requirements where an applicable standard or permit limit does not otherwise include such requirements.

50. The federal counterpart to Section 39.5(7)(d)(ii)—40 C.F.R. § 70.6(a)(3)(i)(B)—has been interpreted by US EPA and federal courts as limiting environmental agencies’ ability to impose, via permitting actions, substantive requirements that are new or different from those contained in existing standards. *See Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1026–27 (D.C. Cir. 2000) (“Nothing on the face of the regulation or in EPA’s commentary. . .said anything about giving State authorities a roving commission to pore over existing State and federal standards, to decide which are deficient, and to use the permit system to amend, supplement, alter or expand the extent of testing already provided.”) (“Exhibit I”).

51. As a threshold matter, there is no “gap” for the Agency to fill here. State permitting agencies only possess gap-filling authority where an applicable requirement does not already have periodic testing or monitoring requirements. *See, e.g., Sierra Club v. EPA*, 536 F.3d 673, 675 (D.C. Cir. 2008) (“Where the emission standard lacks a periodic monitoring requirement *altogether*, the permitting authority must create one that assures compliance and include it in the permit.”) (emphasis added (“Exhibit I”). The FESOP limits are already adequately measured and monitored pursuant to the housekeeping requirements in Condition 10.a, the work practice standards in Condition 11, the ongoing emissions monitoring and recordkeeping under Condition

12.f (subject to that condition's revision to a 12-month, rather than a 365-day rolling total), and the initial and quarterly visual emissions observations at Condition 18.a.i., obviating the need for the additional, onerous monitoring requirements in Condition 18.a.ii.

52. Furthermore, even where gap-filling *is* permissible, the Agency may only impose requirements that are “*sufficient* to yield reliable data from the relevant time period that is representative of the source's compliance with the permit.” 415 ILCS 5/39.5(7)(d)(ii) (emphasis added); *see also* 415 ILCS 5/39.5(7)(p)(i) (Permits shall contain “compliance certification, testing, monitoring, reporting, and record keeping requirements *sufficient* to assure compliance with the terms and conditions of the permit.”) (emphasis added). The monitoring requirements in Condition 12.f (if revised in accordance with Section (d)), along with the initial and quarterly visual emissions observations required under Condition 18.a.i, are sufficient to yield reliable evidence of compliance with emission limits. The housekeeping and work practice measures in Conditions 10.a and 11 only strengthen the Facility's compliance demonstration. The addition of initial and five-year stack testing of all emission units far exceeds the level of monitoring required under the Act.

53. Factors that permitting authorities may consider in determining what constitutes “sufficient” monitoring include: (i) the variability of emissions from the unit(s) in question; (ii) the likelihood of a violation of the requirements; (iii) whether add-on controls are being used for the unit(s) to meet the emission limits; (iv) the type of monitoring, process, maintenance, or control equipment data already available for the emission unit(s); and (v) the type and frequency of the monitoring requirements for similar emission units at other facilities. *In the Matter of Public Service Company of New Mexico, San Juan Generating Station, Order Responding to Petitioners' Request*

That Administrator Object to Issuance of a State Operating Permit, Permit No. P062R2, at 19–20 (Feb. 15, 2012) (“Exhibit J”).

54. Based on these factors, emissions monitoring and recordkeeping on a 12-month rolling basis would be sufficient to ensure the Facility’s compliance with permit limits. This exact monitoring provision was previously used to ensure compliance under the Facility’s prior CAAPP permit, and the Facility’s emissions have been consistently below one-third of the Facility’s PTE since at least 2011.

55. The variability in emissions at the Facility largely falls within predictable ranges. The grain loading factors used to develop the emission limits for the Facility are based on extensive stack testing data, observed air flow rates, and operational parameters from the Facility and similar grain handling/milling operations operated by Bunge. Emission rates of Facility equipment would be expected to fall within the anticipated ranges established by these grain loading factors, making stack testing of all 135 units unnecessary.

56. The likelihood of a violation of the FESOP emission limits is low. To date, the current system of emissions monitoring employed at the Facility—recording emissions on a 12-month rolling basis—has been an effective means of demonstrating compliance with permit limits.

57. Add-on controls only apply to a small subset of emission units.

58. Facility personnel observe emission units on a regular basis to ensure proper operation of recovery equipment. For many pieces of critical air pollution control equipment, visual observations are conducted on a daily basis. It is in Bunge’s financial interest to closely monitor this equipment to ensure valuable product is not being lost in the form of uncaptured emissions.

59. Other existing permit requirements would provide adequate compliance assurance in the absence of the testing outlined in Condition 18.a.ii and the 365-day rolling total recordkeeping

required by Condition 12.f. For example, the FESOP requires adherence to proper housekeeping practices, including daily inspections of air pollution control devices and regular, adequate cleaning and maintenance of control equipment. *See* FESOP, Condition 10.a. In addition, the FESOP contains extensive work practice standards designed to ensure compliance with permit limits. *See* FESOP, Condition 11 (requiring, *inter alia*, regular inspection of certain operational and emission control equipment, periodic observations of visual emissions from plant processes, and development of an operating program to control fugitive emissions). Likewise, the quarterly visual emissions observations required under Condition 18.a.i. will provide a regular, reliable method for assessing emissions and compliance with permit limits. These existing requirements, coupled with emissions monitoring on a 12-month rolling basis under a revised Condition 12.f, are sufficient to assure compliance with permit requirements.

60. The monitoring requirements outlined in the FESOP are far more onerous than would be expected for similar facilities. For example, the Facility's prior CAAPP permit contained conditions that could be considered relatively standard for large-scale grain handling operations. The Facility's CAAPP permit did not contain the stringent initial and periodic stack testing required by the FESOP, and compliance was demonstrated on a 12-month rolling basis, rather than a 365-day rolling basis. The same is true of draft and final FESOP permits recently issued by IEPA to other agricultural facilities. *See, e.g.*, Final FESOP 183020AIY issued by IEPA to REG Danville, LLC for Biodiesel Plant (June 13, 2022); Draft FESOP 027807AAE issued by IEPA to The Maschhoffs, LLC for Feed Mill (Feb. 22, 2021); Final FESOP 077802AAC issued by IEPA to Gavilon Grain, LLC for Grain Elevator (Apr. 25, 2019) ("Exhibit K"). Other recent FESOPs issued by IEPA have lacked stringent 90-day and five-year stack testing requirements and have allowed for demonstration of compliance based on a 12-month rolling total. *See, e.g.*,

Final FESOP 097095AAD issued by IEPA to Honeywell Analytics, Inc. (Jan. 26, 2023); Final FESOP 031600CAC issued by IEPA to Ferrara Candy Company (Jan. 18, 2023) (“Exhibit K”).

61. The 365-day rolling monitoring requirement in Condition 12.f and the stack testing requirements imposed by Condition 18.a.ii are arbitrary, overly burdensome, and exceed the Agency’s gap-filling authority. Existing permit provisions—including relevant housekeeping practices, work practice standards, visual emissions observation requirements, and emissions recordkeeping in Condition 12.f (if revised in accordance with Section (d))—would be sufficient by themselves to demonstrate compliance with emission limits. Therefore, the Condition 18.a.ii initial and periodic stack testing requirements should be removed from the Permit or revised, and Section 12.f should be revised to require emissions monitoring on a 12-month rolling basis.

g. The Permit requirements for test plans do not align with standards defined in Agency regulations.

62. Condition 18.c of the Permit requires submission of written test plans to the Agency and specifies the information such plans must include. However, the requirements outlined in Condition 18.c exceed the requirements listed in the relevant regulation.

63. The Agency may not impose additional requirements via a permit beyond those already clearly delineated in codified regulations without subjecting those additional substantive requirements to the appropriate administrative procedures. *See, e.g.*, 415 ILCS 5/27; 415 ILCS 5/28 (“No substantive regulation shall be adopted, amended, or repealed until after a public hearing. . .”).

64. Specifically, 35 Ill. Adm. Code § 283.220 provides that a test plan is generally required to include: “(1) the purpose of the test; (2) the operating parameters; (3) the test methods; and (4) any other procedures that will be followed when conducting an emissions test. . .” 35 Ill. Adm. Code § 283.220(c)(1)-(4).

65. Meanwhile, the Permit issued by the Agency purports to require the following additional information that is nowhere referenced in the regulation governing the contents of test plans: “(i) the name (or other identification) of the emission unit(s) to be tested and the name and address of the facility at which they are located; (ii) the name and address of the independent testing service(s) performing the tests, with the names of the individuals who may be performing sampling and analysis and their experience with similar tests; (iii) the specific determinations of emissions and/or performance which are intended to be made, including the site(s) in the ductwork or stack at which sampling will occur; (iv) the specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of the maximum emissions, maximum operating rate, minimum control performance, the levels of operating parameters for the emission unit, including associated control equipment, at or within which compliance is intended to be shown, and the means by which the operating parameters will be determined; (v) the test method(s) which will be used, with the specific analysis method, if the method can be used with different analysis methods. The specific sampling, analytical and quality control procedures which will be used, with an identification of the standard methods upon which they are based; (vi) any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification; (vii) any proposed use of an alternative test method, with detailed justification; and (viii) the format and content of the Source Test Report.”
See Permit, Condition 18.c.i-viii.

66. The relevant regulation further provides that submission of a test plan is not necessary “where the source intends to use a standard test method or procedure.” 35 Ill. Adm. Code § 283.220(d)(2). In that circumstance, the source need only submit a notice including (i) the

purpose of the test and (ii) the standard test method or procedure to be used. *Id.* This flexibility granted by the regulation is not reflected in the permit conditions regarding test plans.

67. In light of the foregoing, Bunge requests that Condition 18.c of the Permit be amended (i) so that the required content of a test plan listed in the Permit is consistent with the requirements outlined in 35 Ill. Adm. Code § 283.220(c)(1)-(4) and (ii) to clarify that Bunge is not required to submit a test plan where it elects to use a standard test method or procedure pursuant to 35 Ill. Adm. Code § 283.220(d)(2).

III. REQUEST FOR STAY OF CONTESTED CONDITIONS

68. Bunge requests a stay of the contested conditions described in Section II of this Petition—i.e., Conditions 9.a, 12.c (but only as to the challenged emission limits), 12.f, 23.a.vii and 23.a.viii, 18.a.ii, and 18.c—during the pendency of this appeal.

69. The Board has the authority to grant discretionary stays of contested permit conditions and has exercised that authority “both when the Agency did and did not consent to such stays.” *Midwest Generation, LLC – Will County Generating Station v. IEPA*, PCB 06-156, slip op. at 5–6 (July 20, 2006) (citing *Community Landfill Co. and City of Morris v. IEPA*, PCB 01-48 and 01-49 (consolidated), slip op. at 4 (Oct. 19, 2000)) (“Exhibit L”).

70. The Board may consider the following four factors in evaluating the grounds for a discretionary stay: (i) whether a certain and clearly ascertainable right needs protection; (ii) whether irreparable injury will occur without the stay; (iii) whether an adequate remedy at law exists; and (iv) whether the petitioner has demonstrated a probability of success on the merits. *See, e.g., Bridgestone/Firestone Off-Road Tire Co. v. IEPA*, PCB 02-31, slip op. at 3 (Nov. 1, 2001) (citing *Community Landfill Co. and City of Morris v. IEPA*, PCB 01-48 and 01-49

(consolidated), slip op. at 5) (“Exhibit L”). In the present appeal, all four factors weigh in Bunge’s favor.

71. Bunge has a statutory right to appeal the contested conditions in the Permit. This appeal would be rendered moot if Bunge were forced to comply with the contested conditions during the pendency of this appeal. *See, e.g., Bridgestone/Firestone Off-Road Tire Co. v. IEPA*, PCB 02-31, slip op. at 3 (Nov. 1, 2001) (“[P]etitioner’s right to appeal the permit condition is a certain and ascertainable right that needs protection.”) (“Exhibit L”).

72. Bunge would suffer irreparable injury if required to comply with the contested permit conditions during the pendency of this appeal. For example, the stack testing requirements in Condition 18.a.ii of the Permit would involve substantial costs and would require significant efforts by Facility personnel to even *attempt* to comply. If no stay is granted, Bunge would be forced to comply (or attempt to comply) with permit conditions such as this one, which, as detailed in Section II above, are arbitrary, unlawful, inaccurate, and/or technologically and economically infeasible. “If the appeal is resolved in favor of [Bunge], but during [the pendency of the appeal, Bunge] complied with the contested conditions, the result would be that [the Company] had an unnecessary hardship imposed” upon it. *Community Landfill Co. and City of Morris v. IEPA*, PCB 01-48 and 01-49 (consolidated), slip op. at 5 (“Exhibit L”).

73. No adequate remedy at law exists outside this forum at this time.

74. Given the Agency’s imposition of unlawful, unnecessary, and unreasonable permit conditions as outlined in Section II above, Bunge has demonstrated a probability of success on the merits warranting a stay of the contested conditions.

75. A stay of the contested conditions will not result in any environmental harm. While the contested conditions are stayed, Bunge will continue operating in compliance with applicable

emission limits, as well as monitoring, recordkeeping and reporting requirements outlined in the uncontested provisions of the Permit.

WHEREFORE, for the reasons stated above, Bunge requests that the Board grant its petition to appeal the Permit issued by the Agency on January 4, 2023, and stay the conditions or portions thereof appealed herein for the duration of the appeal.

Respectfully submitted,

BUNGE MILLING, INC.

By: /s/ Thor W. Ketzback
Thor. W. Ketzback

Dated: February 13, 2023

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EXHIBIT A

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT -- NSPS SOURCE

PERMITTEE

Bunge Milling, Inc.
Attn: Paul Catterson
321 East North Street
Danville, Illinois 61832

<u>Application No.:</u> 96020027	<u>I.D. No.:</u> 183020ABT
<u>Applicant's Designation:</u>	<u>Date Received:</u> December 5, 2011
<u>Operation of:</u> Corn Mill & Grain Elevator	
<u>Date Issued:</u> January 4, 2023	<u>Expiration Date:</u> January 4, 2033
<u>Source Location:</u> 321 E. North Street, Danville, Vermilion County	

This permit is hereby granted to the above-designated Permittee to OPERATE emission unit(s) and/or air pollution control equipment consisting of:

Corn Receiving, Cleaning and Storage (Pre-NSPS):

Truck Dump #1 (5012-0001-0016) controlled by Baghouse Filter;
Hoffman Bldg. 301 Vacuum (5012-0010-0054) controlled by Baghouse Filter;
West Headhouse General Aspiration (5012-0005-0029) controlled by Baghouse Filter;
Railcar Dump Pit and Section D & E General Aspiration (5012-0007-0015) controlled by Baghouse Filter;
Track 6 Vacuum (5012-0010-0047) controlled by Baghouse Filter;
Cleanings Discharge (4870-0013-0015) controlled by Baghouse Filter;

Corn Receiving, Cleaning and Storage (NSPS):

Truck Dump #4 & W. Gallery Aspiration (5012-0005-0021) controlled by Baghouse Filter;
Cleaning North APM (4870-0013-0001) controlled by Baghouse Filter;
Bldg. 115 Corn Cleaning (4880-0034-0069) controlled by Baghouse Filter;
North Street Truck Dump #2 (5012-0002-0012) controlled by Baghouse Filter;

Dry Corn Milling, Processing and Products Handling:

Bemos Bagging (4870-0010-0055) controlled by Baghouse Filter;
Bagging General Aspiration (4870-0010-0030) controlled by Baghouse Filter;
Bagging Packer General Aspiration (4870-0013-0019) controlled by Baghouse Filter;
Bran Dryer Process (4880-0042-0057) controlled by Baghouse Filter;
Bran Sifter Process (4880-0042-0062) controlled by Baghouse Filter;
East Meal Dryer/Cooler (4880-0034-0054) controlled by Baghouse Filter;
West Meal Dryer (4880-0034-0059) controlled by Baghouse Filter;
Bldg. 105/115 General Aspiration (4880-0034-0001) controlled by Baghouse Filter;

Bldg. 102/105 General Aspiration (4880-0034-0027) controlled by Baghouse Filter;

Bldg. 105 Vacuum (4880-0032-0052) controlled by Baghouse Filter;

Bulk Loading White Goods (4870-0021-0001) controlled by Baghouse Filter;

Bldg. 104 Vacuum (4870-0015-0016) controlled by Baghouse Filter;

Bran Bin (4880-0042-0054) controlled by Baghouse Filter;

South Lunchroom Screening (4880-0034-0010) controlled by Baghouse Filter;

South CD Screening (4880-0034-0042) controlled by Baghouse Filter;

North CD General Aspiration (4880-0034-0048) controlled by Baghouse Filter;

North Lunchroom Screening (4880-0034-0019) controlled by Baghouse Filter;

Pack and Bulk Loading Bldg. 115 (4870-0013-0024) controlled by Baghouse Filter;

CAMAS/Bran Bldg. 115 (4880-0034-0077) controlled by Baghouse Filter;

Thru/Tail Stock Dryers Bldg. 115 (4880-0034-0071) controlled by Baghouse Filter;

Bldg. 115 Vacuum (4880-0032-0070) controlled by Baghouse Filter;

Track 2 Railcar Unloading Secondary Receiver (4870-0005-0003) controlled by Baghouse Filter;

Lab Filter (4932-0001-0001) controlled by Baghouse Filter;

1/2 Pulvocron Meal Receiver (4990-0005-0012) controlled by Baghouse Filter;

1/2 Pulvocron Visc Flour Receiver (4990-0005-0042) controlled by Baghouse Filter;

3/4 Pulvocron Meal Receiver (4990-0002-0010) controlled by Baghouse Filter;

9/10 Pulvocron Meal Secondary Receiver (4990-0004-0013) controlled by Baghouse Filter;

7/8 Pulvocron Meal Secondary Receiver (4990-0003-0010) controlled by Baghouse Filter;

Three (3) Mills (#3 Pulvocron (4990-0002-0019), #4 Pulvocron (4990-0002-0022), and #5 Pulvocron (4900-0001-0039)) controlled by Baghouse Filters;

Two (2) Mills (#1 Pulvocron (4990-0005-0021) and #2 Pulvocron (4990-0005-0024)) controlled by Baghouse Filters;

Four (4) Mills (#7 Pulvocron (4990-0003-0019), #8 Pulvocron (4990-0003-0022), #9 Pulvocron (4990-0004-0022) and #10 Pulvocron (4990-0004-0025)) controlled by Baghouse Filters;

3/4 Pulvocron Grinder Surge Bin (4990-0002-0008) controlled by Baghouse Filter;

1/2 Pulvocron Grinder Surge Bin (4990-0005-0010) controlled by Baghouse Filter;

9/10 Pulvocron Grinder Surge Bin (4990-0004-0011) controlled by Baghouse Filter;

7/8 Pulvocron Grinder Surge Bin (4990-0003-0008) controlled by Baghouse Filter;

1/2 Flour Surge Bin (4990-0005-0028) controlled by Baghouse Filter;

3/4 Flour Surge Bin (4990-0002-0026) controlled by Baghouse Filter;

7/8 Flour Surge Bin (4990-0003-0026) controlled by Baghouse Filter;

9/10 Flour Surge Bin (4990-0004-0029) controlled by Baghouse Filter;

Hibond Visc Flake Roller Mill (4990-0006-0024) controlled by Baghouse Filter;

CSM Blended Food Receiver (4820-0001-0029) controlled by Baghouse Filter;

Blended Food Packaging Aspiration (4820-0001-0052) controlled by Baghouse Filter;

Allbond Visc Flour General Aspiration (4900-0001-0068) controlled by Baghouse Filter;

Milk Bins (4820-0003-0007) controlled by Baghouse Filter;

300 Series Binning (4990-0007-0049) controlled by Baghouse Filter;
Soy Meal General Aspiration (4990-0001-0002) controlled by Baghouse Filter;
Soy Meal Surge Bin (4990-0001-0006) controlled by Baghouse Filter;
Meal Bin Cooler (4990-0001-0025) controlled by Baghouse Filter;
3/4 Soy Flour Receiver (4990-0002-0043) controlled by Baghouse Filter;
Tri Cal Bins (4820-0003-0072) controlled by Baghouse Filter;
5/6 Allbond Receiver (4900-0001-0058) controlled by Baghouse Filter;
7/8 Soy Flour Receiver (4990-0003-0032) controlled by Baghouse Filter;
Five (5) Bins (Bin 308 (4990-0002-0033), 309 (4990-0002-0036), 310 (4820-0003-0038), 508 (4820-0002-0068), and 509 (4820-0002-0072)) controlled by Baghouse Filters;
9/10 Pulvicron Receiver (4990-0004-0037) controlled by Baghouse Filter;
Milk Bins (4820-0002-0038) controlled by Baghouse Filter;
Milk Bin Bag Dump (4820-0002-0035) controlled by Baghouse Filters APM 14048.6;
Blending Batch Bin General Aspiration (4990-0007-0029) controlled by Baghouse Filter;
Blending General Aspiration (4990-0007-0036) controlled by Baghouse Filter;
Blending General Aspiration (4990-0007-0032) controlled by Baghouse Filter;
Two (2) CSB Binning General Aspiration (4820-0003-0063 and 4820-0003-0059) controlled by Baghouse Filter;
Finished Product General Aspiration (4990-0006-0040) controlled by Baghouse Filter;
#5 SL General Aspiration & #5 Expander (4900-0001-0091) controlled by Baghouse Filter;
Fiber Receiving General Aspiration (4990-0011-0001) controlled by Baghouse Filter;
PCM Binning (4820-0002-0011) controlled by Baghouse Filters;
CF Bran Packing Binning (4870-0010-0005) controlled by Baghouse Filter;
Bldg. 111 Vacuum (4900-0005-0035) controlled by Baghouse Filter;
110/210 Receiver General Aspiration (4870-0006-0006) controlled by Baghouse Filter;
Fiber Receiving General Aspiration (4990-0011-0029) controlled by Baghouse Filter;
Cooling Tower (4990-0001-0029) controlled by Baghouse Filter;
Four (4) Ingredient Bins (601 (4820-0003-0022), 602 (4820-0003-0026), 603 (4820-0003-0030), and 604 (4820-0003-0034)) controlled by Baghouse Filters;
Micro Ingredient Dump Aspiration (4820-0003-0018) controlled by Baghouse Filter;
Mixer General Aspiration (4820-0003-0004) controlled by Baghouse Filter;
3/4 Hammermill (4900-0001-0065) controlled by Baghouse Filter;
#3 & #4 Expanders (4900-0001-0006) controlled by Baghouse Filter;
Reprocessing General Aspiration (4900-0005-0001) controlled by Baghouse Filter;
#6 Pulvocron (4900-0001-0042) controlled by Baghouse Filter;
5/6 Pulverizer AB Finished Product Surge Bin (4900-0001-0046) controlled by Baghouse Filter;
Pellet Bins (4900-0002-0032) controlled by Baghouse Filter;
Viscosity Flour Receiver (4990-0006-0027) controlled by Baghouse Filter;
Conditioning Receiver/Soy Meal Grinder (4990-0011-0010) controlled by Baghouse Filter;
Grind Reject/Scrap Bin (4900-0005-0007) controlled by Baghouse Filter;
Bldg. 112 Vacuum (4900-0005-0029) controlled by Baghouse Filter;

AB Grinder Surge Bin (4900-0001-0030) controlled by Baghouse Filter;
N CD General Aspiration & #5 Expander (4900-0005-0006) controlled by Baghouse Filter;
South Hominy Feed Bin General Aspiration (4860-0018-0003) controlled by Baghouse Filter;
Secondary Clean Grinding (4860-0022-0017) controlled by Baghouse Filter;
Bran Dryer (4860-0024-0003) controlled by Cyclone;
Track 16 Rail Loadout (4912-0006-0017) controlled by Baghouse Filter;
Germ Dust Aspiration (4860-0017-0073) controlled by Cyclone;
Feed Mill General Aspiration (4860-0023-0001) controlled by Baghouse Filter;
Germ Dryer (4860-0017-0003) controlled by Cyclone;
FTS Dryer Aspiration (4860-0019-0003) controlled by Cyclone;
Pet Bran Kice Lites Aspiration (4860-0024-0037) controlled by Baghouse Filter;
Pneumatic Lift Receiver for Coarse Whole Grain transfer (WG260) (4880-0048-0012);
PCM Hammermill (4900-0003-0011) controlled by Filter;
USG Hammermill (4900-0008-0027) controlled by Filter;
USG Secondary Extruder Transfer (4900-0008-0022);
Whole Grain Dryer (4880-0046-0017);
Whole Grain Hammermill (4880-0046-0028);
Whole Grain Aspiration (4880-0046-0042);
USG Primary Extruder Transfer (4900-0007-0020);
6th Floor Radar Pulsar (4860-0018-0044);
CCM260 Process Aspiration (4912-0002-0054) controlled by Filter;

Corn Mill Products Storage:

Bldg. 201/202 Vacuum (4912-0008-0006) controlled by Baghouse Filter;
Bldg. 208 Vacuum (4912-0009-0005) controlled by Baghouse Filter;
Hominy Feed Bins Aspiration (4860-0018-0048) controlled by Baghouse Filter;

Corn Mill Products Milling and Handling:

Hominy Binning (4750-0029-0032) controlled by Baghouse Filter;
Hominy Grind General Aspiration (4750-0029-0001) controlled by Baghouse Filter;
Truck Hominy Loadout (4912-0004-0022) controlled by Baghouse Filter;
Rail Hominy/Grain Loadout #1 (4912-0003-0011) controlled by Baghouse Filter;
Hominy Screener General Aspiration (4750-0029-0045) controlled by Baghouse Filter;

Boiler House/Grounds:

One (1) 96.55 mmBtu/hour Natural Gas-Fired Boiler with Low NOx Burner (Boiler#1);
One (1) 27.90 mmBtu/hour Natural Gas-Fired Boiler (Clayton Boiler); and

Fugitive PM and PM10 emissions

pursuant to the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This Federally Enforceable State Operating Permit (FESOP) is issued to limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 100 tons/year for Carbon Monoxide (CO), Nitrogen Oxides (NO_x), and Particulate Matter less than 10 microns

(PM₁₀)). As a result, the source is excluded from the requirements to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit, are described in Attachment A.

- b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.
 - c. This permit supersedes all operating permit(s) for this location.
2. The Clayton Boiler is subject to the New Source Performance Standard (NSPS) for Small Industrial - Commercial - Institutional Steam Generating Units, 40 CFR Part 60 Subparts A and Dc. The Illinois EPA is administering the NSPS in Illinois on behalf of the United States Environmental Protection Agency (USEPA) under a delegation agreement. Pursuant to 40 CFR 60.40c(a), except as provided in 40 CFR 60.40c(d), (e), (f), and (g), the affected facility to which 40 CFR 60 Subpart Dc applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million British thermal units per hour (mmBtu/hr)) or less, but greater than or equal to 2.9 MW (10 mmBtu/hr).
- 3a. The Corn Receiving, Cleaning and Storage (NSPS) are subject to the NSPS for Grain Elevators, 40 CFR Part 60 Subparts A and DD. The Illinois EPA is administering the NSPS in Illinois on behalf of the USEPA under a delegation agreement. Pursuant to 40 CFR 60.300(a), the provisions of 40 CFR 60 Subpart DD apply to each affected facility at any grain terminal elevator or any grain storage elevator, except as provided under 40 CFR 60.304(b). The affected facilities are each truck unloading station, truck loading station, barge and ship unloading station, barge and ship loading station, railcar loading station, railcar unloading station, grain dryer, and all grain handling operations.
- b. Pursuant to 40 CFR 60.300(b), any facility under 40 CFR 60.300(a) which commences construction, modification or reconstructed after August 3, 1978 is subject to the requirements of 40 CFR 60 Subpart DD.
 - c. Pursuant to 40 CFR 60.302(b), on and after the date on which the performance test required to be conducted by 40 CFR 60.8 is completed, no owner or operator subject to the provisions of 40 CFR 60 Subpart DD shall cause to be discharged into the atmosphere from any affected facility except a grain dryer any process emission which:
 - i. Contains particulate matter in excess of 0.023 g/dscm (ca. 0.01 gr/dscf).
 - ii. Exhibits greater than 0 percent opacity.
 - d. Pursuant to 40 CFR 60.302(c), on and after the 60th day of achieving the maximum production rate at which the affected facility will be operated, but no later than 180 days after initial startup, no owner or

operator subject to the provisions of 40 CFR 60 Subpart DD shall cause to be discharged into the atmosphere any fugitive emission from:

- i. Any individual truck unloading station, railcar unloading station, or railcar loading station, which exhibits greater than 5 percent opacity.
 - ii. Any grain handling operation, which exhibits greater than 0 percent opacity.
 - iii. Any truck loading station which exhibits greater than 10 percent opacity.
- 4a. The Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; Corn Mill Products Milling and Handling; Boiler #1, and Clayton Boiler are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
- b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.
 - c. This source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.
 - d. When processing and handling processed materials, the emission units constructed on or after April 14, 1972 within the following groups: Corn Receiving, Cleaning and Storage (Pre-NSPS); Corn Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process

emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).

- e. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
 E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

- f. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units for Which Construction or Modification Commenced on or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

- g. When processing and handling processed materials, the emission units constructed before April 14, 1972 within the following groups: Corn Receiving, Cleaning and Storage (Pre-NSPS); Corn Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.322(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any process emission unit for which construction or modification commenced prior to April 14, 1972, which, either alone or in combination with the emission of particulate matter from all other similar process emission units at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.322(c).
- h. Pursuant to 35 Ill. Adm. Code 212.322(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.322(c) shall be determined by using the equation:

$$E = C + A(P)^B$$

where:

P = process weight rate; and,
 E = allowable emission rate; and,

- i. For process weight rates up to 27.2 Mg/hr (30 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.985	4.10

	Metric	English
B	0.67	0.67
C	0	0

ii. For process weight rates in excess or 27.2 Mg/hr (30 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	25.21	55.0
B	0.11	0.11
C	-18.4	-40.0

- i. Pursuant to 35 Ill. Adm. Code 212.322(c), Limits for Process Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972:

P	Metric	English	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.27	0.05	0.55
0.1	0.42	0.10	0.87
0.2	0.68	0.20	1.40
0.3	0.89	0.30	1.83
0.4	1.07	0.40	2.22
0.5	1.25	0.50	2.58
0.7	1.56	0.75	3.38
0.9	1.85	1.00	4.10
1.8	2.9	2.00	6.52
2.7	3.9	3.00	8.56
3.6	4.7	4.00	10.40
4.5	5.4	5.00	12.00
9.	8.7	10.00	19.20
13.	11.1	15.00	25.20
18.	13.8	20.00	30.50
23.	16.2	25.00	35.40
27.2	18.15	30.00	40.00
32.0	18.8	35.00	41.30
36.0	19.3	40.00	42.50
41.0	19.8	45.00	43.60
45.0	20.2	50.00	44.60
90.0	23.2	100.00	51.20
140.0	25.3	150.00	55.40
180.0	26.5	200.00	58.60
230.0	27.7	250.00	61.00
270.0	28.5	300.00	63.10
320.0	29.4	350.00	64.90
360.0	30.0	400.00	66.20
400.0	30.6	450.00	67.70
454.0	31.3	500.00	69.00

where:

- P = Process weight rate in Mg/hr or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

j. The handling of grain in the Corn Receiving, Cleaning and Storage (Pre-NSPS); Corn Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling Operations are subject to 35 Ill. Adm. Code Part 212 Subpart S (Agriculture). Pursuant to 35 Ill. Adm. Code 212.462, unless otherwise exempted pursuant to 35 Ill. Adm. Code 212.461(c) or (d), or allowed to use alternate control according to 35 Ill. Adm. Code 212.461(g), existing grain-handling operations with a total annual grain through-put of 300,000 bushels or more shall apply for an operating permit pursuant to 35 Ill. Adm. Code Part 201, and shall demonstrate compliance with the following:

i. Cleaning and Separating Operations.

A. Particulate matter generated during cleaning and separating operations shall be captured to the extent necessary to prevent visible particulate matter emissions directly into the atmosphere.

B. For grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area, air contaminants collected from cleaning and separating operations shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90 percent by weight prior to release into the atmosphere.

ii. Major Dump-Pit Area.

Induced Draft.

A. Induced draft shall be applied to major dump pits and their associated equipment (including, but not limited to, boots, hoppers and legs) to such an extent that a minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated in unloading operations. The minimum face velocity at the effective grate surface shall be at least 200 fpm, which shall be determined by using the equation:

$$V = Q/A$$

where:

V = face velocity; and

Q = induced draft volume in scfm; and

A = effective grate area in ft²; and

B. The induced draft air stream for grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be confined and conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90 percent by weight;

- C. Means or devices (including, but not limited to, quick-closing doors, air curtains or wind deflectors) shall be employed to prevent a wind velocity in excess of 50 percent of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph. The wind velocity shall be measured, with the induced draft system not operating, at a point midway between the dump-pit area walls at the point where the wind exits the dump-pit area, and at a height above the dump-pit area floor of approximately 2 ft; or
- iii. Internal Transferring Area.
 - A. Internal transferring area shall be enclosed to the extent necessary to prohibit visible particulate matter emissions directly into the atmosphere.
 - B. Air contaminants collected from internal transfer operations for grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90 percent by weight prior to release into the atmosphere.
 - iv. Load-Out Area.
 - A. Truck and hopper car loading shall employ socks, sleeves or equivalent devices which extend 6 inches below the sides of the receiving vehicle, except for topping off. Choke loading shall be considered an equivalent method as long as the discharge is no more than 12 inches above the sides of the receiving vehicle.
 - B. Box car loading shall employ means or devices to prevent the emission of particulate matter into the atmosphere to the fullest extent which is technologically and economically feasible.
 - k. Pursuant to 35 Ill. Adm. Code 212.463, unless otherwise exempted pursuant to 35 Ill. Adm. Code 212.461(c) or (d) or allowed to use alternate control according to 35 Ill. Adm. Code 212.461(g), grain-drying operations for which construction or modification commenced prior to June 30, 1975, with a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity (using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers) shall be operated in such a fashion as to preclude the emission of particulate matter larger than 300 microns mean particle diameter, shall apply for an operating permit pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the following:

- i. Column Dryers. The largest effective circular diameter of transverse perforations in the external sheeting of a column dryer shall not exceed 0.094 inch, and the grain inlet and outlet shall be enclosed.
 - ii. Rack Dryers. No portion of the exhaust air of rack dryers shall be emitted to the ambient atmosphere without having passed through a particulate collection screen having a maximum opening of 50 mesh, U.S. Sieve Series.
 - A. All such screens will have adequate self-cleaning mechanisms, the exhaust gas of which for grain-handling facilities having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be ducted through air pollution control equipment which has a rated and actual particulate removal efficiency of 90 percent by weight prior to release into the atmosphere.
 - B. All such screens will have adequate self-cleaning mechanisms, the exhaust gas of which for grain-handling sources having a grain through-put exceeding 2 million bushels per year and located in a major population area shall be ducted through air pollution control equipment which has a rated and actual particulate removal efficiency of 98 percent by weight prior to release into the atmosphere.
 - iii. Other Types of Dryers. All other types of dryers shall be controlled in a manner which shall result in the same degree of control required for rack dryers pursuant to 35 Ill. Adm. Code 212.463(b).
 - iv. New and Modified Grain-Drying Operations. Grain-drying operations constructed or modified on or after June 30, 1975, shall file applications for construction and operating permits pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the control equipment requirements of 35 Ill. Adm. Code 212.463, except for new and modified grain-drying operations which do not result in a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineer Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers.
5. Boiler #1 and Clayton Boiler are subject to 35 Ill. Adm. Code Part 216 Subpart B (Fuel Combustion Emission Sources). Pursuant to 35 Ill. Adm. Code 216.121, no person shall cause or allow the emission of carbon monoxide (CO) into the atmosphere from any fuel combustion emission source with actual heat input greater than 2.9 MW (10 mmBtu/hr) to exceed 200 ppm, corrected to 50 percent excess air.
- 6a. This permit is issued based on the Cooling Tower at this source not being subject to the NESHAP for Process Cooling Towers, 40 CFR 63

Subpart Q because the cooling tower is not operated with chromium-based water treatment chemicals and is not either major sources or is an integral part of a facility that is a major source.

- b. This permit is issued based on the source no longer being subject to the NESHAP for Solvent Extraction for Vegetable Oil Production, 40 CFR 63 Subpart GGGG, because the source no longer operates a vegetable oil production process and is no longer a major source of HAP emissions.
 - c. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to the NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63 Subpart DDDDD because this source is not or is part of, a major source of Hazardous Air Pollutant (HAP) emissions as defined in 40 CFR 63.2.
 - d. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to the requirements of the NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources, 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11195(e), gas-fired boilers are not subject to 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11237, gas-fired boiler includes any boiler that burns gaseous fuels not combined with any solid fuels, burns liquid fuel only during periods of gas curtailment, gas supply emergencies, or periodic testing on liquid fuel. Periodic testing of liquid fuel shall not exceed a combined total of 48 hours during any calendar year.
 - e. This permit is issued based on the source not being subject to the National Emission Standards (NESHAP) for Area Sources: Prepared Feeds Manufacturing, 40 CFR 63 Subpart DDDDDDD because the source does not use a material containing chromium or a material containing manganese in the manufacturing of prepared feeds.
- 7a. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of 35 Ill. Adm. Code 212.314 shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to 35 Ill. Adm. Code Part 212 Subpart K is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.
- b. This permit is issued based on the handling of grain in the Corn Receiving, Cleaning and Storage (Pre-NSPS); Corn Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling Operations not being subject to 35 Ill. Adm. Code Part 212 Subpart L while handling grain. Pursuant to 35 Ill. Adm. Code 212.461(a), 35 Ill. Adm. Code 212.302(a), 212.321, and 212.322 shall not apply to grain-handling and grain-drying operations, portable grain-handling equipment and one-turn storage space.

8. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to 35 Ill. Adm. Code Part 215 Subpart K. Pursuant to 35 Ill. Adm. Code 215.303, the provisions of 35 Ill. Adm. Code 215.301 and 215.302 shall not apply to fuel combustion emission sources.
- 9a. Pursuant to 40 CFR 60.11(b), compliance with opacity standards in 40 CFR Part 60 shall be determined by conducting observations in accordance with Method 9 in appendix A of 40 CFR Part 60, any alternative method that is approved by the Illinois EPA or USEPA, or as provided in 40 CFR 60.11(e)(5). For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).
- b. Pursuant to 40 CFR 60.11(c), the opacity standards set forth in 40 CFR Part 60 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.
- c. Pursuant to 40 CFR 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Illinois EPA or USEPA which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
- 10a. Housekeeping Practices. Pursuant to 35 Ill. Adm. Code 212.461(b), all grain-handling and grain-drying operations, regardless of size, must implement and use the following housekeeping practices:
 - i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
 - ii. Cleaning and Maintenance.
 - A. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
 - B. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
 - C. The yard and surrounding open area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.

- iii. Dump Pit.
 - A. Aspiration equipment shall be maintained and operated.
 - B. Dust control devices shall be maintained and operated.
 - iv. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.
 - v. Property. The yard and driveway of any source shall be asphalted, oiled or equivalently treated to control dust.
 - vi. Housekeeping Check List. Housekeeping check lists shall be completed by the manager and maintained on the premises for inspection by Illinois EPA personnel.
- 11a. In the event that the operation of this source results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in raw material or installation of controls, in order to eliminate the odor nuisance.
- b. The baghouse filters and cyclones shall be in operation at all times when the associated emission units are in operation and emitting air contaminants.
 - c. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the baghouse filters and cyclones such that the baghouse filters and cyclones are kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.
 - d. Each receiving dump pit shall be inspected for proper operation while receiving is occurring, at least once each week (Monday through Sunday) when grain is received.
 - e. The source shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed.
 - f. Boiler #1 and Clayton Boiler shall only be operated with natural gas as the fuel. The use of any other fuel in Boiler #1 or Clayton Boiler may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.
 - g. All normal traffic pattern access areas and all normal traffic pattern roads and parking facilities which are located on Ag Transload Facility property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by Condition 11(j).

- h. All unloading and transporting operations of materials collected by pollution control equipment shall be enclosed or shall utilize spraying, pelletizing, screw conveying or other equivalent methods.
- i. Grinding mills, screening operations, bucket elevators, conveyor transfer points, conveyors, bagging operations, storage bins and fine product truck and railcar loading operations shall be sprayed with water or a surfactant solution, utilize choke-feeding or be treated by an equivalent method in accordance with an operating program.
- j. The emission units described in Conditions 11(g), (h), and (i) shall be operated under the provisions of an operating program, consistent with 35 Ill. Adm. Code 212.310 and 212.312, and prepared by the owner or operator and submitted to the Illinois EPA for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.
- k. As a minimum the operating program shall include the following:
 - i. The name and address of the source;
 - ii. The name and address of the owner or operator responsible for execution of the operating program;
 - iii. A map or diagram of the source showing approximate locations of storage piles, conveyor loading operations, normal traffic pattern access areas surrounding storage piles and all normal traffic patterns within the source;
 - iv. Location of unloading and transporting operations with pollution control equipment;
 - v. A detailed description of the best management practices utilized to achieve compliance with 35 Ill. Adm. Code 212.301, including an engineering specification of particulate collection equipment, application systems for water, oil, chemicals and dust suppressants utilized and equivalent methods utilized;
 - vi. Estimated frequency of application of dust suppressants by location of materials; and
 - vii. Such other information as may be necessary to facilitate the Illinois EPA's review of the operating program.
- l. Within 90 days from date of issuance of this permit a Fugitive Particulate Operating Program must be submitted by the Permittee and is incorporated herein by reference. The source shall be operated under and shall comply with the provisions of this Fugitive Particulate Operating Program and any amendments to the Fugitive Particulate Operating Program submitted pursuant to Condition 11(j) and (k).
- m. The operating program shall be amended from time to time by the owner or operator so that the operating program is current. Such amendments shall be consistent with Condition 11(j) and (k) and shall be submitted

to the Illinois EPA within thirty (30) days of any such amendment. Any future amendment to the Fugitive Particulate Operating Program made by the Permittee during the permit term is automatically incorporated by reference provided the revision is not expressly disapproved, in writing, by the Illinois EPA. In the event that the Illinois EPA notifies the Permittee of a deficiency with any revision to the Fugitive Particulate Operating Program, the Permittee shall be required to revise and resubmit the Fugitive Particulate Operating Program within thirty (30) days of receipt of the notification to address the deficiency.

- 12a. Emissions from and operation of the Corn Receiving, Cleaning and Storage (Pre-NSPS) shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S			
				PM (lbs/Hr)	PM (Tons/Yr)	PM ₁₀ (lbs/Hr)	PM ₁₀ (Tons/Yr)
Truck Dump #1	0.002	0.0015	18,500	0.32	1.39	0.24	1.04
Hoffman Bldg 301 Vacuum	0.001	0.001	1,000	0.01	0.04	0.01	0.04
West Headhouse General Aspiration	0.0015	0.0015	55,000	0.71	3.10	0.71	3.10
Railcar Dump Pit and Section D&E General Aspiration	0.0015	0.0015	21,600	0.28	1.22	0.28	1.22
Track 6 Vacuum	0.001	0.001	700	0.01	0.03	0.01	0.03
Cleanings Discharge	0.002	0.0015	1,900	0.03	0.14	0.02	0.11
Grain Receiving Fugitives					<u>3.01</u>		<u>3.01</u>
				Total:	8.93		8.55

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source, and 8,760 hours/year of operation.

- b. Emissions from and operation of the Corn Receiving, Cleaning and Storage (NSPS) shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S			
				PM (lbs/Hr)	PM (Tons/Yr)	PM ₁₀ (lbs/Hr)	PM ₁₀ (Tons/Yr)
Truck Dump #4 and Gallery Aspiration	0.002	0.002	36,017	0.62	2.70	0.62	2.70
Cleaning North APM	0.002	0.0015	41,000	0.70	3.08	0.53	2.31
Bldg. 115 Corn Cleaning	0.002	0.0015	57,372	0.98	4.31	0.74	3.23
North Street Truck Dump Pit #2	0.002	0.0015	25,109	0.43	<u>1.89</u>	0.32	<u>1.41</u>
				Total:	11.98		9.65

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source, and 8,760 hours/year of operation.

c. Emissions from and operation of the Dry Corn Milling, Processing and Products Handling shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S			
				(lbs/Hr)	PM (Tons/Yr)	PM ₁₀ (lbs/Hr)	PM ₁₀ (Tons/Yr)
Bemos Bagging	0.002	0.0015	1,660	0.03	0.12	0.02	0.09
Bagging General							
Aspiration	0.002	0.0015	3,400	0.06	0.26	0.04	0.19
Bagging Packer General							
Aspiration	0.002	0.0015	4,400	0.08	0.33	0.06	0.25
Bran Dryer Process	0.002	0.0015	2,200	0.04	0.17	0.03	0.12
Bran Sifter Process	0.002	0.0015	6,215	0.11	0.47	0.08	0.35
East Meal Dryer/Cooler	0.002	0.0015	13,000	0.22	0.98	0.17	0.73
West Meal Dryer	0.002	0.0015	13,295	0.23	1.00	0.17	0.75
Bldg 105/115 General							
Aspiration	0.002	0.0015	55,000	0.94	4.13	0.71	3.10
Bldg 102/105 General							
Aspiration	0.002	0.0015	43,700	0.75	3.28	0.56	2.26
Bldg 105 Vacuum	0.001	0.001	1,500	0.01	0.06	0.01	0.06
Bulk Loading White Goods	0.002	0.0015	36,000	0.62	2.70	0.46	2.03
Bldg 104 Vacuum	0.001	0.001	1,500	0.01	0.06	0.01	0.06
Bran Bin	0.002	0.0015	980	0.02	0.07	0.01	0.06
South Lunchroom							
Screening	0.002	0.0015	42,826	0.73	3.22	0.55	2.41
South CD Screening	0.002	0.0015	41,000	0.70	3.08	0.53	2.31
North CD General							
Aspiration	0.002	0.0015	33,300	0.57	2.5	0.43	1.88
North Lunchroom							
Screening	0.002	0.0015	40,000	0.69	3.00	0.51	2.25
Pack & Bulk Loading Bldg							
115	0.002	0.0015	42,000	0.72	3.15	0.54	2.37
CAMAS/Bran Bldg 115	0.002	0.0015	45,021	0.77	3.38	0.58	2.54
Thru/Tail Stock Dryers							
Bldg 115	0.002	0.0015	56,000	0.96	4.2	0.72	3.15
Bldg 115 Vacuum	0.001	0.001	825	0.01	0.03	0.01	0.03
Track 2 Railcar							
Unloading Secondary							
Receiver	0.002	0.0015	440	0.01	0.03	0.01	0.02
Lab Filter	0.002	0.0015	900	0.02	0.07	0.01	0.05
1/2 Pulvocron Meal							
Receiver	0.002	0.0015	380	0.01	0.03	0.01	0.02
1/2 Pulvocron Visc Flour							
Receiver	0.002	0.0015	380	0.01	0.03	0.01	0.02
3/4 Pulvocron Meal							
Receiver	0.002	0.0015	380	0.01	0.03	0.01	0.02
9/10 Pulvocron Meal							
Secondary Receiver	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
7/8 Pulvocron Meal							
Secondary Receiver	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#3 Pulvocron	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#4 Pulvocron	0.002	0.0015	2,904	0.05	0.22	0.04	0.16

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#5 Pulvocron	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#1 Pulvocron	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#2 Pulvocron	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#7 Pulvocron	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#7 Pulvocron	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#9 Pulvocron	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#10 Pulvocron	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
3/4 Pulvocron Meal Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
1/2 Pulvocron Meal Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
9/10 Pulvocron Meal Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
7/8 Pulvocron Meal Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
1/2 Flour Surge Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
3/4 Flour Surge Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
7/8 Flour Surge Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
9/10 Flour Surge Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
Hibond Visc Flake Roller Mill	0.002	0.0015	7,200	0.12	0.54	0.09	0.41
CSM Blended Food Receiver	0.002	0.0015	4,077	0.07	0.31	0.05	0.23
Blended Food Packaging Aspiration	0.002	0.0015	10,000	0.17	0.75	0.13	0.56
Allbond Visc Four General Aspiration	0.002	0.0015	867	0.01	0.07	0.01	0.05
Milk Bins	0.002	0.0015	400	0.01	0.03	0.01	0.02
300 Series Binning	0.002	0.0015	4,452	0.08	0.33	0.06	0.25
Soy Meal General Aspiration	0.002	0.0015	1,435	0.02	0.11	0.02	0.08
Soy Meal Surge Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
Meal Bin Cooler	0.002	0.0015	14,000	0.24	1.05	0.18	0.79
3/4 Soy Flour Receiver	0.002	0.0015	700	0.01	0.05	0.01	0.04
Tri Cal Bins	0.002	0.0015	780	0.01	0.06	0.01	0.04
5/6 Allbond Receiver	0.002	0.0015	1,100	0.02	0.08	0.01	0.06
7/8 Soy Flour Receiver	0.002	0.0015	1,100	0.02	0.08	0.01	0.06
Bin 308	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 309	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 310	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 508	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 509	0.002	0.0015	500	0.01	0.04	0.01	0.03
9/10 Pulvocron Receiver	0.002	0.0015	700	0.01	0.05	0.01	0.04
Milk Bins	0.002	0.0015	867	0.01	0.07	0.01	0.05
Milk Bin Bag Dump	0.002	0.0015	6,000	0.10	0.45	0.08	0.34
Blending Batch Bin General Aspiration	0.002	0.0015	1,250	0.02	0.09	0.02	0.07
Blending General Aspiration	0.002	0.0015	1,055	0.02	0.08	0.01	0.06
Blending General Aspiration	0.002	0.0015	1,645	0.03	0.12	0.02	0.09
CSB Binning General Aspiration	0.002	0.0015	3,200	0.05	0.24	0.04	0.18
CSB Binning General Aspiration	0.002	0.0015	2,739	0.05	0.21	0.04	0.15
Finished Product General Aspiration	0.002	0.0015	742	0.01	0.06	0.01	0.04
#5 SL General Aspirator	0.002	0.0015	3,000	0.05	0.23	0.04	0.17

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& #5 Expander							
Fiber Receiving General							
Aspiration	0.002	0.0015	648	0.01	0.05	0.01	0.04
PCM Binning	0.002	0.0015	2,241	0.04	0.17	0.03	0.13
CF Bran Packing Binning	0.002	0.0015	1,232	0.02	0.09	0.02	0.07
Bldg 111 Vacuum	0.001	0.001	1,500	0.01	0.06	0.01	0.06
110/210 Receiver General							
Aspiration	0.002	0.0015	1,400	0.02	0.11	0.02	0.08
Fiber Receiving General							
Aspiration	0.002	0.0015	1,000	0.02	0.08	0.01	0.06
Cooling Tower	0.002	0.0015	14,000	0.24	1.05	0.18	0.79
Ingredient Bin 601	0.002	0.0015	210	0.004	0.02	0.003	0.01
Ingredient Bin 602	0.002	0.0015	210	0.004	0.02	0.003	0.01
Ingredient Bin 603	0.002	0.0015	210	0.004	0.02	0.003	0.01
Ingredient Bin 604	0.002	0.0015	210	0.004	0.02	0.003	0.01
Micro Ingredient Dump							
Aspiration	0.002	0.0015	2,500	0.04	0.19	0.03	0.14
Mixer General Aspirator	0.002	0.0015	1,500	0.03	0.11	0.02	0.08
3/4 Hammermill	0.002	0.0015	1,258	0.02	0.09	0.02	0.07
#3 & #4 Expanders	0.002	0.0015	1,017	0.02	0.08	0.01	0.06
Reprocessing General							
Aspiration	0.002	0.0015	27,550	0.47	2.07	0.35	1.55
#5 Pulvocron	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
5/6 Pulverizer AB							
Finished Product Surge							
Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
Pellet Bins	0.002	0.0015	705	0.01	0.05	0.01	0.04
Viscosity Flour Receiver	0.002	0.0015	2,143	0.04	0.16	0.03	0.12
Conditioning							
Receiver/Soy Meal							
Grinding	0.002	0.0015	1,350	0.02	0.1	0.02	0.08
Grind Reject/Scrap Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bldg 112 Vacuum	0.001	0.001	500	0	0.02	0	0.02
AB Grinder Surge Bin	0.002	0.0015	2,100	0.04	0.16	0.03	0.12
N CD General Aspiration							
& #5 Expander	0.002	0.0015	36,000	0.62	2.70	0.46	2.03
South Hominy Feed Bin							
General Aspiration	0.002	0.0015	15,000	0.26	1.13	0.19	0.84
Secondary Clean Grinding							
Bran Dryer	0.0454	0.002	6,888	2.68	11.74	0.12	0.52
Track 16 Rail Loadout	0.002	0.0015	30,000	0.51	2.25	0.39	1.69
Germ Dust Aspiration	0.02	0.02	7,400	1.27	5.56	1.27	5.56
Feed Mill General							
Aspiration	0.002	0.0015	16,000	0.27	1.2	0.21	0.9
Germ Dryer	0.0454	0.002	10,000	3.89	17.04	0.17	0.75
FTS Dryer Aspiration	0.0454	0.002	6,888	2.68	11.74	0.12	0.52
Pet Bran Kice Lites							
Aspiration	0.002	0.0015	1,600	0.03	0.12	0.02	0.09
Pneumatic Lift Receiver							
for WG260 Transfer	0.02	0.02	682	0.12	0.51	0.12	0.02
PCM Hammermill	0.0020	0.0020	6,500	0.11	0.49	0.11	0.51
USG Hammermill	0.0020	0.0020	6,500	0.11	0.49	0.11	0.49
USG Secondary Extruder							
Transfer	0.0200	0.0200	4,000	0.69	3.00	0.69	0.49

Whole Grain Dryer	0.0300	0.0200	1,400	0.36	1.58	0.24	1.05
Whole Grain Hammermill	0.0020	0.0015	6,000	0.1	0.45	0.08	0.34
Whole Grain Aspiration	0.0020	0.0015	5,080	0.09	0.38	0.07	0.29
USG Primary Extruder							
Transfer	0.0200	0.0200	4,000	0.69	3.00	0.69	3.00
6th Floor Radar Pulsar	0.0020	0.0015	7,400	0.13	0.56	0.1	0.42
CCM260 Process							
Aspiration(S 105							
Carter-Day)	0.0020	0.0020	40,600	0.7	<u>3.05</u>	0.7	<u>3.05</u>
				Total:	116.69		62.80

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

- d. Emissions from and operation of the Corn Mill Products Storage shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Total Flow Rate (scfm)	(lbs/Hr)	E M I S S I O N S		
					PM (Tons/Yr)	(lbs/Hr)	PM ₁₀ (Tons/Yr)
Bldg 201/202 Vacuum	0.0010	0.0010	700	0.01	0.03	0.01	0.03
Bldg 208 Vacuum	0.0010	0.0010	700	0.01	0.03	0.01	0.03
Hominy Feed Bins							
Aspiration	0.0020	0.0015	21,000	0.36	<u>1.58</u>	0.27	<u>1.18</u>
				Total:	1.64		1.24

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

- e. Emissions from and operation of the Corn Mill Products Milling and Handling shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Total Flow Rate (scfm)	(lbs/Hr)	E M I S S I O N S		
					PM (Tons/Yr)	(lbs/Hr)	PM ₁₀ (Tons/Yr)
Hominy Binning	0.0020	0.0015	30,000	0.51	2.25	0.39	1.69
Hominy Grind General							
Aspiration	0.0020	0.0015	21,000	0.36	1.58	0.27	1.18
Hominy Truck Loadout	0.0020	0.0015	34,960	0.6	2.62	0.45	1.97
Track 15 Bulk Rail							
Loadout	0.0020	0.0020	34,960	0.6	2.62	0.6	2.62
Hominy Screener General							
Aspiration	0.0020	0.0015	7,600	0.13	0.57	0.1	0.43
Hominy Loadout Fugitive					6.90		1.02
Grain Loadout Fugitive					<u>0.10</u>	0.27	<u>0.10</u>
				Total:	16.64		9.01

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

f. Compliance with the annual limits in Conditions 12(a) through 12(e) of this permit shall be determined on a daily basis from the sum of the data for the current day plus the preceding 364 days (running 365 days total).

g. Emissions from and operation of Boiler #1 shall not exceed the following limits:

i. Natural Gas Usage: 84.58 mmscf/month, 845.78 mmscf/year.

ii. Emissions from the combustion of natural gas:

<u>Pollutant</u>	<u>Emissions</u>		
	<u>(lbs/mmscf)</u>	<u>(Tons/Mo)</u>	<u>(Tons/Yr)</u>
Carbon Monoxide (CO)	84.0	3.55	35.52
Nitrogen Oxides (NO _x)	50.0	2.11	21.14
Particulate Matter (PM)	7.6	0.32	3.21
Sulfur Dioxide (SO ₂)	0.6	0.02	0.25
Volatile Organic Material (VOM)	5.5	0.23	2.33

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

h. Emissions from and operation of Clayton Boiler shall not exceed the following limits:

i. Natural Gas Usage: 24.44 mmscf/month, 244.40 mmscf/year.

ii. Emissions from the combustion of natural gas:

<u>Pollutant</u>	<u>Emissions</u>		
	<u>(lbs/mmscf)</u>	<u>(Tons/Mo)</u>	<u>(Tons/Yr)</u>
Carbon Monoxide (CO)	84.0	1.03	10.26
Nitrogen Oxides (NO _x)	100.0	1.22	12.22
Particulate Matter (PM)	7.6	0.09	0.93
Sulfur Dioxide (SO ₂)	0.6	0.01	0.07
Volatile Organic Material (VOM)	5.5	0.07	0.67

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

i. Compliance with the annual limits in Condition 12(g) and (h) of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).

13. This permit is issued based on the Potential to Emit (PTE) for Hazardous Air Pollutants (HAPs) as listed in Section 112(b) of the Clean Air Act from this source being less than 10 tons/year of any single HAP and 25 tons/year of any combination of such HAPs. As a result, this permit is issued based on the emissions of all HAPs from this source not triggering the requirements to obtain a CAAPP Permit from the Illinois EPA.
- 14a. Pursuant to 40 CFR 60.8(a), except as specified in 40 CFR 60.8(a)(1), (a)(2), (a)(3), and (a)(4), at such other times as may be required by the Illinois EPA or USEPA under section 114 of the Clean Air Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Illinois EPA or USEPA a written report of the results of such performance test(s).
- b. Pursuant to 40 CFR 60.8(b), performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart of 40 CFR Part 60 unless the Illinois EPA or USEPA:
 - i. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
 - ii. Approves the use of an equivalent method;
 - iii. Approves the use of an alternative method the results of which the Illinois EPA or USEPA has determined to be adequate for indicating whether a specific source is in compliance;
 - iv. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Illinois EPA's or USEPA's satisfaction that the affected facility is in compliance with the standard; or
 - v. Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Illinois EPA's or USEPA's authority to require testing under section 114 of the Clean Air Act.
- c. Pursuant to 40 CFR 60.8(c), performance tests shall be conducted under such conditions as the Illinois EPA or USEPA shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Illinois EPA or USEPA such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.
- d. Pursuant to 40 CFR 60.8(d), the owner or operator of an affected facility shall provide the Illinois EPA or USEPA at least 30 days prior

notice of any performance test, except as specified under other subparts of 40 CFR Part 60, to afford the Illinois EPA or USEPA the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the Illinois EPA or USEPA as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Illinois EPA or USEPA by mutual agreement.

- e. Pursuant to 40 CFR 60.8(e), the owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:
 - i. Sampling ports adequate for test methods applicable to such facility. This includes:
 - A. Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures; and
 - B. Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures.
 - ii. Safe sampling platform(s).
 - iii. Safe access to sampling platform(s).
 - iv. Utilities for sampling and testing equipment.
- f. Pursuant to 40 CFR 60.8(f), unless otherwise specified in the applicable subpart of 40 CFR Part 60, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard under 40 CFR Part 60. For the purpose of determining compliance with an applicable standard under 40 CFR Part 60, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Illinois EPA's or USEPA's approval, be determined using the arithmetic mean of the results of the two other runs.
- g. Pursuant to 40 CFR 60.11(e)(2), except as provided in 40 CFR 60.11(e)(3), the owner or operator of an affected facility to which an opacity standard in 40 CFR Part 60 applies shall conduct opacity observations in accordance with 40 CFR 60.11(b), shall record the opacity of emissions, and shall report to the Illinois EPA or USEPA the opacity results along with the results of the initial performance test

required under 40 CFR 60.8. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.

- 15a. Pursuant to 40 CFR 60.303(a), in conducting the performance tests required in 40 CFR 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of 40 CFR Part 60 or other methods and procedures as specified in 40 CFR 60.303, except as provided in 40 CFR 60.8(b). Acceptable alternative methods and procedures are given in 40 CFR 60.303(c).
 - b. Pursuant to 40 CFR 60.303(b), the owner or operator shall determine compliance with the particulate matter standards in 40 CFR 60.302 as follows:
 - i. Method 5 shall be used to determine the particulate matter concentration and the volumetric flow rate of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 1.70 dscm (60 dscf). The probe and filter holder shall be operated without heaters.
 - ii. Method 2 shall be used to determine the ventilation volumetric flow rate.
 - iii. Method 9 and the procedures in 40 CFR 60.11 shall be used to determine opacity.
 - c. Pursuant to 40 CFR 60.303(c)(1), the owner or operator may use the following as alternatives to the reference methods and procedures specified in 40 CFR 60.303: For Method 5, Method 17 may be used.
- 16a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:
 - i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.

- ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.
- b. Testing required by Conditions 17 and 18 shall be performed upon a written request from the Illinois EPA by a qualified independent testing service.
- 17a. Pursuant to 35 Ill. Adm. Code 212.107, for both fugitive and nonfugitive particulate matter emissions, a determination as to the presence or absence of visible emissions from emission units shall be conducted in accordance with Method 22, 40 CFR part 60, Appendix A, except that the length of the observing period shall be at the discretion of the observer, but not less than one minute. 35 Ill. Adm. Code Part 212 Subpart A shall not apply to 35 Ill. Adm. Code 212.301.
- b. Pursuant to 35 Ill. Adm. Code 212.109, except as otherwise provided in 35 Ill. Adm. Code Part 212, and except for the methods of data reduction when applied to 35 Ill. Adm. Code 212.122 and 212.123, measurements of opacity shall be conducted in accordance with Method 9, 40 CFR Part 60, Appendix A, and the procedures in 40 CFR 60.675(c) and (d), if applicable, except that for roadways and parking areas the number of readings required for each vehicle pass will be three taken at 5-second intervals. The first reading shall be at the point of maximum opacity and second and third readings shall be made at the same point, the observer standing at right angles to the plume at least 15 feet away from the plume and observing 4 feet above the surface of the roadway or parking area. After four vehicles have passed, the 12 readings will be averaged.
- c. Pursuant to 35 Ill. Adm. Code 212.110(a), measurement of particulate matter emissions from stationary emission units subject to 35 Ill. Adm. Code Part 212 shall be conducted in accordance with 40 CFR Part 60, Appendix A, Methods 5, 5A, 5D, or 5E.
- d. Pursuant to 35 Ill. Adm. Code 212.110(b), the volumetric flow rate and gas velocity shall be determined in accordance with 40 CFR Part 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 3, and 4.
- e. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.

- 18a. Within ninety (90) days after the issuance of this permit, the Permittee shall:
- i. Conduct observations to determine visual emissions using USEPA Method 22 from the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling during conditions which are representative of maximum emissions in order to demonstrate compliance with 35 Ill. Adm. Code 212.123. Thereafter, this testing shall be conducted on a quarterly basis no later than 30 days after the end of the preceding calendar quarter.
 - ii. Measure and quantify the emissions of PM (gr/dscf and lb/hr) and PM₁₀ (gr/dscf and lb/hr) emissions from the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling during conditions which are representative of maximum emissions in order to demonstrate compliance with 35 Ill. Adm. Code 212.321 and Condition 13(b) of this permit. Thereafter, this testing shall be conducted at least once every (5) five years from the preceding testing date.
- b. The following methods and procedures shall be used for testing of emissions, unless another method is approved by the Illinois EPA:(refer to 40 CFR 60, Appendix A for USEPA test methods).

Sample and Velocity Traverses for Stationary Sources	USEPA Method 1
Sample and Velocity Traverses for Stationary Sources with Small Stacks or Ducts	USEPA Method 1A
Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)	USEPA Method 2
Direct Measurement of Gas Volume through Pipes and Small Ducts	USEPA Method 2A
Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)	USEPA Method 2C
Measurement of Gas Volume Flow Rates in Small Pipes and Ducts	USEPA Method 2D
Gas Analysis for the Determination of Dry Molecular Weight	USEPA Method 3
Determination of Moisture Content in Stack Gases	USEPA Method 4
Determination of Particulate Matter from Stationary Sources	USEPA Method 5
Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters	USEPA Method 5D
Visual Determination of the Opacity of Emissions from Stationary Sources	USEPA Method 9
Visual Determination of Fugitive Emissions from Material Sources	USEPA Method 22

- c. Within sixty (60) days prior to the actual date of testing, the Permittee shall submit a written test plan to the Illinois EPA, Bureau of Air, Compliance Section Manager. This plan shall include at a minimum:
- i. The name (or other identification) of the emission unit(s) to be tested and the name and address of the facility at which they are located;
 - ii. The name and address of the independent testing service(s) performing the tests, with the names of the individuals who may be performing sampling and analysis and their experience with similar tests;
 - iii. The specific determinations of emissions and/or performance which are intended to be made, including the site(s) in the ductwork or stack at which sampling will occur;
 - iv. The specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of the maximum emissions, maximum operating rate, minimum control performance, the levels of operating parameters for the emission unit, including associated control equipment, at or within which compliance is intended to be shown, and the means by which the operating parameters will be determined;
 - v. The test method(s) which will be used, with the specific analysis method, if the method can be used with different analysis methods. The specific sampling, analytical and quality control procedures which will be used, with an identification of the standard methods upon which they are based;
 - vi. Any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification;
 - vii. Any proposed use of an alternative test method, with detailed justification; and
 - viii. The format and content of the Source Test Report.
- d. The Permittee shall provide the Illinois EPA with written notification of testing at least thirty (30) days prior to testing and again five (5) days prior to the testing to enable the Illinois EPA to have an observer present. This notification shall include the name of emission unit(s) to be tested, scheduled date and time, and contact person with telephone number.
- e. If testing is delayed, the Permittee shall promptly notify the Illinois EPA by e-mail or facsimile, at least five (5) days prior to the scheduled date of testing or immediately, if the delay occurs in the five (5) days prior to the scheduled date. This notification shall also include the new date and time for testing, if set, or a separate notification shall be sent with this information when it is set.

- f. The Permittee shall submit the Final Source Test Report(s) for these tests accompanied by a cover letter stating whether or not compliance was shown, to the Illinois EPA, Bureau of Air, Compliance Section Manager within thirty (30) days after the test results are compiled, but no later than sixty (60) days after the date of testing or sampling. The Final Source Test Report shall include as a minimum:
 - i. General information describing the test, including the name and identification of the emission source, which was tested, date of testing, names of personnel performing the tests, and Illinois EPA observers, if any;
 - ii. A summary of results;
 - iii. Description of test procedures and method(s), including description and map of emission units and sampling points, sampling train, testing and analysis equipment, and test schedule;
 - iv. Detailed description of test conditions, including:
 - A. List and description of the equipment (including serial numbers or other equipment specific identifiers) tested and process information (i.e., mode(s) of operation, process rate or throughput, fuel or raw material consumption rate, and heat content of the fuels);
 - B. Control equipment information (i.e., equipment condition and operating parameters) during testing; and
 - C. A discussion of any preparatory actions taken (i.e., inspections, maintenance and repair).
 - v. Data and calculations, including copies of all raw data sheets and records of laboratory analyses, sample calculations, and data on equipment calibration. Identification of the applicable regulatory standards and permit conditions that the testing was performed to demonstrate compliance with, a comparison of the test results to the applicable regulatory standards and permit conditions, and a statement whether the test(s) demonstrated compliance with the applicable standards and permit conditions;
 - vi. An explanation of any discrepancies among individual tests, failed tests or anomalous data;
 - vii. The results and discussion of all quality control evaluation data, including a copy of all quality control data; and
 - viii. The applicable operating parameters of the pollution control device(s) during testing (temperature, pressure drop, flow rate, etc.), if any.
- 19a. Pursuant to 40 CFR 60.7(b), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain records of the occurrence

and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

- b. Pursuant to 40 CFR 60.7(f), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows:

The Illinois EPA or USEPA, upon notification to the source, may require the owner or operator to maintain all measurements as required by 40 CFR 60.7(f), if the Illinois EPA or USEPA determines these records are required to more accurately assess the compliance status of the affected source.

- 20a. i. Pursuant to 40 CFR 60.48c(g)(1), except as provided under 40 CFR 60.48c(g)(2) and (g)(3), the owner or operator of each affected facility shall record and maintain records of the amounts of each fuel combusted during each operating day.
- ii. Pursuant to 40 CFR 60.48c(g)(2), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility that combusts only natural gas, wood, fuels using fuel certification in 40 CFR 60.48c(f) to demonstrate compliance with the SO₂ standard, fuels not subject to an emissions standard (excluding opacity), or a mixture of these fuels may elect to record and maintain records of the amount of each fuel combusted during each calendar month.
- iii. Pursuant to 40 CFR 60.48c(g)(3), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility or multiple affected facilities located on a contiguous property unit where the only fuels combusted in any steam generating unit (including steam generating units not subject to 40 CFR 60 Subpart Dc) at that property are natural gas, wood, distillate oil meeting the most current requirements in 40 CFR 60.42c to use fuel certification to demonstrate compliance with the SO₂ standard, and/or fuels, excluding coal and residual oil, not subject to an emissions standard (excluding opacity) may elect to record and maintain records of the total amount of each steam generating unit fuel delivered to that property during each calendar month.
- b. Pursuant to 40 CFR 60.48c(i), all records required under 40 CFR 60.48c shall be maintained by the owner or operator of the affected facility for a period of two years following the date of such record.

21. Pursuant to 40 CFR 63.10(b)(3), if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to Section 112(d) or (f) of the Clean Air Act, and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under 40 CFR Part 63) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the USEPA and/or Illinois EPA to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of 40 CFR Part 63 for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with USEPA guidance materials published to assist sources in making applicability determinations under Section 112 of the Clean Air Act, if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under 40 CFR 63.10(b)(3) shall not by themselves create an obligation for the owner or operator to obtain a Title V permit.
22. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- 23a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:
 - i. Records addressing use of good operating practices for the baghouse filters and cyclones:
 - A. Records for periodic inspection of the baghouse filters and cyclones with date, individual performing the inspection, and nature of inspection; and
 - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
 - ii. The Permittee shall keep a copy of the Fugitive Particulate Operating Program, any amendments or revisions to the Fugitive Particulate Operating Program, and the Permittee shall also keep a

record of activities completed according to the Fugitive Particulate Operating Program.

- iii. Records of housekeeping check lists;
 - iv. Records for the inspections required by Conditions 11(d) and (e), with date, time and observations if such information is not incorporated in the housekeeping check list.
 - v. Total flow rate for each baghouse blower (scfm);
 - vi. Total grain loading for each process (gr/dscf);
 - vii. Total hours of operation of each baghouse (hours/day and hours/year);
 - viii. Daily and annual emissions of PM, and PM₁₀ from the source with supporting calculations (tons/month and tons/year).
 - ix. Natural gas usage for Boiler #1 (mmscf/month and mmscf/year);
 - x. Natural gas usage for the Clayton Boiler (mmscf/month and mmscf/year); and
 - xi. Monthly and annual emissions of CO, NO_x, PM, PM₁₀, SO₂, and VOM from the combustion of natural gas, with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Condition 23(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.
24. Pursuant to 40 CFR 60.7(a)(4), any owner or operator subject to the provisions of 40 CFR Part 60 shall furnish the Illinois EPA or USEPA written notification or, if acceptable to both the Illinois EPA and USEPA and the owner or operator of a source, electronic notification, as follows:
- A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Illinois EPA or USEPA may request additional relevant information subsequent to this notice.

25. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.
- 26a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.
- b. One (1) copy of required reports and notifications shall be sent to:
- i. Via mail or overnight delivery:
- Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276
- ii. and electronically:
- epa.boa.smu@illinois.gov

It should be noted that the two (2) 193 Diesel Fire-Pump Engines are exempt from permitting, pursuant to 35 Ill. Adm. Code 201.146(i) and the 150,000 gallon fuel oil storage tank is exempt from permitting, pursuant to 35 Ill. Adm. Code 201.146(n)(3)

If you have any questions on this permit, please call German Barria at 217/785-1705.

Sincerely,

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:GB:tan

Attachment A - Emission Summary

This attachment provides a summary of the maximum emissions from the Corn Mill & Grain Elevator operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from such a plant. The resulting maximum emissions are below the levels, (e.g., 100 tons/year for CO, NO_x, and PM₁₀) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled, and control measures are more effective than required in this permit.

<u>Emission Unit</u>	E M I S S I O N S (Tons/Year)					
	<u>CO</u>	<u>NO_x</u>	<u>PM</u>	<u>PM₁₀</u>	<u>SO₂</u>	<u>VOM</u>
Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS)			8.93	8.55		
Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS)			11.98	9.65		
Dry Corn Milling, Processing and Products Handling			116.69	62.80		
Corn Mill Products Storage			1.64	1.24		
Corn Mill Products Milling and Handling			16.64	9.01		
Boiler #1, Natural Gas	35.52	21.14	3.21	3.21	0.25	2.33
Clayton Boiler NG	<u>10.26</u>	<u>12.22</u>	<u>0.93</u>	<u>0.93</u>	<u>0.07</u>	<u>0.67</u>
Totals	45.78	33.36	160.02	95.39	0.32	3.00

GB:tan



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

STANDARD CONDITIONS
FOR
OPERATING PERMITS

May, 1993

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. The issuance of this permit does not release the Permittee from compliance with state and federal regulations which are part of the Illinois State Implementation Plan, as well as with other applicable statutes and regulations of the United States or the State of Illinois or with applicable local laws, ordinances and regulations.
2. The Illinois EPA has issued this permit based upon the information submitted by the Permittee in the permit application. Any misinformation, false statement or misrepresentation in the application shall be grounds for revocation under 35 Ill. Adm. Code 201.166.
3.
 - a. The Permittee shall not authorize, cause, direct or allow any modification, as defined in 35 Ill. Adm. Code 201.102, of equipment, operations or practices which are reflected in the permit application as submitted unless a new application or request for revision of the existing permit is filed with the Illinois EPA and unless a new permit or revision of the existing permit(s) is issued for such modification.
 - b. This permit only covers emission sources and control equipment while physically present at the indicated plant location(s). Unless the permit specifically provides for equipment relocation, this permit is void for an item of equipment on the day it is removed from the permitted location(s) or if all equipment is removed, notwithstanding the expiration date specified on the permit.
4. The Permittee shall allow any duly authorized agent of the Illinois EPA, upon the presentation of credentials, at reasonable times:
 - a. To enter the Permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. To have access to and to copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. To obtain and remove samples of any discharge or emission of pollutants; and
 - e. To enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring or recording any activity, discharge or emission authorized by this permit.
5. The issuance of this permit:
 - a. Shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are located;

- b. Does not release the Permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the facilities;
 - c. Does not take into consideration or attest to the structural stability of any unit or part of the project; and
 - d. In no manner implies or suggests that the Illinois EPA (or its officers, agents, or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. The facilities covered by this permit shall be operated in such a manner that the disposal of air contaminants collected by the equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 7. The Permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 8. The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.
 9. No person shall cause or allow continued operation during malfunction, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur, which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:
 - a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
 - b. Maintain the following records for a period of no less than two (2) years:
 - i. Date and duration of malfunction, breakdown, or startup,
 - ii. Full and detailed explanation of the cause,
 - iii. Contaminants emitted and an estimate of quantity of emissions,
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup, and
 - v. Measures taken to reduce future occurrences and frequency of incidents.
 10. If the permit application contains a compliance program and project completion schedule, the Permittee shall submit a project completion status report within thirty (30) days of any date specified in the compliance program and project completion schedule or at six month intervals, whichever is more frequent.
 11. The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.

EXHIBIT B

From: Michelle Bublitz
Sent: Wednesday, July 27, 2022 12:37 PM
To: Barria, German <German.Barria@Illinois.gov>
Cc: James Burris <James.Burris@bunge.com>
Subject: RE: Waiver - Const.docx

German, please find attached Bunge's comments on the draft FESOP as well as a spreadsheet with our review and comments on appropriate emissions limits for facility sources and emission limit justification information. In addition to our comments included in the word document, please see the following comments:

- Bunge requests that the FESOP indicate that the conditions and limits in the FESOP (once issued) supersede conditions and limits in all previous construction and operating permits.
- The facility is a minor source of hazardous air pollutants
- The two plant boilers are capable of only burning natural gas. They were originally permitted to burn fuel oil and propane as backup but are not longer capable of burning those fuels.
- The proposed emissions limits for the boilers are based on a heat content higher than 1000 Btu/scf. Bunge suggests the limits should be based on a heat content of 1000 Btu/scf
- Remove references to specific filter/cyclone devices in the emission unit description. Replacement of filters/cyclones is exempt from permitted under 201.146(hhh). Would not want a new filter/cyclone to not match what is listed in the permit.
- Bunge's proposed emission limits are based on grain loading factors that are achievable and can be demonstrated. The justification for the grain loading values used to calculate "FESOP PTE" is included on the attached document "Grain Loading-Emission Limit Documentation".
- A comparison of emission unit information and emission limit information in the draft and Bunge's proposed descriptions and limits is attached. A couple of things to note
 - Bunge left this in excel form for each of copying and pasting
 - Columns B-I contain information from the FESOP draft.
 - Columns J, K, and Y-AE were for Bunge's internal comparison purposes
 - Bunge believes that the following information should be used to replace the information in the current draft
 - Columns M, N, P, Q, R, S, T-W
- Bunge strongly requests that IEPA remove the requirement to stack test all of the processing sources at the location within 90 days of permit issuance. This facility has roughly 135 sources that IEPA is proposing to require stack testing within 90 days of permit issuance and then again every 5 years. This is an incredibly onerous requirement and in many cases is not feasible.
 - Bunge is proposing emission limits that are based on reasonable grain loading rates from filters and cyclones.
 - These limits are achievable by well operated and maintained equipment.
 - Many of the sources are in areas that can not accommodate stack testing equipment
 - Many of the sources are not intended to operate in a manner that accommodates stack testing
 - Filter that only operate for a short time during material conveying
 - Bin vent filters

Sincerely,

Michelle

Michelle Bublitz

Environmental Director

Phone: 314.292.2652

Mobile: 314.250.3056

bunge.com

[linkedin.com/in/michelle-bublitz/](https://www.linkedin.com/in/michelle-bublitz/)

1391 Timberlake Manor Parkway, Chesterfield, MO 63385



From: Barria, German <German.Barria@Illinois.gov>

Sent: Wednesday, July 20, 2022 3:22 PM

To: James Burris <James.Burris@bunge.com>

Cc: Michelle Bublitz <Michelle.Bublitz@bunge.com>

Subject: RE: Waiver - Const.docx

CAUTION: This email originated from outside of Bunge. Do not click links or open attachments unless you recognize the sender !

Hello Jim,

I was told that we will need another waiver, the first of August is coming quick, and although we can put the requirement for a fugitive dust plan in the FESOP of within 90 days of issuance of the FESOP, We still need comments on the draft permit, or a statement that indicates that it is ok to move forward with the draft as is. It is my understanding that there was an inspection recently, we will need to wait for the field inspection report.

I will say another waiver until September 1, hopefully we can moved the permits sometime during the month of august though.

German Barria

Environmental Protection Specialist,
IEPA, Bureau of Air, Permit Section, FESOP/LOP Unit
Phone: 217-785-0767



Illinois Environmental
Protection Agency

From: James Burris <James.Burris@bunge.com>

Sent: Thursday, July 7, 2022 7:47 AM

To: Barria, German <German.Barria@Illinois.gov>

Cc: Michelle Bublitz <Michelle.Bublitz@bunge.com>

Subject: [External] RE: Waiver - Const.docx

German,

Attached is a pdf copy of the signed 90-day waiver letter. It is also being sent via registered mail.

Let me know if you have any questions.

Jim Burris, PE

Phone: 314-292-2937

Mobile: 314-308-3904

1391 Timberlake Manor Parkway
Chesterfield, MO 63017



From: Barria, German <German.Barria@Illinois.gov>

Sent: Tuesday, July 5, 2022 1:57 PM

To: James Burris <James.Burris@bunge.com>

Subject: FW: Waiver - Const.docx

CAUTION: This email originated from outside of Bunge. Do not click links or open attachments unless you recognize the sender !

I resending you the template waiver letter.

German Barria

Environmental Protection Specialist,
IEPA, Bureau of Air, Permit Section, FESOP/LOP Unit
Phone: 217-785-0767



**Illinois Environmental
Protection Agency**

From: Barria, German

Sent: Wednesday, June 22, 2022 2:41 PM

To: James Burris <James.Burris@bunge.com>

Subject: Waiver - Const.docx

Attached is what we will ask a waiver of the 90-days

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT -- NSPS and NESHAP SOURCE

PERMITTEE

~~Bunge North America, Inc.~~ **Bunge Milling, Inc.**
Attn: ~~Dean Hughes~~ **Paul Catterson**
~~11720 Berman Drive~~ **321 East North Street**
~~St. Louis, Missouri 63146-1000~~ **Danville, IL 61832**

Application No.: 96020027 I.D. No.: 183020ABT
Applicant's Designation: Date Received: December 5, 2011
Operation of: Corn Mill & Grain Elevator
Date Issued: Expiration Date:
Source Location: 321 E. North Street, Danville, Vermilion County

This permit is hereby granted to the above-designated Permittee to OPERATE emission unit(s) and/or air pollution control equipment consisting of:

Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS):
Truck Dump #1 (5012-0001-0016) controlled by Baghouse Filters APM 40072.10;
Hoffman Bldg 301 Vacuum (5012-0010-0054) controlled by Baghouse Filters
HOFFMAN 48X96;
West Headhouse Transfer General Aspiration (5012-0005-0029) controlled by
Baghouse Filters DD 484RF12;
Railcar Dump Pit (5012-0004-0016) controlled by Baghouse Filters APM
41120.12; and
Track 6 Vacuum (5012-0010-0047) controlled by Baghouse Filters HOFFMAN 48X96;
Cleanings Discharge (4870-0013-0015) controlled by Baghouse Filters BUHLER
16S-6-30;

Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS):
Truck Dump #4 & W. Gallery Aspiration (5012-0005-0021) controlled by Baghouse
Filters DD 484RF12;
Cleaning North APM (4870-0013-0001) controlled by Baghouse Filters APM
41216.12;
Corn Cleaning Bldg 115 #2 (4880-0034-0069) controlled by Baghouse Filters TD
484RF12;
North St Grain/Meal Truck Dump Pit #2 (5012-0002-0012) controlled by Baghouse
Filters DD 48RF12;

2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

PLEASE PRINT ON RECYCLED PAPER

4302 N. Main Street, Rockford, IL 61103 (815) 987-7760
595 S. State Street, Elgin, IL 60123 (847) 608-3131
2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120

9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph Street, Suite 4-500, Chicago, IL 60601

PLEASE PRINT ON RECYCLED PAPER

Page 2

Dry Corn Milling, Processing and Products Handling:

Bemis Bagging (4870-0010-0055) controlled by Baghouse Filters APM 16019.8;
Bagging General Aspiration (4870-0010-0030) controlled by Baghouse Filters
APM 40020.8;
Bagging Packer General Aspiration (4870-0013-0019) controlled by Baghouse
Filters APM 14042.8;
Bran Dryer Process (4880-0042-0057) controlled by Baghouse Filters APM
14036.8;
Bran Sifter Process (4880-0042-0062) controlled by Baghouse Filters APM
10144.8;
East Meal Dryer/Cooler (4880-0034-0054) controlled by Baghouse Filters APM
40120.10;
West Meal Dryer (4880-0034-0059) controlled by Baghouse Filters APM 40144.8;
8th FR DRACCO Screening (4880-0034-0027) controlled by Baghouse Filters DRACO
6MB-60;
9th FR DRACCO Screening (4880-0034-0001) controlled by Baghouse Filters DRACO
8MB-72;
Bldg 105 Vacuum (4880-0032-0052) controlled by Baghouse Filters HOFFMAN
36X96;
Bulk Loading White Goods (4870-0021-0001) controlled by Baghouse Filters DD
484RF12;
Bldg 104 Vacuum (4870-0015-0016) controlled by Baghouse Filters HOFFMAN
38405A;
Bran Bin (4880-0042-0054) controlled by Baghouse Filters BUHLER 16S-6-30;
6th Flr Screening (4880-0008-0028) controlled by Baghouse Filters WIEDENMANN
2X4 LF150-1200;
West 4th Floor Gravity Tables (4880-0008-0040) controlled by Baghouse Filters
WIEDENMANN 2X5 LF225-2250;
South Lunchroom Screening (4880-0034-0010) controlled by Baghouse Filters CD
484RF12;
South CD Screening (4880-0034-0042) controlled by Baghouse Filters CD
484RF12;
North CD General Aspiration (4880-0034-0048) controlled by Baghouse Filters
CD 484RF12;
North Lunchroom Screening (4880-0034-0019) controlled by Baghouse Filters CD
484RF12;
Pack & Bulk Loading Bldg 115 (4870-0013-0024) controlled by Baghouse Filters
TD 484RF12;
CAMAS/Bran Bldg 115 (4880-0034-0077) controlled by Baghouse Filters TD
484RF12;
Thru/Tail Stock Dryers Bldg 115 (4880-0034-0071) controlled by Baghouse
Filters TD 484RF12;
Bldg 115 Vacuum (4880-0032-0070) controlled by Baghouse Filters HOFFMAN
S54002;
Gravity Tables #3 (4880-0044-0070), #4 (4880-0044-0073), and #5 (4880-0044-
0076) controlled by Baghouse Filters TORIT CPC-12;
Track 2 Railcar Unloading Secondary Receiver (4870-0005-0003) controlled by
Baghouse Filters USS INC. 15CF P/D;
GERM General Aspiration (4880-0009-0005) controlled by Baghouse Filters APM
16030.4;
Lab Filter (4932-0001-0001) controlled by Baghouse Filters APM 14106.4;
AB Fin Product Surge Bin North (4900-0003-0039) controlled by Baghouse
Filters MICROPUL 8B;

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AB Fin Product Surge Bin South (4900-0003-0045) controlled by Baghouse Filters MICROPUL 8B;
1/2 Pulvocron Meal Receiver (4990-0005-0012) controlled by Baghouse Filters BUHLER 9-6-100;
1/2 Pulvocron Visc Flour Receiver (4990-0005-0042) controlled by Baghouse Filters BUHLER 16-8-100;
3/4 Pulvocron Meal Receiver (4990-0002-0010) controlled by Baghouse Filters BUHLER 9-6-100;
9/10 Pulvocron Meal Secondary Receiver (4990-0004-0013) controlled by Baghouse Filters BUHLER 16009.4;
7/8 Pulvocron Meal Secondary Receiver (4990-0003-0010) controlled by Baghouse Filters BUHLER 16009.4;
Three (3) Mills (#3 Pulvocron (4990-0002-0019), #4 Pulvocron (4990-0002-0022), and #5 Pulvocron (4990-0001-0039)) controlled by Baghouse Filters BUHLER 37-8-220;
Two (2) Mills (#1 Pulvocron (4990-0005-0021) and #2 Pulvocron (4990-0005-0024)) controlled by Baghouse Filters BUHLER 37-8-220;
Four (4) Mills (#7 Pulvocron (4990-0003-0019), #8 Pulvocron (4990-0003-0022), #9 Pulvocron (4990-0004-0022) and #10 Pulvocron (4990-0004-0025)) controlled by Baghouse Filters APM 16022.8;
3/4 Pulvocron Grinder Surge Bin (4990-0002-0008) controlled by Baghouse Filters MICROPUL 2 1/2B;
1/2 Pulvocron Grinder Surge Bin (4990-0005-0010) controlled by Baghouse Filters MICROPUL 2 1/2B;
9/10 Pulvocron Grinder Surge Bin (4990-0004-0011) controlled by Baghouse Filters APM 16104.4;
7/8 Pulvocron Grinder Surge Bin (4990-0003-0008) controlled by Baghouse Filters APM 16104.4;
1/2 Flour Surge Bin (4990-0005-0028) controlled by Baghouse Filters MICROPUL 2 1/2B;
3/4 Flour Surge Bin (4990-0002-0026) controlled by Baghouse Filters MICROPUL 2 1/2B;
7/8 Flour Surge Bin (4990-0003-0026) controlled by Baghouse Filters APM 16104.4;
9/10 Flour Surge Bin (4990-0004-0029) controlled by Baghouse Filters APM 16104.4;
HIBOND Visc. Flake Roller Mill (4990-0006-0024) controlled by Baghouse Filters APM 15066.8;
CSM Blended Food Receiver (4820-0001-0029) controlled by Baghouse Filters APM 40070.7;
Blended Food Packaging (4820-0001-0052) controlled by Baghouse Filters APM 16150.6;
ALLBOND Visc. Flour General Aspiration (4900-0001-0068) controlled by Baghouse Filters BUHLER 16-8-100;
Milk Bins (4820-0003-0007) controlled by Baghouse Filters MICROPUL 6B;
300 Series Binning (4990-0007-0049) controlled by Baghouse Filters MICROPUL 1F1;
Soy Meal General Aspiration (4990-0001-0002) controlled by Baghouse Filters APM 16022.4;
Soy Meal Surge Bin (4990-0001-0006) controlled by Baghouse Filters MICROPUL 6B;
Meal Bin Cooler (4990-0001-0025) controlled by Baghouse Filters APM 400072.10;

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3/4 Soy Flour Receiver (4990-0002-0043) controlled by Baghouse Filters APM16014.8;
Tri Cal Bins (4820-0003-0072) controlled by Baghouse Filters APM 16009.8;
5/6 Allond Receiver (4900-0001-0058) controlled by Baghouse Filters APM 16014.8;
7/8 Soy Flour Receiver (4990-0003-0032) controlled by Baghouse Filters APM 16014.8;
Five (5) Bins (Bin 308 (4990-0002-0033), 309 (4990-0002-0036), 310 (4820-0003-0038), 508 (4820-0002-0068), and 509 (4820-0002-0072)) controlled by Baghouse Filters MICROPUL 6B;
9/10 Pulvicron Receiver (4990-0004-0037) controlled by Baghouse Filters BUHLER 16-6-220;
Milk Bins (4820-0002-0038) controlled by Baghouse Filters MICROPUL 21-6-220;
Milk Bin Bag Dump (4820-0002-0035) controlled by Baghouse Filters APM 14048.6;
Blending Batch Bin General Aspiration (4990-0007-0029) controlled by Baghouse Filters BUHLER 25S-6-30;
Blender General Aspiration (4990-0007-0036) controlled by Baghouse Filters BUHLER 16S-6-30;
Blender General Aspiration (4990-0007-0032) controlled by Baghouse Filters MICROPUL 36S-8-30;
Two (2) CSB Binning General Aspiration (4820-0003-0063 and 4820-0003-0059) controlled by Baghouse Filters BUHLER 64S-6-20;
General Aspiration (4990-0006-0040) controlled by Baghouse Filters BUHLER 9-8-220;
#5 SL General Aspiration & #5 Expander (4900-0001-0091) controlled by Baghouse Filters APM 14024.6;
Fiber Receiver General Aspiration (4990-0011-0001) controlled by Baghouse Filters BUHLER 9-8-220;
PCM Binning (4820-0002-0011) controlled by Baghouse Filters MICROPUL 1F1;
CF Bran Packing Binning (4870-0010-0005) controlled by Baghouse Filters MICROPUL 25-8-220;
Bldg 111 Vacuum (4900-0005-0035) controlled by Baghouse Filters HOFFMAN 60X120;
110/210 Receiver General Aspiration (4870-0006-0006) controlled by Baghouse Filters APM 16030.4;
Fiber Receiver General Aspiration (4990-0011-0029) controlled by Baghouse Filters APM 16019.4;
Cooling Tower (4990-0001-0029) controlled by Baghouse Filters APM 40072.10;
Two (2) Ingredient Bins (601 (4820-0003-0022) and 602 (4820-0003-0026)) controlled by Baghouse Filters MICROPUL 4B;
Ingredient Bin 603 (4820-0003-0030) controlled by Baghouse Filters MICROPUL 2 1/2 B;
Ingredient Bin 604 (4820-0003-0034) controlled by Baghouse Filters APM 15105.4;
Micro Ingredient Dump Filter (4820-0003-0018) controlled by Baghouse Filters APM 15105.4;
Mixer General Aspiration (4820-0003-0004) controlled by Baghouse Filters BUHLER 25S-6-30;
3/4 Hammermill (4900-0001-0065) controlled by Baghouse Filters APM 16009.6;
#3 & #4 Expanders (4900-0001-0006) controlled by Baghouse Filters APM 16009.6;

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Reprocess General Cooler Dryer Roof (4900-0005-0001) controlled by Baghouse Filters CD 376RF10;
#6 Pulverizer Grinder (4900-0001-0042) controlled by Baghouse Filters BUHLER 37-8-220;
5/6 Pulverizer AB Finished Product Surge Bin (4900-0001-0046) controlled by Baghouse Filters MICROPUL 4B;
Pellet Bins (4900-0002-0032) controlled by Baghouse Filters BUHLER 16S-6-30;
Viscosity Flour Receiver (4990-0006-0027) controlled by Baghouse Filters APM 16022.8;
Conditioning Receiver/Soy Meal Grinder (4990-0011-0010) controlled by Baghouse Filters APM 16014.8;
Grind Reject/Scrap Bin (4900-0005-0007) controlled by Baghouse Filters MICROPUL 2 1/2B;
Bldg 112 Vacuum (4900-0005-0029) controlled by Baghouse Filters HOFFMAN 36X96;
AB Grinder Surge Bin (4900-0001-0030) controlled by Baghouse Filters BUHLER 37-8-220;
N DAY General Aspiration & #5 Expander (4900-0005-0006) controlled by Baghouse Filters CD 484RF12;
Blended Foods Filter (4820-0001-0093) controlled by Baghouse Filters DD 124RF10;
Hominy Truck Loadout Aspiration (4912-0002-0054) controlled by Baghouse Filters DD 484RF12;
South Hominy Feed (4860-0018-0003) controlled by Baghouse Filters MICROPUL 1F2;
Secondary Clean Grinding (4860-0022-0017) controlled by Baghouse Filters APM 15030.8;
Bran Dryer (4860-0024-0003) controlled by Corona Cyclone;
Track 16 Bulk Rail Loadout (4912-0006-0017) controlled by Baghouse Filters WEIDENMAN LFT 2X7;
Flaking General Aspiration (4860-0017-0073) controlled by Baghouse Filters APM 40120.8;
Germ Dusters Aspiration (4860-0023-0001) controlled by Baghouse Filters APM 40120.8;
Germ Dryer (4860-0017-0003) controlled by DAY CYCLONE HV56;
Germ Rolls Aspiration (4860-0017-0072) controlled by DAY CYCLONE HV56;
Fts Dryer Aspiration (4860-0019-0003) controlled by CORONA 15 CYCLONE;
Pet Bran Kice Lites Filter (4860-0024-0037) controlled by Baghouse Filters MICROPUL;
Two (2) Cyclone Receivers (Extrusion Receiver; 108 A-Bin Receiver) controlled by Baghouse Filters (5&6 Allbond Receiving Filter);
Pneumatic Lift Receiver for Coarse Whole Grain transfer (WG260);
PCM Hammermill controlled by Filter System (78-03:11);
USG Hammermill controlled by Filter System (78-03:27);
USG Extruder Pellet Transfer controlled by Collection Cyclone (78-08:22);
One (1) #1 Coarse Gravity Table Aspiration Cyclone Collector (05:68) (17,000 dscfm) controlled by the S 105 Roof Carter-Day Filter (334:86);
One (1) #3 Fine Gravity Table Aspiration Cyclone Collector (06:88) (17,000 dscfm) controlled by the S 105 Roof Carter-Day Filter (334:86);
One (1) #1 Satake Degerminator Cyclone Collector (45:07) (1,400 dscfm) controlled by the S 105 Roof Carter-Day Filter (334:86);
One (1) #1 Satake Aspiration Cyclone Collector (45:12) (1,400 dscfm) controlled by the S 105 Roof Carter-Day Filter (334:86);

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One (1) #2 Satake Degerminator Cyclone Collector (45:09) (1,400 dscfm) controlled by the S 105 Roof Carter-Day Filter (334:86);
One (1) #2 Satake Aspiration Cyclone Collector (45:24) (1,400 dscfm) controlled by the S 105 Roof Carter-Day Filter (334:86);
Satake Sifter and Sifter Air Locks controlled by the S 105 Roof Carter-Day Filter (334:86);
One (1) Pneumatic Transfer Line and Cyclone Receiver (45:20) controlled by 8th Floor Donaldson Filter (34:27) controlled by the S 105 Roof Carter-Day Filter (334:86);
One (1) Pneumatic Transfer Line and Cyclone Receiver (23:102) controlled by West MAC Filter (34:01) controlled by the S 105 Roof Carter-Day Filter (334:86);

Corn Mill Products Storage:

Bldg 201/202 Vacuum (4912-0008-0006) controlled by Baghouse Filters HOFFMAN 36X96;
Bldg 208 Vacuum (4912-0009-0005) controlled by Baghouse Filters HOFFMAN 36X96;
Hominy Feed Bins Aspiration (4750-0029-0074) controlled by Baghouse Filters DONALDSON 276RFW12;

Corn Mill Products Milling and Handling:

Hominy Binning (4750-0029-0032) controlled by Baghouse Filters APM 40240.8;
Hominy Grinder General Aspiration (4750-0029-0001) controlled by Baghouse Filters APM 40224.4;
Truck Hominy Loadout (4912-0004-0022) controlled by Baghouse Filters 376RF8;
Rail Hominy/Grain Loadout #1 (4912-0003-0011) controlled by Baghouse Filters 376RF12;
Long Term Meal System (LTMS) & Rail Meal/Grain Transfer (4750-0033-0001) controlled by Baghouse Filters 376RF8;
LTMS & Rail Meal/Grain Loadout (4750-0033-0011) controlled by Baghouse Filters MAC 144MCF416;
Flour Pellet Cooler (4750-0025-0015) controlled by Baghouse Filters MAC Cyclone HE39;
Hominy Screener General Aspiration (4750-0029-0045) controlled by Baghouse Filters MICROPUL 100S-6-20;
LTMS Truck/Rail Dump Pit (4750-0033-0000A);
LTMS Truck Loadout (4750-0033-0000B);

Boiler House/Grounds:

One (1) 96.55 mmBtu/hour Natural Gas/Distillate Fuel-Oil Fired Boiler with Low NO_x Burner (Boiler #1);
One (1) 27.90 mmBtu/hour Natural Gas-Fired/Distillate Fuel-Oil Fired Boiler (Clayton Boiler);
~~One (1) 2,168 engine Hp Diesel Powered Emergency Generator Set (DG 100); and~~
Two (2) 193 Hp Diesel Fire-Pump Engines (insignificant)

Fugitive PM and PM₁₀ emissions

pursuant to the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

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- 1a. This Federally Enforceable State Operating Permit (FESOP) is issued to limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 100 tons/year for Carbon Monoxide (CO), Nitrogen Oxides (NO_x), and Particulate Matter less than 10 microns (PM₁₀)). As a result, the source is excluded from the requirements to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit, are described in Attachment A.
- b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.
- c. This permit supersedes all operating permit(s) for this location.
- 2a. The Clayton Boiler is subject to the New Source Performance Standard (NSPS) for Small Industrial - Commercial - Institutional Steam Generating Units, 40 CFR Part 60 Subparts A and Dc. The Illinois EPA is administering the NSPS in Illinois on behalf of the United States Environmental Protection Agency (USEPA) under a delegation agreement. Pursuant to 40 CFR 60.40c(a), except as provided in 40 CFR 60.40c(d), (e), (f), and (g), the affected facility to which 40 CFR 60 Subpart Dc applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million British thermal units per hour (mmBtu/hr)) or less, but greater than or equal to 2.9 MW (10 mmBtu/hr).
- b. Pursuant to 40 CFR 60.42c(d), on and after the date on which the initial performance test is completed or required to be completed under 40 CFR 60.8, whichever date comes first, no owner or operator of an affected facility that combusts oil shall cause to be discharged into the atmosphere from that affected facility any gases that contain SO₂ in excess of 215 ng/J (0.50 lb/mmBtu) heat input from oil; or, as an alternative, no owner or operator of an affected facility that combusts oil shall combust oil in the affected facility that contains greater than 0.5 weight percent sulfur. The percent reduction requirements are not applicable to affected facilities under this paragraph.
- c. Pursuant to 40 CFR 60.42c(h)(1), for distillate oil-fired affected facilities with heat input capacities between 2.9 and 29 MW (10 and 100 mmBtu/hour), compliance with the emission limits or fuel oil sulfur limits under 40 CFR 60.42c may be determined based on a certification from the fuel supplier, as described under 40 CFR 60.48c(f), as applicable.
- d. Pursuant to 40 CFR 60.42c(i), the SO₂ emission limits, fuel oil sulfur limits, and percent reduction requirements under 40 CFR 60.42c apply at all times, including periods of startup, shutdown, and malfunction.
- 3a. The Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS) are subject to the NSPS for Grain Elevators, 40 CFR Part 60 Subparts A and DD. The Illinois EPA is administering the NSPS in Illinois on behalf of the USEPA under a delegation agreement. Pursuant to 40 CFR 60.

Commented [MB1]: NSPS DD doesn't include "products". Not sure it is important to note that here so long as DD isn't identified as being applicable to facilities that are handling products other than listed grains

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300(a), the provisions of 40 CFR 60 Subpart DD apply to each affected facility at any grain terminal elevator or any grain storage elevator, except as provided under 40 CFR 60.304(b). The affected facilities are each truck unloading station, truck loading station, barge and ship unloading station, barge and ship loading station, railcar loading station, railcar unloading station, grain dryer, and all grain handling operations.

- b. Pursuant to 40 CFR 60.300(b), any facility under 40 CFR 60.300(a) which commences construction, modification or reconstructed after August 3, 1978 is subject to the requirements of 40 CFR 60 Subpart DD.
- c. Pursuant to 40 CFR 60.302(b), on and after the date on which the performance test required to be conducted by 40 CFR 60.8 is completed, no owner or operator subject to the provisions of 40 CFR 60 Subpart DD shall cause to be discharged into the atmosphere from any affected facility except a grain dryer any process emission which:
 - i. Contains particulate matter in excess of 0.023 g/dscm (ca. 0.01 gr/dscf).
 - ii. Exhibits greater than 0 percent opacity.
- d. Pursuant to 40 CFR 60.302(c), on and after the 60th day of achieving the maximum production rate at which the affected facility will be operated, but no later than 180 days after initial startup, no owner or operator subject to the provisions of 40 CFR 60 Subpart DD shall cause to be discharged into the atmosphere any fugitive emission from:
 - i. Any individual truck unloading station, railcar unloading station, or railcar loading station, which exhibits greater than 5 percent opacity.
 - ii. Any grain handling operation, which exhibits greater than 0 percent opacity.
 - iii. Any truck loading station which exhibits greater than 10 percent opacity.
- 4a. Emergency Generator Set DG-100 is subject to the National Emission Standard for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines, 40 CFR Part 63 Subparts A and ZZZZ. The Illinois EPA is administering the NESHAP in Illinois on behalf of the USEPA under a delegation agreement. Pursuant to 40 CFR 63.6590(a), an affected source is any existing, new, or reconstructed stationary RICE located at a major or area source of HAP emissions, excluding stationary RICE being tested at a stationary RICE test cell/stand.
- b. Pursuant to 40 CFR 63.6595(a)(1), if you have an existing stationary RICE, excluding existing non-emergency CI stationary RICE, with a site rating of more than 500 brake HP located at a major source of HAP emissions, you must comply with the applicable emission limitations, operating limitations and other requirements no later than June 15,

2007. If you have an existing non-emergency CI stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, an existing stationary CI RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, or an existing stationary CI RICE located at an area source of HAP emissions, you must comply with the applicable emission limitations, operating limitations, and other requirements no later than May 3, 2013. If you have an existing stationary SI RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, or an existing stationary SI RICE located at an area source of HAP emissions, you must comply with the applicable emission limitations, operating limitations, and other requirements no later than October 19, 2013.

- c. Pursuant to 40 CFR 63.6603(a), if you own or operate an existing stationary RICE located at an area source of HAP emissions, you must comply with the requirements in Table 2d to 40 CFR 63 Subpart ZZZZ and the operating limitations in Table 2b to 40 CFR 63 Subpart ZZZZ that apply to you.

Table 2d to Subpart ZZZZ of Part 63—Requirements for Existing Stationary RICE Located at Area Sources of HAP Emissions

As stated in 40 CFR 63.6600 and 63.6640, you must comply with the following requirements for existing stationary RICE located at area sources of HAP emissions:

For each . . .	You must meet the following requirement, except during periods of startup . . .	During periods of startup you must . . .
4. Emergency stationary CI RICE and black start stationary CI RICE. ²	a. Change oil and filter every 500 hours of operation or annually, whichever comes first; ¹	
	b. Inspect air cleaner every 1,000 hours of operation or annually, whichever comes first; and	
	c. Inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary.	

¹Sources have the option to utilize an oil analysis program as described in 40 CFR 63.6625(i) or (j) in order to extend the specified oil change requirement in Table 2d of 40 CFR 63 Subpart ZZZZ.

²If an emergency engine is operating during an emergency and it is not possible to shut down the engine in order to perform the management practice requirements on the schedule required in Table 2d of 40 CFR 63 Subpart ZZZZ, or if performing the management practice on the required schedule would otherwise pose an unacceptable risk under federal, state, or local law, the management practice can be delayed until the emergency is over or the

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unacceptable risk under federal, state, or local law has abated. The management practice should be performed as soon as practicable after the emergency has ended or the unacceptable risk under Federal, State, or local law has abated. Sources must report any failure to perform the management practice on the schedule required and the Federal, State or local law under which the risk was deemed unacceptable.

- 5a. The Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; Corn Mill Products Milling and Handling; Boiler #1, Clayton Boiler, and Emergency Generator Set DG-100 are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
- b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.
- c. Boiler #1 and Clayton Boiler are subject to 35 Ill. Adm. Code Part 212 Subpart E (Particulate Matter Emissions From Fuel Combustion Emission Units). Pursuant to 35 Ill. Adm. Code 212.206, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period to exceed 0.15 kg of particulate matter per MW-hr of actual heat input from any fuel combustion emission unit using liquid fuel exclusively (0.10 lbs/mmBtu).
- d. This source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.
- e. When processing and handling processed materials, the emission units constructed on or after April 14, 1972 within the following groups: Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person

Commented [MB2]: Boilers only burn natural gas. This citation is for fuel combustion emissions sources that burn liquid fuel exclusively.

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shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).

- f. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
 E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

- g. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units for Which Construction or Modification Commenced on or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

- h. When processing and handling processed materials, the emission units constructed before after April 14, 1972 within the following groups: Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.322(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any process emission unit for which construction or modification commenced prior to April 14, 1972, which, either alone or in combination with the emission of particulate matter from all other similar process emission units at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.322(c).
- i. Pursuant to 35 Ill. Adm. Code 212.322(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.322(c) shall be determined by using the equation:

$$E = C + A(P)^B$$

where:

P = process weight rate; and,
 E = allowable emission rate; and,

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i. For process weight rates up to 27.2 Mg/hr (30 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.985	4.10
B	0.67	0.67
C	0	0

ii. For process weight rates in excess or 27.2 Mg/hr (30 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	25.21	55.0
B	0.11	0.11
C	-18.4	-40.0

j. Pursuant to 35 Ill. Adm. Code 212.322(c), Limits for Process Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972:

P Mg/hr	Metric	English	
	E kg/hr	P T/hr	E lbs/hr
0.05	0.27	0.05	0.55
0.1	0.42	0.10	0.87
0.2	0.68	0.20	1.40
0.3	0.89	0.30	1.83
0.4	1.07	0.40	2.22
0.5	1.25	0.50	2.58
0.7	1.56	0.75	3.38
0.9	1.85	1.00	4.10
1.8	2.9	2.00	6.52
2.7	3.9	3.00	8.56
3.6	4.7	4.00	10.40
4.5	5.4	5.00	12.00
9.	8.7	10.00	19.20
13.	11.1	15.00	25.20
18.	13.8	20.00	30.50
23.	16.2	25.00	35.40
27.2	18.15	30.00	40.00
32.0	18.8	35.00	41.30
36.0	19.3	40.00	42.50
41.0	19.8	45.00	43.60
45.0	20.2	50.00	44.60
90.0	23.2	100.00	51.20
140.0	25.3	150.00	55.40
180.0	26.5	200.00	58.60
230.0	27.7	250.00	61.00
270.0	28.5	300.00	63.10
320.0	29.4	350.00	64.90
360.0	30.0	400.00	66.20
400.0	30.6	450.00	67.70

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	Metric	English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
454.0	31.3	500.00	69.00

where:

P = Process weight rate in Mg/hr or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

k. The handling of grain in the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling Operations are subject to 35 Ill. Adm. Code Part 212 Subpart S (Agriculture). Pursuant to 35 Ill. Adm. Code 212.462, unless otherwise exempted pursuant to 35 Ill. Adm. Code 212.461(c) or (d), or allowed to use alternate control according to 35 Ill. Adm. Code 212.461(g), existing grain-handling operations with a total annual grain through-put of 300,000 bushels or more shall apply for an operating permit pursuant to 35 Ill. Adm. Code Part 201, and shall demonstrate compliance with the following:

i. Cleaning and Separating Operations.

- A. Particulate matter generated during cleaning and separating operations shall be captured to the extent necessary to prevent visible particulate matter emissions directly into the atmosphere.
- B. For grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area, air contaminants collected from cleaning and separating operations shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90 percent by weight prior to release into the atmosphere.

ii. Major Dump-Pit Area.

Induced Draft.

- A. Induced draft shall be applied to major dump pits and their associated equipment (including, but not limited to, boots, hoppers and legs) to such an extent that a minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated in unloading operations. The minimum face velocity at the effective grate surface shall be at least 200 fpm, which shall be determined by using the equation:

$$V = Q/A$$

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where:

V = face velocity; and
Q = induced draft volume in scfm; and
A = effective grate area in ft²; and

- B. The induced draft air stream for grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be confined and conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90 percent by weight;
 - C. Means or devices (including, but not limited to, quick-closing doors, air curtains or wind deflectors) shall be employed to prevent a wind velocity in excess of 50 percent of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph. The wind velocity shall be measured, with the induced draft system not operating, at a point midway between the dump-pit area walls at the point where the wind exits the dump-pit area, and at a height above the dump-pit area floor of approximately 2 ft; or
- iii. Internal Transferring Area.
- A. Internal transferring area shall be enclosed to the extent necessary to prohibit visible particulate matter emissions directly into the atmosphere.
 - B. Air contaminants collected from internal transfer operations for grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90 percent by weight prior to release into the atmosphere.
- iv. Load-Out Area.
- A. Truck and hopper car loading shall employ socks, sleeves or equivalent devices which extend 6 inches below the sides of the receiving vehicle, except for topping off. Choke loading shall be considered an equivalent method as long as the discharge is no more than 12 inches above the sides of the receiving vehicle.
 - B. Box car loading shall employ means or devices to prevent the emission of particulate matter into the atmosphere to the fullest extent which is technologically and economically feasible.

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1. Pursuant to 35 Ill. Adm. Code 212.463, unless otherwise exempted pursuant to 35 Ill. Adm. Code 212.461(c) or (d) or allowed to use alternate control according to 35 Ill. Adm. Code 212.461(g), grain-drying operations for which construction or modification commenced prior to June 30, 1975, with a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity (using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers) shall be operated in such a fashion as to preclude the emission of particulate matter larger than 300 microns mean particle diameter, shall apply for an operating permit pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the following:
 - i. Column Dryers. The largest effective circular diameter of transverse perforations in the external sheeting of a column dryer shall not exceed 0.094 inch, and the grain inlet and outlet shall be enclosed.
 - ii. Rack Dryers. No portion of the exhaust air of rack dryers shall be emitted to the ambient atmosphere without having passed through a particulate collection screen having a maximum opening of 50 mesh, U.S. Sieve Series.
 - A. All such screens will have adequate self-cleaning mechanisms, the exhaust gas of which for grain-handling facilities having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be ducted through air pollution control equipment which has a rated and actual particulate removal efficiency of 90 percent by weight prior to release into the atmosphere.
 - B. All such screens will have adequate self-cleaning mechanisms, the exhaust gas of which for grain-handling sources having a grain through-put exceeding 2 million bushels per year and located in a major population area shall be ducted through air pollution control equipment which has a rated and actual particulate removal efficiency of 98 percent by weight prior to release into the atmosphere.
 - iii. Other Types of Dryers. All other types of dryers shall be controlled in a manner which shall result in the same degree of control required for rack dryers pursuant to 35 Ill. Adm. Code 212.463(b).
 - iv. New and Modified Grain-Drying Operations. Grain-drying operations constructed or modified on or after June 30, 1975, shall file applications for construction and operating permits pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the control equipment requirements of 35 Ill. Adm. Code 212.463, except for new and modified grain-drying operations which do not

result in a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineer Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers.

- 6a. ~~Boiler #1 and Clayton Boiler are subject to 35 Ill. Adm. Code Part 214 Subpart B (New Fuel Combustion Emission Sources). Pursuant to 35 Ill. Adm. Code 214.122(b)(2), on and after January 1, 2017, the owner or operator of a new fuel combustion emission source with actual heat input smaller than, or equal to, 72.2 MW (250 mmBtu/hr), burning liquid fuel exclusively, must comply with the following:~~

~~The sulfur content of all distillate fuel oil used by the fuel combustion emission source must not exceed 15 ppm.~~

Commented [MB3]: Boilers only burn natural gas

- ~~b. Emergency Generator Set DG-100 is subject to 35 Ill. Adm. Code Part 214 Subpart K (Process Emission Sources). Pursuant to 35 Ill. Adm. Code 214.301, except as further provided by 35 Ill. Adm. Code Part 214, no person shall cause or allow the emission of sulfur dioxide into the atmosphere from any process emission source to exceed 2000 ppm.~~

Commented [MB4]: This source is no longer in service

- ~~c. Pursuant to 35 Ill. Adm. Code 214.305(a)(2), except as provided in 35 Ill. Adm. Code 214.305(b), (c), and (d), on and after January 1, 2017, the owner or operator of a process emission source must comply with the following:~~

~~The sulfur content of all distillate fuel oil used by the process emission source must not exceed 15 ppm.~~

- ~~7. Emergency Generator Set DG-100 is subject to 35 Ill. Adm. Code Part 215 Subpart K (Use of Organic Material). Pursuant to 35 Ill. Adm. Code 215.301, no person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission source, except as provided in 35 Ill. Adm. Code 215.302, 215.303, 215.304 and the following exception: If no odor nuisance exists the limitation of 35 Ill. Adm. Code Part 215 Subpart K shall apply only to photochemically reactive material.~~

8. Boiler #1 and Clayton Boiler are subject to 35 Ill. Adm. Code Part 216 Subpart B (Fuel Combustion Emission Sources). Pursuant to 35 Ill. Adm. Code 216.121, no person shall cause or allow the emission of carbon monoxide (CO) into the atmosphere from any fuel combustion emission source with actual heat input greater than 2.9 MW (10 mmBtu/hr) to exceed 200 ppm, corrected to 50 percent excess air.

- 9a. This permit is issued based on the Cooling Tower at this source not being subject to the NESHP for Process Cooling Towers, 40 CFR 63 Subpart Q because the cooling tower is not operated with chromium-based water treatment chemicals and is not either major sources or is an integral part of a facility that is a major source.

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- b. This permit is issued based on the source no longer being subject to the NESHAP for Solvent Extraction for Vegetable Oil Production, 40 CFR 63 Subpart GGGG, because the source no longer operates a vegetable oil production process and is no longer a major source of HAP emissions.
- c. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to the NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63 Subpart DDDDD because this source is not or is part of, a major source of Hazardous Air Pollutant (HAP) emissions as defined in 40 CFR 63.2.
- d. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to the requirements of the NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources, 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11195(e), gas-fired boilers are not subject to 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11237, gas-fired boiler includes any boiler that burns gaseous fuels not combined with any solid fuels, burns liquid fuel only during periods of gas curtailment, gas supply emergencies, or periodic testing on liquid fuel. Periodic testing of liquid fuel shall not exceed a combined total of 48 hours during any calendar year.
- e. ~~This permit is issued based on the source not being subject to the National Emission Standards (NESHAP) for Area Sources: Prepared Feeds Manufacturing, 40 CFR 63 Subpart DDDDDDD because the source does not use a material containing chromium or a material containing manganese in the manufacturing of prepared feeds.~~
- 10a. ~~Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of 35 Ill. Adm. Code 212.314 shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to 35 Ill. Adm. Code 212.314 is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.~~
- b. This permit is issued based on the handling of grain in the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling Operations not being subject to 35 Ill. Adm. Code Part 212 Subpart L while handling grain. Pursuant to 35 Ill. Adm. Code 212.461(a), 35 Ill. Adm. Code 212.302(a), 212.321, and 212.322 shall not apply to grain-handling and grain-drying operations, portable grain-handling equipment and one-turn storage space.
- 11. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to 35 Ill. Adm. Code Part 215 Subpart K.

Commented [MB5]: Facility does not manufacture prepared feeds

Commented [MB6]: Facility is not located in an area subject to 212.302

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Pursuant to 35 Ill. Adm. Code 215.303, the provisions of 35 Ill. Adm. Code 215.301 and 215.302 shall not apply to fuel combustion emission sources.

- 12a. Pursuant to 40 CFR 60.11(b), compliance with opacity standards in 40 CFR Part 60 shall be determined by conducting observations in accordance with Method 9 in appendix A of 40 CFR Part 60, any alternative method that is approved by the Illinois EPA or USEPA, or as provided in 40 CFR 60.11(e)(5). For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).
 - b. Pursuant to 40 CFR 60.11(c), the opacity standards set forth in 40 CFR Part 60 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.
 - c. Pursuant to 40 CFR 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Illinois EPA or USEPA which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
- 13a. Pursuant to 40 CFR 63.6595(c), if you own or operate an affected source, you must meet the applicable notification requirements in 40 CFR 63.6645 and in 40 CFR Part 63, Subpart A.
 - b. Pursuant to 40 CFR 63.6604(b), beginning January 1, 2015, if you own or operate an existing emergency CI stationary RICE with a site rating of more than 100 brake HP and a displacement of less than 30 liters per cylinder that uses diesel fuel and operates for the purpose specified in 40 CFR 63.6640(f)(4)(ii), you must use diesel fuel that meets the requirements in 40 CFR 1090.305 for nonroad diesel fuel, except that any existing diesel fuel purchased (or otherwise obtained) prior to January 1, 2015, may be used until depleted.
 - c. Pursuant to 40 CFR 63.6605(a), you must be in compliance with the emission limitations and operating limitations in 40 CFR 63 Subpart ZZZZ that apply to you at all times.
 - d. Pursuant to 40 CFR 63.6605(b), at all times you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by

40 CFR 63 Subpart ZZZZ have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Illinois EPA or USEPA which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

- e. Pursuant to 40 CFR 63.6625(e)(3), if you own or operate any of the following stationary RICE, you must operate and maintain the stationary RICE and after-treatment control device (if any) according to the manufacturer's emission-related written instructions or develop your own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions:

An existing emergency or black start stationary RICE located at an area source of HAP emissions;

- f. Pursuant to 40 CFR 63.6625(f), if you own or operate an existing emergency stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions or an existing emergency stationary RICE located at an area source of HAP emissions, you must install a non-resettable hour meter if one is not already installed.
- g. Pursuant to 40 CFR 63.6625(h), if you operate a new, reconstructed, or existing stationary engine, you must minimize the engine's time spent at idle during startup and minimize the engine's startup time to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes, after which time the emission standards applicable to all times other than startup in Tables 1a, 2a, 2c, and 2d to 40 CFR 63 Subpart ZZZZ apply.
- h. Pursuant to 40 CFR 63.6625(i), if you own or operate a stationary CI engine that is subject to the work, operation or management practices in items 1 or 2 of Table 2c to 40 CFR 63 Subpart ZZZZ or in items 1 or 4 of Table 2d to 40 CFR 63 Subpart ZZZZ, you have the option of utilizing an oil analysis program in order to extend the specified oil change requirement in Tables 2c and 2d to 40 CFR 63 Subpart ZZZZ. The oil analysis must be performed at the same frequency specified for changing the oil in Table 2c or 2d to 40 CFR 63 Subpart ZZZZ. The analysis program must at a minimum analyze the following three parameters: Total Base Number, viscosity, and percent water content. The condemning limits for these parameters are as follows: Total Base Number is less than 30 percent of the Total Base Number of the oil when new; viscosity of the oil has changed by more than 20 percent from the viscosity of the oil when new; or percent water content (by volume) is greater than 0.5. If all of these condemning limits are not exceeded, the engine owner or operator is not required to change the oil. If any of the limits are exceeded, the engine owner or operator must change the oil within 2 business days of receiving the results of the analysis; if the engine is not in operation when the results of the analysis are received, the engine owner or operator must change the oil

within 2 business days or before commencing operation, whichever is later. The owner or operator must keep records of the parameters that are analyzed as part of the program, the results of the analysis, and the oil changes for the engine. The analysis program must be part of the maintenance plan for the engine.

- i. Pursuant to 40 CFR 63.6640(a), you must demonstrate continuous compliance with each emission limitation, operating limitation, and other requirements in Tables 1a and 1b, Tables 2a and 2b, Table 2c, and Table 2d to 40 CFR 63 Subpart ZZZZ that apply to you according to methods specified in Table 6 to 40 CFR 63 Subpart ZZZZ.

Table 6 to Subpart ZZZZ of Part 63- Continuous Compliance With Emission Limitations, Operating Limitations, Work Practices, and Management Practices

As stated in 40 CFR 63.6640, you must continuously comply with the emissions and operating limitations and work or management practices as required by the following:

For each . . .	Complying with the requirement to . . .	You must demonstrate continuous compliance by . . .
9. Existing emergency and black start stationary RICE ≤500 HP located at a major source of HAP, existing non-emergency stationary RICE <100 HP located at a major source of HAP, existing emergency and black start stationary RICE located at an area source of HAP, existing non-emergency stationary CI RICE ≤300 HP located at an area source of HAP, existing non-emergency 2SLB stationary RICE located at an area source of HAP, existing non-emergency landfill or digester gas stationary SI RICE located at an area source of HAP, existing non-emergency 4SLB and 4SRB stationary RICE ≤500 HP located at an area source of HAP, existing non-emergency 4SLB and 4SRB stationary RICE >500 HP located at an area source of HAP that operate 24 hours or less per calendar year	a. Work or Management practices	i. Operating and maintaining the stationary RICE according to the manufacturer's emission-related operation and maintenance instructions; or ii. Develop and follow your own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

- j. Pursuant to 40 CFR 63.6640(f), if you own or operate an emergency stationary RICE, you must operate the emergency stationary RICE according to the requirements in 40 CFR 63.6640 (f)(1) through (4). In order for the engine to be considered an emergency stationary RICE under 40 CFR 63 Subpart ZZZZ, any operation other than emergency operation, maintenance and testing, emergency demand response, and operation in non-emergency situations for 50 hours per year, as described in 40 CFR 63.6640(f)(1) through (4), is prohibited. If you do not operate the engine according to the requirements in 40 CFR

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63.6640(f)(1) through (4), the engine will not be considered an emergency engine under 40 CFR 63 Subpart ZZZZ and must meet all requirements for non-emergency engines.

- i. There is no time limit on the use of emergency stationary RICE in emergency situations.
- ii. You may operate your emergency stationary RICE for any combination of the purposes specified in 40 CFR 63.6640(f)(2)(i) for a maximum of 100 hours per calendar year. Any operation for non-emergency situations as allowed by 40 CFR 63.6640(f)(3) and (4) counts as part of the 100 hours per calendar year allowed by this paragraph (40 CFR 63.6640(f)(2)).

Emergency stationary RICE may be operated for maintenance checks and readiness testing, provided that the tests are recommended by Federal, State or local government, the manufacturer, the vendor, the regional transmission organization or equivalent balancing authority and transmission operator, or the insurance company associated with the engine. The owner or operator may petition the Illinois EPA or USEPA for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records indicating that Federal, State, or local standards require maintenance and testing of emergency RICE beyond 100 hours per calendar year.

- iii. Emergency stationary RICE located at area sources of HAP may be operated for up to 50 hours per calendar year in non-emergency situations. The 50 hours of operation in non-emergency situations are counted towards the 100 hours per calendar year provided in 40 CFR 63.6640(f)(2). Except as provided in 40 CFR 63.6640(f)(4)(i) and (ii), the 50 hours per year for non-emergency situations cannot be used for peak shaving or non-emergency demand response, or to generate income for a facility to an electric grid or otherwise supply power as part of a financial arrangement with another entity.

The 50 hours per year for non-emergency situations can be used to supply power as part of a financial arrangement with another entity if all of the following conditions are met:

- A. The engine is dispatched by the local balancing authority or local transmission and distribution system operator.
- B. The dispatch is intended to mitigate local transmission and/or distribution limitations so as to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region.
- C. The dispatch follows reliability, emergency operation or similar protocols that follow specific NERC, regional,

state, public utility commission or local standards or guidelines.

- D. The power is power provided only to the facility itself or to support the local transmission and distribution system.
 - E. The owner or operator identifies and records the entity that dispatches the engine and the specific NERC, regional, state, public utility commission or local standards or guidelines that are being followed for dispatching the engine. The local balancing authority or local transmission and distribution system operator may keep these records on behalf of the engine owner or operator.
- k. Pursuant to 40 CFR 63.6665, Table 8 to 40 CFR 63 Subpart ZZZZ (see Attachment B) shows which parts of the General Provisions in 40 CFR 63.1 through 63.15 apply to you. If you own or operate a new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions (except new or reconstructed 4SLB engines greater than or equal to 250 and less than or equal to 500 brake HP), a new or reconstructed stationary RICE located at an area source of HAP emissions, or any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with any of the requirements of the General Provisions specified in Table 8: An existing 2SLB stationary RICE, an existing 4SLB stationary RICE, an existing stationary RICE that combusts landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, an existing emergency stationary RICE, or an existing limited use stationary RICE. If you own or operate any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the requirements in the General Provisions specified in Table 8 except for the initial notification requirements: A new stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, a new emergency stationary RICE, or a new limited use stationary RICE.
- l. Pursuant to 40 CFR 63.6675, emergency stationary RICE means any stationary reciprocating internal combustion engine that meets all of the criteria in paragraphs (1) through (3) of this definition. All emergency stationary RICE must comply with the requirements specified in 40 CFR 63.6640(f) in order to be considered emergency stationary RICE. If the engine does not comply with the requirements specified in 40 CFR 63.6640(f), then it is not considered to be an emergency stationary RICE under 40 CFR 63 Subpart ZZZZ:
- i. The stationary RICE is operated to provide electrical power or mechanical work during an emergency situation. Examples include stationary RICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is

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interrupted, or stationary RICE used to pump water in the case of fire or flood, etc.

- ii. The stationary RICE is operated under limited circumstances for situations not included in paragraph (1) of this definition, as specified in 40 CFR 63.6640(f).
 - iii. The stationary RICE operates as part of a financial arrangement with another entity in situations not included in paragraph (1) of this definition only as allowed in 40 CFR 63.6640(f)(2)(ii) or (iii) and 40 CFR 63.6640(f)(4)(i) or (ii).
- 14a. Pursuant to 40 CFR 1090.305(a), except as specified in 40 CFR 1090.300(a), diesel fuel must meet the ULSD per-gallon standards of 40 CFR 1090.305.
- b. Pursuant to 40 CFR 1090.305(b), maximum sulfur content of 15 ppm.
 - c. Pursuant to 40 CFR 1090.305(b), diesel fuel must meet one of the following standards:
 - i. Minimum cetane index of 40.
 - ii. Maximum aromatic content of 35 volume percent.
- 15a. Housekeeping Practices. Pursuant to 35 Ill. Adm. Code 212.461(b), all grain-handling and grain-drying operations, regardless of size, must implement and use the following housekeeping practices:
- i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
 - ii. Cleaning and Maintenance.
 - A. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
 - B. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
 - C. The yard and surrounding open area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.
 - iii. Dump Pit.
 - A. Aspiration equipment shall be maintained and operated.
 - B. Dust control devices shall be maintained and operated.

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- iv. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.
 - v. Property. The yard and driveway of any source shall be asphalted, oiled or equivalently treated to control dust.
 - vi. Housekeeping Check List. Housekeeping check lists shall be completed by the manager and maintained on the premises for inspection by Illinois EPA personnel.
- 16a. In the event that the operation of this source results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in raw material or installation of controls, in order to eliminate the odor nuisance.
- b. The baghouse filters and cyclones shall be in operation at all times when the associated emission units are in operation and emitting air contaminants.
 - c. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the baghouse filters and cyclones such that the baghouse filters and cyclones are kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.
 - d. Each receiving dump pit shall be inspected for proper operation while receiving is occurring, at least once each week (Monday through Sunday) when grain is received.
 - e. The source shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed.
 - f. Boiler #1 and Clayton Boiler shall only be operated with natural gas ~~or distillate fuel oil (Grades No. 1 and 2) as the fuel.~~ The use of any other fuel in Boiler #1 or Clayton Boiler may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.
 - g. ~~Emergency Generator Set DG-100 shall only be operated with distillate fuel oil (Grades No. 1 and 2) as the fuel. The use of any other fuel in Emergency Generator Set DG-100 may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.~~
 - h. Organic liquid by-products or waste materials shall not be used in any emission unit at this source without written approval from the Illinois EPA.

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- i. The Illinois EPA shall be allowed to sample all fuels stored at the above location.
- j. All normal traffic pattern access areas and all normal traffic pattern roads and parking facilities which are located on **Ag Transload Facility** property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by Condition 16(m).
- k. All unloading and transporting operations of materials collected by pollution control equipment shall be enclosed or shall utilize spraying, pelletizing, screw conveying or other equivalent methods.
- l. Grinding mills, screening operations, bucket elevators, conveyor transfer points, conveyors, bagging operations, storage bins and fine product truck and railcar loading operations shall be sprayed with water or a surfactant solution, utilize choke-feeding or be treated by an equivalent method in accordance with an operating program.
- m. The emission units described in Conditions 16(j), (k), and (l) shall be operated under the provisions of an operating program, consistent with 35 Ill. Adm. Code 212.310 and 212.312, and prepared by the owner or operator and submitted to the Illinois EPA for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.
- n. As a minimum the operating program shall include the following:
 - i. The name and address of the source;
 - ii. The name and address of the owner or operator responsible for execution of the operating program;
 - iii. A map or diagram of the source showing approximate locations of storage piles, conveyor loading operations, normal traffic pattern access areas surrounding storage piles and all normal traffic patterns within the source;
 - iv. Location of unloading and transporting operations with pollution control equipment;
 - v. A detailed description of the best management practices utilized to achieve compliance with 35 Ill. Adm. Code 212.301, including an engineering specification of particulate collection equipment, application systems for water, oil, chemicals and dust suppressants utilized and equivalent methods utilized;
 - vi. Estimated frequency of application of dust suppressants by location of materials; and

Commented [MB7]: Is this a typo? Not sure this condition belongs in the permit.

vii. Such other information as may be necessary to facilitate the Illinois EPA's review of the operating program.

- o. Within 90 days from date of issuance of this permit a Fugitive Particulate Operating Program must be submitted by the Permittee and is incorporated herein by reference. The source shall be operated under and shall comply with the provisions of this Fugitive Particulate Operating Program and any amendments to the Fugitive Particulate Operating Program submitted pursuant to Condition 16(m) and (n).
- p. The operating program shall be amended from time to time by the owner or operator so that the operating program is current. Such amendments shall be consistent with Condition 16(m) and (n) and shall be submitted to the Illinois EPA within thirty (30) days of any such amendment. Any future amendment to the Fugitive Particulate Operating Program made by the Permittee during the permit term is automatically incorporated by reference provided the revision is not expressly disapproved, in writing, by the Illinois EPA. In the event that the Illinois EPA notifies the Permittee of a deficiency with any revision to the Fugitive Particulate Operating Program, the Permittee shall be required to revise and resubmit the Fugitive Particulate Operating Program within thirty (30) days of receipt of the notification to address the deficiency.

17a. Emissions from and operation of the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS) shall not exceed the following limits:

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S PM & PM ₁₀	
			(lbs/Hour)	(Tons/Yr)
Truck Dump #1	0.0017	18,500	0.30	1.20
Hoffman Bldg 301 Vacuum	0.0017	1,000	0.02	0.10
West Headhouse Transfer				
General Aspiration	0.0017	55,000	0.78	3.40
Railcar Dump Pit	0.0017	27,000	0.39	1.70
Track 6 Vacuum	0.0017	700	0.01	0.04
Cleanings Discharge	0.0006	1,900	0.01	0.04
Grain Receiving Fugitives				5.40
			Total:	11.88 11.88

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source, and 8,760 hours/year of operation.

b. Emissions from and operation of the Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS) shall not exceed the following limits:

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S	
			(lbs/Hour)	(Tons/Yr)
Truck Dump #4 & W. Gallery				
Aspiration	0.0017	36,017	0.52	2.30
Cleaning North APM	0.00085	41,000	0.30	1.31
Corn Cleaning Bldg 115 #2	0.00085	57,372	0.42	1.83
North St Grain/Meal Truck				
Dump Pit #2	0.0017	20,000	0.29	1.28
			Total:	6.71

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source, and 8,760 hours/year of operation.

- c. Emissions from and operation of the Dry Corn Milling, Processing and Products Handling shall not exceed the following limits:

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S	
			(lbs/Hour)	(Tons/Yr)
Bemis Bagging	0.0006	1,660	0.01	0.04
Bagging General Aspiration	0.0006	3,400	0.02	0.08
Bagging Packer General				
Aspiration	0.0006	4,400	0.02	0.10
Bran Dryer Process	0.0006	2,800	0.01	0.06
Bran Sifter Process	0.0006	8,230	0.04	0.19
East Meal Dryer/Cooler	0.0006	13,000	0.07	0.29
West Meal Dryer	0.0006	13,295	0.07	0.30
8th FR DRACCO Screening	0.0006	42,000	0.22	0.95
9th FR DRACCO Screening	0.0006	69,500	0.36	1.57
Bldg 105 Vacuum	0.0006	1,500	0.01	0.03
Bulk Loading White Goods	0.0006	36,000	0.19	0.81
Bldg 104 Vacuum	0.0006	1,500	0.01	0.03
Bran Bin	0.0006	1,960	0.01	0.04
6th Flr Screening	0.0006	10,000	0.05	0.23
West 4th Floor Gravity Tables	0.0006	10,000	0.05	0.23
South Lunchroom Screening	0.0006	42,000	0.22	0.95
South CD Screening	0.0006	37,500	0.19	0.84
North CD General Aspiration	0.0006	30,000	0.15	0.68
North Lunchroom Screening	0.0006	36,000	0.19	0.81
Pack & Bulk Loading Bldg 115	0.0006	42,000	0.22	0.95
CAMAS/Bran Bldg 115	0.0006	45,021	0.23	1.01
Thru/Tail Stock Dryers Bldg				
115	0.0006	56,000	0.29	1.26
Bldg 115 Vacuum	0.0006	825	0.01	0.02
Gravity Table #3	0.0006	6,200	0.03	0.14
Gravity Table #4	0.0006	6,200	0.03	0.14
Gravity Table #5	0.0006	6,200	0.03	0.14

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S PM & PM ₁₀	
			(lbs/Hour)	(Tons/Yr)
Track 2 Railcar Unloading				
Secondary Receiver	0.0006	440	0.01	0.01
Lab Filter	0.0006	900	0.01	0.02
AB Fin Product Surge Bin				
North	0.0006	742	0.01	0.02
AB Fin Product Surge Bin				
South	0.0006	742	0.01	0.02
1/2 Pulvocron Meal Receiver	0.0006	380	0.01	0.01
1/2 Pulvocron Visc Flour Receiver	0.0006	380	0.01	0.01
3/4 Pulvocron Meal Receiver	0.0006	380	0.01	0.01
9/10 Pulvocron Meal Secondary Receiver	0.0006	3,000	0.02	0.07
7/8 Pulvocron Meal Secondary Receiver	0.0006	3,000	0.02	0.07
#3 Pulvocron	0.0006	2,904	0.01	0.07
#4 Pulvocron	0.0006	2,904	0.01	0.07
#5 Pulvocron	0.0006	2,904	0.01	0.07
#1 Pulvocron	0.0006	2,904	0.01	0.07
#2 Pulvocron	0.0006	2,904	0.01	0.07
#7 Pulvocron	0.0006	3,000	0.02	0.07
#8 Pulvocron	0.0006	3,000	0.02	0.07
#9 Pulvocron	0.0006	3,000	0.02	0.07
#10 Pulvocron	0.0006	3,000	0.02	0.07
3/4 Pulvocron Grinder Surge Bin	0.0006	500	0.01	0.01
1/2 Pulvocron Grinder Surge Bin	0.0006	500	0.01	0.01
9/10 Pulvocron Grinder Surge Bin	0.0006	570	0.01	0.01
7/8 Pulvocron Grinder Surge Bin	0.0006	500	0.01	0.01
1/2 Flour Surge Bin	0.0006	500	0.01	0.01
3/4 Flour Surge Bin	0.0006	500	0.01	0.01
7/8 Flour Surge Bin	0.0006	570	0.01	0.01
9/10 Flour Surge Bin	0.0006	570	0.01	0.01
HIBOND Visc. Flake Roller Mill	0.0006	7,200	0.04	0.16
CSM Blended Food Receiver	0.0006	4,077	0.02	0.09
Blended Food Packaging	0.0006	10,000	0.05	0.23
ALLBOND Visc. Flour General Aspiration	0.0006	867	0.01	0.02
Milk Bins	0.0006	400	0.01	0.01
300 Series Binning	0.0006	4,452	0.02	0.10
Soy Meal General Aspiration	0.0006	1,435	0.01	0.03
Soy Meal Surge Bin	0.0006	500	0.01	0.01
Meal Bin Cooler	0.0006	9,158	0.05	0.21
3/4 Soy Flour Receiver	0.0006	700	0.01	0.02

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S PM & PM ₁₀	
			(lbs/Hour)	(Tons/Yr)
Tri Cal Bins	0.0006	780	0.01	0.02
5/6 Allond Receiver	0.0006	1,100	0.01	0.02
7/8 Soy Flour Receiver	0.0006	1,100	0.01	0.02
Bin 308	0.0006	500	0.01	0.01
Bin 509	0.0006	509	0.01	0.01
Bin 508	0.0006	500	0.01	0.01
Bin 310	0.0006	500	0.01	0.01
Bin 309	0.0006	500	0.01	0.01
9/10 Pulvicron Receiver	0.0006	700	0.01	0.02
Milk Bins	0.0006	807	0.01	0.02
Milk Bin Bag Dump	0.0006	6,000	0.03	0.14
Blending Batch Bin General Aspiration	0.0006	1,250	0.01	0.03
Blender General Aspiration (4990-0007-0036)	0.0006	1,055	0.01	0.02
Blender General Aspiration (4990-0007-0032)	0.0006	1,645	0.01	0.04
CSB Binning General Aspiration (4820-0003-0063)	0.0006	3,200	0.02	0.07
CSB Binning General Aspiration (4820-0003-0059)	0.0006	2,739	0.01	0.06
General Aspiration	0.0006	742	0.01	0.02
#5 SL General Aspiration & #1 Expander	0.0006	3,000	0.02	0.07
Fiber Receiver General Aspiration	0.0006	648	0.01	0.01
PCM Binning	0.0006	2,241	0.01	0.05
CF Bran Packing Binning	0.0006	1,232	0.01	0.03
Bldg 111 Vacuum	0.0006	1,500	0.01	0.03
110/210 Receiver General Aspiration	0.0006	1,400	0.01	0.03
Fiber Receiver General Aspiration	0.0006	1,000	0.01	0.02
Cooling Tower	0.0006	14,000	0.07	0.32
Ingredient Bin 601	0.0006	210	0.01	0.01
Ingredient Bin 602	0.0006	210	0.01	0.01
Ingredient Bin 603	0.0006	210	0.01	0.01
Ingredient Bin 604	0.0006	210	0.01	0.01
Micro Ingredient Dump Filter	0.0006	2,500	0.01	0.06
Mixer General Aspiration	0.0006	1,500	0.01	0.03
3/4 Hammermill	0.0006	1,258	0.01	0.03
#3 & #4 Expanders	0.0006	1,017	0.01	0.02
Reprocess General Cooler Dryer Roof	0.0006	27,550	0.14	0.62
#6 Pulverizer Grinder	0.0006	2,904	0.01	0.07
5/6 Pulverizer AB Finished Product Surge Bin	0.0006	570	0.01	0.01
Pellet Bins	0.0006	705	0.01	0.02

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S PM & PM ₁₀	
			(lbs/Hour)	(Tons/Yr)
Viscosity Flour Receiver	0.0006	2,143	0.01	0.05
Conditioning Receiver/Soy Meal Grinder	0.0006	1,350	0.01	0.03
Grind Reject/Scrap Bin	0.0006	500	0.01	0.01
Bldg 112 Vacuum	0.0006	500	0.01	0.01
AB Grinder Surge Bin	0.0006	2,100	0.01	0.05
N DAY General Aspiration & #1 Expander	0.0006	36,000	0.19	0.81
Blended Foods Filter	0.0006	5,080	0.03	0.11
Hominy Truck Loadout Aspiration	0.0006	37,000	0.19	0.83
South Hominy Feed	0.0006	15,000	0.08	0.34
Secondary Clean Grinding	0.0006	2,000	0.01	0.05
Bran Dryer	0.0006	6,888	0.04	0.16
Track 16 Bulk Rail Loadout	0.0006	30,000	0.15	0.68
Flaking General Aspiration	0.0006	16,000	0.08	0.36
Germ Dusters Aspiration	0.0006	7,400	0.04	0.17
Germ Dryer	0.0006	10,000	0.05	0.23
Germ Rolls Aspiration	0.0006	5,000	0.03	0.11
Fts Dryer Aspiration	0.0006	6,888	0.04	0.16
Pet Bran Kice Lites Filter	0.0006	1,600	0.01	0.04
Extrusion Receiver	0.0200	4,000	0.69	3.00
108 A-Bin Receiver	0.0200	500	0.09	0.38
Whole Grain Pneumatic Product Transfer Receiver	0.0200	682	0.12	0.53
PCM Hammermill	0.0020	7,200	0.12	0.54
USG Hammermill	0.0020	7,200	0.12	0.54
USG Extruder Transfer Collection Cyclone	0.0200	4,000	0.69	3.00
S 105 Roof Carter-Day Filter	0.0020	40,600	0.70	3.05
			Total:	30.85

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

- d. Emissions from and operation of the Corn Mill Products Storage shall not exceed the following limits:

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S PM & PM ₁₀	
			(lbs/Hour)	(Tons/Yr)
Bldg 201/202 Vacuum	0.0006	700	0.01	0.02
Bldg 208 Vacuum	0.0006	700	0.01	0.02
Hominy Feed Bins Aspiration	0.0006	21,000	0.11	0.47
			Total:	0.50

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

e. Emissions from and operation of the Corn Mill Products Milling and Handling shall not exceed the following limits:

i. Corn Mill Products Milling and Handling excluding the LTMS Truck/Rail Dump Pit and LTMS Truck Loadout:

Emission Unit	Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S PM & PM ₁₀	
			(lbs/Hour)	(Tons/Yr)
Hominy Binning	0.0006	30,000	0.15	0.68
Hominy Grinder General				
Aspiration	0.0006	21,000	0.11	0.47
Truck Hominy Loadout	0.0006	34,960	0.18	0.79
Rail Hominy/Grain Loadout #1	0.0006	34,960	0.18	0.79
Long Term Meal System (LTMS)				
& Rail Meal/Grain Transfer	0.0006	20,000	0.10	0.45
LTMS & Rail Meal/Grain				
Loadout	0.0006	34,600	0.18	0.78
Flour Pellet Cooler	0.0055	8,000	0.38	1.65
Hominy Screener General				
Aspiration	0.0006	7,600	0.04	0.17
Hominy Loadout Fugitives				1.90
Grain Loadout Fugitives				0.10
			Total:	7.78

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

ii. LTMS Truck/Rail Dump Pit and LTMS Truck Loadout:

Emission Unit	Throughput			E M I S S I O N S				(T/Yr)
	(T/Mo)	(T/Yr)	(lb/T)	PM (T/Mo)	(T/Yr)	(lb/T)	PM ₁₀ (T/Mo)	
LTMS Truck/Rail Dump								
Pit	12,500	75,000	0.035	0.02	0.13	0.0078	0.00	0.03
LTMS Truck Loadout	12,500	75,000	0.086	0.27	1.61	0.029	0.09	0.54
				Total:	1.74			0.57

These limits are based on the maximum throughput, standard AP-42 emission factors (Table 9.9-1, AP-42, Fifth Edition, Volume I, Update May 2003), 90% control efficiency for baghouse controlled for truck/rail dump pits, and 50% capture efficiency for loadout enclosure.

f. Emissions from and operation of Boiler #1 shall not exceed the following limits:

i. Natural Gas Usage: 82.274 mmscf/month, 822.741 mmscf/year.

ii. Emissions from the combustion of natural gas:

Pollutant	Emissions		
	(lbs/mmscf)	(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	84.0	3.46	34.56
Nitrogen Oxides (NO _x)	50.0	2.06	20.57
Particulate Matter (PM)	7.6	0.31	3.13
Sulfur Dioxide (SO ₂)	0.6	0.02	0.25
Volatile Organic Material (VOM)	5.5	0.23	2.26

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

iii. Fuel Oil Usage: 141,667 gallons/month, 850,000 gallons/year.

iv. Emissions from the combustion of fuel oil:

Pollutant	Emissions		
	(lbs/10 ³ Gal)	(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	5.00	0.35	2.13
Nitrogen Oxides (NO _x)	20.00	1.42	8.50
Particulate Matter (PM)	3.30	0.23	1.40
Sulfur Dioxide (SO ₂)	0.213	0.02	0.09
Volatile Organic Material (VOM)	0.20	0.01	0.09

These limits are based on the maximum fuel usage, a heat content of 140,000 Btu/gal, a sulfur content of 15 ppm, and standard emission factors (Tables 1.3-1, 1.3-2, and 1.3-3, AP-42, Fifth Edition, Volume I, Supplement E, September 1999, corrected May 2010).

g. Emissions from and operation of Clayton Boiler shall not exceed the following limits:

i. Natural Gas Usage: 23.771 mmscf/month, 237.712 mmscf/year.

ii. Emissions from the combustion of natural gas:

Pollutant	Emissions		
	(lbs/mmscf)	(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	84.0	1.00	9.98
Nitrogen Oxides (NO _x)	100.0	1.19	11.89
Particulate Matter (PM)	7.6	0.09	0.90
Sulfur Dioxide (SO ₂)	0.6	0.01	0.07
Volatile Organic Material (VOM)	5.5	0.07	0.65

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

iii. Fuel Oil Usage: 141,667 gallons/month, 850,000 gallons/year.

iv. Emissions from the combustion of fuel oil:

Pollutant	Emissions		
	(lbs/10 ³ Gal)	(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	5.00	0.35	2.13
Nitrogen Oxides (NO _x)	20.00	1.42	8.50
Particulate Matter (PM)	3.30	0.23	1.40
Sulfur Dioxide (SO ₂)	0.213	0.02	0.09
Volatile Organic Material (VOM)	0.20	0.01	0.09

These limits are based on the maximum fuel usage, a heat content of 140,000 Btu/gal, a sulfur content of 15 ppm, and standard emission factors (Tables 1.3-1, 1.3-2, and 1.3-3, AP-42, Fifth Edition, Volume I, Supplement E, September 1999, corrected May 2010).

h. Emissions from and operation of Emergency Generator Set DG-100 shall not exceed the following limits:

i. Hours of Operation: 100 hours/year;

ii. Emissions from the combustion of fuel oil in the Generator Sets:

Pollutant	Emission Factor (lb/hp hr)	Emissions	
		(lbs/Hr)	(Tons/Year)
Carbon Monoxide (CO)	0.0055	11.92	0.60
Nitrogen Oxides (NO _x)	0.024	52.03	2.60
Particulate Matter (PM)	0.0007	1.52	0.08
Sulfur Dioxide (SO ₂)	0.0000121	0.03	0.01
Volatile Organic Material (VOM)	0.000642	1.39	0.07

These limits are based on the rated output of the engine powering the generator set (2,168 engine hp), 100 hours/year of operation, standard emission factors (Table 3.4-1, AP-42, Fifth Edition,

Volume 1, Supplement B, October 1996), and a sulfur content of 15 ppm.

Commented [MB8]: See attached spreadsheet with appropriate emission limits

- i. Compliance with the annual limits of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).
17. This permit is issued based on the Potential to Emit (PTE) for Hazardous Air Pollutants (HAPs) as listed in Section 112(b) of the Clean Air Act from this source being less than 10 tons/year of any single HAP and 25 tons/year of any combination of such HAPs. As a result, this permit is issued based on the emissions of all HAPs from this source not triggering the requirements to obtain a CAAPP Permit from the Illinois EPA.
- 18a. Pursuant to 40 CFR 60.8(a), except as specified in 40 CFR 60.8(a)(1), (a)(2), (a)(3), and (a)(4), at such other times as may be required by the Illinois EPA or USEPA under section 114 of the Clean Air Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Illinois EPA or USEPA a written report of the results of such performance test(s).
- b. Pursuant to 40 CFR 60.8(b), performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart of 40 CFR Part 60 unless the Illinois EPA or USEPA:
 - i. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
 - ii. Approves the use of an equivalent method;
 - iii. Approves the use of an alternative method the results of which the Illinois EPA or USEPA has determined to be adequate for indicating whether a specific source is in compliance;
 - iv. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Illinois EPA's or USEPA's satisfaction that the affected facility is in compliance with the standard; or
 - v. Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Illinois EPA's or USEPA's authority to require testing under section 114 of the Clean Air Act.
- c. Pursuant to 40 CFR 60.8(c), performance tests shall be conducted under such conditions as the Illinois EPA or USEPA shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Illinois EPA or USEPA such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and

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malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.

- d. Pursuant to 40 CFR 60.8(d), the owner or operator of an affected facility shall provide the Illinois EPA or USEPA at least 30 days prior notice of any performance test, except as specified under other subparts of 40 CFR Part 60, to afford the Illinois EPA or USEPA the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the Illinois EPA or USEPA as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Illinois EPA or USEPA by mutual agreement.
- e. Pursuant to 40 CFR 60.8(e), the owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:
 - i. Sampling ports adequate for test methods applicable to such facility. This includes:
 - A. Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures; and
 - B. Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures.
 - ii. Safe sampling platform(s).
 - iii. Safe access to sampling platform(s).
 - iv. Utilities for sampling and testing equipment.
- f. Pursuant to 40 CFR 60.8(f), unless otherwise specified in the applicable subpart of 40 CFR Part 60, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard under 40 CFR Part 60. For the purpose of determining compliance with an applicable standard under 40 CFR Part 60, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Illinois EPA's or

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USEPA's approval, be determined using the arithmetic mean of the results of the two other runs.

- g. Pursuant to 40 CFR 60.11(e)(2), except as provided in 40 CFR 60.11(e)(3), the owner or operator of an affected facility to which an opacity standard in 40 CFR Part 60 applies shall conduct opacity observations in accordance with 40 CFR 60.11(b), shall record the opacity of emissions, and shall report to the Illinois EPA or USEPA the opacity results along with the results of the initial performance test required under 40 CFR 60.8. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.
- 19a. Pursuant to 40 CFR 60.303(a), in conducting the performance tests required in 40 CFR 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of 40 CFR Part 60 or other methods and procedures as specified in 40 CFR 60.303, except as provided in 40 CFR 60.8(b). Acceptable alternative methods and procedures are given in 40 CFR 60.303(c).
 - b. Pursuant to 40 CFR 60.303(b), the owner or operator shall determine compliance with the particulate matter standards in 40 CFR 60.302 as follows:
 - i. Method 5 shall be used to determine the particulate matter concentration and the volumetric flow rate of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 1.70 dscm (60 dscf). The probe and filter holder shall be operated without heaters.
 - ii. Method 2 shall be used to determine the ventilation volumetric flow rate.
 - iii. Method 9 and the procedures in 40 CFR 60.11 shall be used to determine opacity.
 - c. Pursuant to 40 CFR 60.303(c)(1), the owner or operator may use the following as alternatives to the reference methods and procedures specified in 40 CFR 60.303: For Method 5, Method 17 may be used.
- 20a. Pursuant to 40 CFR 60.44c(g), for oil-fired affected facilities where the owner or operator seeks to demonstrate compliance with the fuel oil sulfur limits under 40 CFR 60.42c based on shipment fuel sampling, the initial performance test shall consist of sampling and analyzing the oil in the initial tank of oil to be fired in the steam generating unit to demonstrate that the oil contains 0.5 weight percent sulfur or less. Thereafter, the owner or operator of the affected facility shall sample the oil in the fuel tank after each new shipment of oil is received, as described under 40 CFR 60.46c(d)(2).
 - b. Pursuant to 40 CFR 60.44c(h), for affected facilities subject to 40 CFR 60.42c(h)(1), (2), or (3) where the owner or operator seeks to

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demonstrate compliance with the SO₂ standards based on fuel supplier certification, the performance test shall consist of the certification, the certification from the fuel supplier, as described under 40 CFR 60.48c(f), as applicable.

- 21a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:
- i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.
 - ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.
- b. Testing required by Conditions 22 and 23 shall be performed upon a written request from the Illinois EPA by a qualified independent testing service.
- 22a. Pursuant to 35 Ill. Adm. Code 212.107, for both fugitive and nonfugitive particulate matter emissions, a determination as to the presence or absence of visible emissions from emission units shall be conducted in accordance with Method 22, 40 CFR part 60, Appendix A, except that the length of the observing period shall be at the discretion of the observer, but not less than one minute. 35 Ill. Adm. Code Part 212 Subpart A shall not apply to 35 Ill. Adm. Code 212.301.
- b. Pursuant to 35 Ill. Adm. Code 212.109, except as otherwise provided in 35 Ill. Adm. Code Part 212, and except for the methods of data reduction when applied to 35 Ill. Adm. Code 212.122 and 212.123, measurements of opacity shall be conducted in accordance with Method 9, 40 CFR Part 60, Appendix A, and the procedures in 40 CFR 60.675(c) and

(d), if applicable, except that for roadways and parking areas the number of readings required for each vehicle pass will be three taken at 5-second intervals. The first reading shall be at the point of maximum opacity and second and third readings shall be made at the same point, the observer standing at right angles to the plume at least 15 feet away from the plume and observing 4 feet above the surface of the roadway or parking area. After four vehicles have passed, the 12 readings will be averaged.

- c. Pursuant to 35 Ill. Adm. Code 212.110(a), measurement of particulate matter emissions from stationary emission units subject to 35 Ill. Adm. Code Part 212 shall be conducted in accordance with 40 CFR Part 60, Appendix A, Methods 5, 5A, 5D, or 5E.
 - d. Pursuant to 35 Ill. Adm. Code 212.110(b), the volumetric flow rate and gas velocity shall be determined in accordance with 40 CFR Part 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 3, and 4.
 - e. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.
- 23a. Within ninety (90) days after the issuance of this permit, the Permittee shall:

- i. Conduct opacity observations from the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling during conditions which are representative of maximum emissions in order to demonstrate compliance with 35 Ill. Adm. Code 212.123. Thereafter, this testing shall be conducted at least once every (5) five years from the preceding testing date.
- ii. ~~Measure and quantify the emissions of PM (gr/dscf and lb/hr) and PM₁₀ (gr/dscf and lb/hr) emissions from the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling during conditions which are representative of maximum emissions in order to demonstrate compliance with 35 Ill. Adm. Code 212.321 and Condition 13(b) of this permit. Thereafter, this testing shall be conducted at least once every (5) five years from the preceding testing date.~~

Commented [MB9]: 13(b) is a RICE MACT condition

Commented [MB10]: This is an incredibly onerous condition. This source has over 125 sources that this draft permit proposes to require stack testing on every 5 years. The permit limits that Bunge is proposing are standard outlet grain loading rates that would be expected from a well-operated baghouse. Routine monitoring and inspections of the equipment should be sufficient to ensure compliance.

Additionally, there is no reasonable way to conduct stack testing on all processing sources at the facility within 90 days of permit issuance. Not all sources are capable of being tested (small bin vent filters, filters on pneumatic conveying, filters that exhaust from stacks that aren't capable of being modified to accommodate testing equipment, etc.).

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- b. The following methods and procedures shall be used for testing of emissions, unless another method is approved by the Illinois EPA:(refer to 40 CFR 60, Appendix A for USEPA test methods).

Sample and Velocity Traverses for Stationary Sources	USEPA Method 1
Sample and Velocity Traverses for Stationary Sources with Small Stacks or Ducts	USEPA Method 1A
Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)	USEPA Method 2
Direct Measurement of Gas Volume through Pipes and Small Ducts	USEPA Method 2A
Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)	USEPA Method 2C
Measurement of Gas Volume Flow Rates in Small Pipes and Ducts	USEPA Method 2D
Gas Analysis for the Determination of Dry Molecular Weight	USEPA Method 3
Determination of Moisture Content in Stack Gases	USEPA Method 4
Determination of Particulate Matter from Stationary Sources	USEPA Method 5
Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters	USEPA Method 5D
Visual Determination of the Opacity of Emissions from Stationary Sources	USEPA Method 9
Visual Determination of Fugitive Emissions from Material Sources	USEPA Method 22

- c. Within sixty (60) days prior to the actual date of testing, the Permittee shall submit a written test plan to the Illinois EPA, Bureau of Air, Compliance Section Manager. This plan shall include at a minimum:
- i. The name (or other identification) of the emission unit(s) to be tested and the name and address of the facility at which they are located;
 - ii. The name and address of the independent testing service(s) performing the tests, with the names of the individuals who may be performing sampling and analysis and their experience with similar tests;
 - iii. The specific determinations of emissions and/or performance which are intended to be made, including the site(s) in the ductwork or stack at which sampling will occur;
 - iv. The specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of the maximum emissions, maximum operating rate, minimum control performance, the levels of operating parameters for the emission unit, including associated control equipment, at or within which compliance is intended to be shown, and the means by which the operating parameters will be determined;

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- v. The test method(s) which will be used, with the specific analysis method, if the method can be used with different analysis methods. The specific sampling, analytical and quality control procedures which will be used, with an identification of the standard methods upon which they are based;
 - vi. Any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification;
 - vii. Any proposed use of an alternative test method, with detailed justification; and
 - viii. The format and content of the Source Test Report.
- d. The Permittee shall provide the Illinois EPA with written notification of testing at least thirty (30) days prior to testing and again five (5) days prior to the testing to enable the Illinois EPA to have an observer present. This notification shall include the name of emission unit(s) to be tested, scheduled date and time, and contact person with telephone number.
- e. If testing is delayed, the Permittee shall promptly notify the Illinois EPA by e-mail or facsimile, at least five (5) days prior to the scheduled date of testing or immediately, if the delay occurs in the five (5) days prior to the scheduled date. This notification shall also include the new date and time for testing, if set, or a separate notification shall be sent with this information when it is set.
- f. The Permittee shall submit the Final Source Test Report(s) for these tests accompanied by a cover letter stating whether or not compliance was shown, to the Illinois EPA, Bureau of Air, Compliance Section Manager within thirty (30) days after the test results are compiled, but no later than sixty (60) days after the date of testing or sampling. The Final Source Test Report shall include as a minimum:
- i. General information describing the test, including the name and identification of the emission source, which was tested, date of testing, names of personnel performing the tests, and Illinois EPA observers, if any;
 - ii. A summary of results;
 - iii. Description of test procedures and method(s), including description and map of emission units and sampling points, sampling train, testing and analysis equipment, and test schedule;
 - iv. Detailed description of test conditions, including:
 - A. List and description of the equipment (including serial numbers or other equipment specific identifiers) tested and process information (i.e., mode(s) of operation, process

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rate or throughput, fuel or raw material consumption rate, and heat content of the fuels);

- B. Control equipment information (i.e., equipment condition and operating parameters) during testing; and
- C. A discussion of any preparatory actions taken (i.e., inspections, maintenance and repair).

- v. Data and calculations, including copies of all raw data sheets and records of laboratory analyses, sample calculations, and data on equipment calibration. Identification of the applicable regulatory standards and permit conditions that the testing was performed to demonstrate compliance with, a comparison of the test results to the applicable regulatory standards and permit conditions, and a statement whether the test(s) demonstrated compliance with the applicable standards and permit conditions;
- vi. An explanation of any discrepancies among individual tests, failed tests or anomalous data;
- vii. The results and discussion of all quality control evaluation data, including a copy of all quality control data; and
- viii. The applicable operating parameters of the pollution control device(s) during testing (temperature, pressure drop, flow rate, etc.), if any.

24. ~~Pursuant to 40 CFR 60.46e(d)(2), as an alternative fuel sampling procedure for affected facilities combusting oil, oil samples may be collected from the fuel tank for each steam generating unit immediately after the fuel tank is filled and before any oil is combusted. The owner or operator of the affected facility shall analyze the oil sample to determine the sulfur content of the oil. If a partially empty fuel tank is refilled, a new sample and analysis of the fuel in the tank would be required upon filling. Results of the fuel analysis taken after each new shipment of oil is received shall be used as the daily value when calculating the 30-day rolling average until the next shipment is received. If the fuel analysis shows that the sulfur content in the fuel tank is greater than 0.5 weight percent sulfur, the owner or operator shall ensure that the sulfur content of subsequent oil shipments is low enough to cause the 30-day rolling average sulfur content to be 0.5 weight percent sulfur or less.~~

~~b. Pursuant to 40 CFR 60.46e(e), the monitoring requirements of 40 CFR 60.46e(a) and (d) shall not apply to affected facilities subject to 40 CFR 60.42e(h)(1), (2), or (3) where the owner or operator of the affected facility seeks to demonstrate compliance with the SO₂ standards based on fuel supplier certification, as described under 40 CFR 60.48e(f), as applicable.~~

25. Pursuant to 40 CFR 63.6625(f), if you own or operate an existing emergency stationary RICE with a site rating of less than or equal to

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500 brake HP located at a major source of HAP emissions or an existing emergency stationary RICE located at an area source of HAP emissions, you must install a non-resettable hour meter if one is not already installed.

- 26a. Pursuant to 40 CFR 60.7(b), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.
- b. Pursuant to 40 CFR 60.7(f), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows:

The Illinois EPA or USEPA, upon notification to the source, may require the owner or operator to maintain all measurements as required by 40 CFR 60.7(f), if the Illinois EPA or USEPA determines these records are required to more accurately assess the compliance status of the affected source.

- 27a. Pursuant to 40 CFR 60.48c(c)(1), in addition to the applicable requirements in 40 CFR 60.7, the owner or operator of an affected facility subject to the opacity limits in 40 CFR 60.43c(c) shall submit excess emission reports for any excess emissions from the affected facility that occur during the reporting period and maintain records according to the requirements specified in 40 CFR 60.48c(c)(1) through (3), as applicable to the visible emissions monitoring method used.

For each performance test conducted using Method 9 of appendix A-4 of 40 CFR Part 60, the owner or operator shall keep the records including the information specified in 40 CFR 60.48c(c)(1)(i) through (iii).

- i. Dates and time intervals of all opacity observation periods;
- ii. Name, affiliation, and copy of current visible emission reading certification for each visible emission observer participating in the performance test; and
- iii. Copies of all visible emission observer opacity field data sheets;
- b. ~~Pursuant to 40 CFR 60.48c(e), the owner or operator of each affected facility subject to the SO₂ emission limits, fuel oil sulfur limits, or percent reduction requirements under 40 CFR 60.42e shall keep records~~

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~~and submit reports as required under 40 CFR 60.48c(d), including the following information, as applicable.~~

- ~~i. Calendar dates covered in the reporting period.~~
- ~~ii. Identification of the F factor used in calculations, method of determination, and type of fuel combusted.~~
- ~~iii. If fuel supplier certification is used to demonstrate compliance, records of fuel supplier certification is used to demonstrate compliance, records of fuel supplier certification as described under 40 CFR 60.48c(f)(1), (2), (3), or (4), as applicable. In addition to records of fuel supplier certifications, the report shall include a certified statement signed by the owner or operator of the affected facility that the records of fuel supplier certifications submitted represent all of the fuel combusted during the reporting period.~~

~~c. Pursuant to 40 CFR 60.48c(f)(1), fuel supplier certification shall include the following information for distillate oil:~~

- ~~i. The name of the oil supplier;~~
- ~~ii. A statement from the oil supplier that the oil complies with the specifications under the definition of distillate oil in 40 CFR 60.41e; and~~
- ~~iii. The sulfur content of the oil.~~

- d.
 - i. Pursuant to 40 CFR 60.48c(g)(1), except as provided under 40 CFR 60.48c(g)(2) and (g)(3), the owner or operator of each affected facility shall record and maintain records of the amounts of each fuel combusted during each operating day.
 - ii. Pursuant to 40 CFR 60.48c(g)(2), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility that combusts only natural gas, wood, fuels using fuel certification in 40 CFR 60.48c(f) to demonstrate compliance with the SO₂ standard, fuels not subject to an emissions standard (excluding opacity), or a mixture of these fuels may elect to record and maintain records of the amount of each fuel combusted during each calendar month.
 - iii. Pursuant to 40 CFR 60.48c(g)(3), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility or multiple affected facilities located on a contiguous property unit where the only fuels combusted in any steam generating unit (including steam generating units not subject to 40 CFR 60 Subpart Dc) at that property are natural gas, wood, distillate oil meeting the most current requirements in 40 CFR 60.42c to use fuel certification to demonstrate compliance with the SO₂ standard, and/or fuels, excluding coal and residual oil, not subject to an emissions standard (excluding

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opacity) may elect to record and maintain records of the total amount of each steam generating unit fuel delivered to that property during each calendar month.

- e. Pursuant to 40 CFR 60.48c(i), all records required under 40 CFR 60.48c shall be maintained by the owner or operator of the affected facility for a period of two years following the date of such record.

- 28. Pursuant to 40 CFR 63.10(b)(3), if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to Section 112(d) or (f) of the Clean Air Act, and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under 40 CFR Part 63) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the USEPA and/or Illinois EPA to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of 40 CFR Part 63 for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with USEPA guidance materials published to assist sources in making applicability determinations under Section 112 of the Clean Air Act, if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under 40 CFR 63.10(b)(3) shall not by themselves create an obligation for the owner or operator to obtain a Title V permit.

- 29a. Pursuant to 40 CFR 63.6655(a), if you must comply with the emission and operating limitations, you must keep the records described in 40 CFR 63.6655(a)(1) through (a)(5), (b)(1) through (b)(3) and (c).
 - i. A copy of each notification and report that you submitted to comply with 40 CFR 63 Subpart ZZZZ, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirement in 40 CFR 63.10(b)(2)(xiv).
 - ii. Records of the occurrence and duration of each malfunction of operation (i.e., process equipment) or the air pollution control and monitoring equipment.

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- iii. Records of performance tests and performance evaluations as required in 40 CFR 63.10(b)(2)(viii).
 - iv. Records of all required maintenance performed on the air pollution control and monitoring equipment.
 - v. Records of actions taken during periods of malfunction to minimize emissions in accordance with 40 CFR 63.6605(b), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.
- b. Pursuant to 40 CFR 63.6655(d), you must keep the records required in Table 6 of 40 CFR 63 Subpart ZZZZ to show continuous compliance with each emission or operating limitation that applies to you.
 - c. Pursuant to 40 CFR 63.6655(e), you must keep records of the maintenance conducted on the stationary RICE in order to demonstrate that you operated and maintained the stationary RICE and after-treatment control device (if any) according to your own maintenance plan if you own or operate any of the following stationary RICE.
 - i. An existing stationary emergency RICE.
 - ii. An existing stationary CI RICE located at an area source of HAP emissions subject to management practices as shown in Table 2d to 40 CFR 63 Subpart ZZZZ.
 - d. Pursuant to 40 CFR 63.6655(f)(2), If you own or operate an existing emergency stationary CI RICE located at an area source of HAP emissions that does not meet the standards applicable to non-emergency engines, you must keep records of the hours of operation of the engine that is recorded through the non-resettable hour meter. The owner or operator must document how many hours are spent for emergency operation, including what classified the operation as emergency and how many hours are spent for non-emergency operation. If the engines are used for the purposes specified in 40 CFR 63.6640(f)(4)(ii), the owner or operator must keep records of the notification of the emergency situation, and the date, start time, and end time of engine operation for these purposes.
 - e. Pursuant to 40 CFR 63.6660(a), your records must be in a form suitable and readily available for expeditious review according to 40 CFR 63.10(b)(1).
 - f. Pursuant to 40 CFR 63.6660(b), as specified in 40 CFR 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.
 - g. Pursuant to 40 CFR 63.6660(c), you must keep each record readily accessible in hard copy or electronic form for at least 5 years after

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the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to 40 CFR 63.10(b)(1).

30. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- 31a. Pursuant to 35 Ill. Adm. Code 214.122(b)(2)(C), On and after January 1, 2017, the owner or operator of a new fuel combustion emission source with actual heat input smaller than, or equal to, 73.2 MW (250 mmBtu/hr), burning liquid fuel exclusively, must comply with the following:

The owner or operator must:

- i. Maintain records demonstrating that the fuel oil used by the fuel combustion emission source complies with the requirements in 35 Ill. Adm. Code 214.122(b)(2)(A) and (b)(2)(B), such as records from the fuel supplier indicating the sulfur content of the fuel oil; and
 - ii. Retain the records for at least 5 years, and provide copies of the records to the Illinois EPA within 30 days after receipt of a request by the Illinois EPA.
- b. Pursuant to 35 Ill. Adm. Code 214.305(a)(3), except as provided in 35 Ill. Adm. Code 214.305(b), (c), and (d), on and after January 1, 2017, the owner or operator of a process emission source must comply with the following:

The owner or operator must:

- i. Maintain records demonstrating that the fuel oil used by the process emission source complies with the requirements in 35 Ill. Adm. Code 214.305(a)(1) and (a)(2), such as records from the fuel supplier indicating the sulfur content of the fuel oil; and
- ii. Retain the records for at least 5 years, and provide copies of the records to the Illinois EPA within 30 days after receipt of a request by the Illinois EPA;

- 32a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:

- i. Records addressing use of good operating practices for the baghouse filters and cyclones:
 - A. Records for periodic inspection of the baghouse filters and cyclones with date, individual performing the inspection, and nature of inspection; and

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- B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
 - ii. The Permittee shall keep a copy of the Fugitive Particulate Operating Program, any amendments or revisions to the Fugitive Particulate Operating Program, and the Permittee shall also keep a record of activities completed according to the Fugitive Particulate Operating Program.
 - iii. Records of housekeeping check lists;
 - iv. Records for the inspections required by Conditions 16(d) and (e), with date, time and observations if such information is not incorporated in the housekeeping check list.
 - v. Total flow rate for each baghouse blower (scfm);
 - vi. Total grain loading for each process (gr/dscf);
 - vii. Total hours of operation of each baghouse (hours/month and hours/year);
 - viii. The amount of grain received in LTMS Truck/Rail Dump Pit (tons/month and tons/year);
 - ix. The amount of grain shipped from the LTMS Truck Loadout (tons/month and tons/year);
 - x. Natural gas usage for Boiler #1 (mmscf/month and mmscf/year);
 - xi. Distillate fuel oil usage for Boiler #1 (gallons/month and gallons/year);
 - xii. Natural gas usage for the Clayton Boiler (mmscf/month and mmscf/year);
 - xiii. Distillate fuel oil usage for the Clayton Boiler (gallons/month and gallons/year);
 - xiv. Operating hours of Emergency Generator Set DG-100 (hours/month and hours/year);
 - xv. An inspection, maintenance and repair log of Emergency Generator Set DG-100 listing each activity performed with date; and
 - xvi. Monthly and annual emissions of CO, NO_x, PM, PM₁₀, SO₂, and VOM from the source with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Condition 32(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for

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inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.

33. Pursuant to 40 CFR 60.7(a)(4), any owner or operator subject to the provisions of 40 CFR Part 60 shall furnish the Illinois EPA or USEPA written notification or, if acceptable to both the Illinois EPA and USEPA and the owner or operator of a source, electronic notification, as follows:

A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Illinois EPA or USEPA may request additional relevant information subsequent to this notice.

- 34a. Pursuant to 40 CFR 63.6640(b), you must report each instance in which you did not meet each emission limitation or operating limitation in Tables 1a and 1b, Tables 2a and 2b, Table 2c, and Table 2d to 40 CFR 63 Subpart ZZZZ that apply to you. These instances are deviations from the emission and operating limitations in 40 CFR 63 Subpart ZZZZ. These deviations must be reported according to the requirements in 40 CFR 63.6650. If you change your catalyst, you must reestablish the values of the operating parameters measured during the initial performance test. When you reestablish the values of your operating parameters, you must also conduct a performance test to demonstrate that you are meeting the required emission limitation applicable to your stationary RICE.
- b. Pursuant to 40 CFR 63.6640(e), you must also report each instance in which you did not meet the requirements in Table 8 to 40 CFR 63 Subpart ZZZZ that apply to you. If you own or operate a new or reconstructed stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions (except new or reconstructed 4SLB engines greater than or equal to 250 and less than or equal to 500 brake HP), a new or reconstructed stationary RICE located at an area source of HAP emissions, or any of the following RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the requirements in Table 8 to 40 CFR 63 Subpart ZZZZ: An existing 2SLB stationary RICE, an existing 4SLB stationary RICE, an existing emergency stationary RICE, an existing limited use stationary RICE, or an existing stationary RICE which fires landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis. If you own or operate any of the following RICE with a site

rating of more than 500 brake HP located at a major source of HAP emissions, you do not need to comply with the requirements in Table 8 to 40 CFR 63 Subpart ZZZZ, except for the initial notification requirements: a new or reconstructed stationary RICE that combusts landfill gas or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, a new or reconstructed emergency stationary RICE, or a new or reconstructed limited use stationary RICE.

- c. Pursuant to 40 CFR 63.6645(a), you must submit all of the notifications in 40 CFR 63.7(b) and (c), 63.8(e), (f)(4) and (f)(6), 63.9(b) through (e), and (g) and (h) that apply to you by the dates specified if you own or operate any of the following:
 - i. An existing stationary CI RICE located at an area source of HAP emissions.
 - ii. This requirement does not apply if you own or operate an existing stationary RICE less than 100 HP, an existing stationary emergency RICE, or an existing stationary RICE that is not subject to any numerical emission standards.
- d. Pursuant to 40 CFR 63.6650(a), you must submit each report in Table 7 of 40 CFR 63 Subpart ZZZZ that applies to you.

Table 7 to Subpart ZZZZ of Part 63—Requirements for Reports

As stated in 40 CFR 63.6650, you must comply with the following requirements for reports:

For each . . .	You must submit a . . .	The report must contain . . .	You must submit the report . . .
4. Emergency stationary RICE that operate or are contractually obligated to be available for more than 15 hours per year for the purposes specified 40 CFR 63.6640(f)(4)(ii)	Report	a. The information in 40 CFR 63.6650(h)(1)	i. annually according to the requirements in 40 CFR 63.6650(h)(2)-(3).

- e. Pursuant to 40 CFR 63.6650(b), unless the Illinois EPA or USEPA has approved a different schedule for submission of reports under 40 CFR 63.10(a), you must submit each report by the date in Table 7 of 40 CFR 63 Subpart ZZZZ and according to the requirements in 40 CFR 63.6650(b)(1) through (b)(9).
 - i. For semiannual Compliance reports, the first Compliance report must cover the period beginning on the compliance date that is specified for your affected source in 40 CFR 63.6595 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in 40 CFR 63.6595.

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- ii. For semiannual Compliance reports, the first Compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in 40 CFR 63.6595.
 - iii. For semiannual Compliance reports, each subsequent Compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.
 - iv. For semiannual Compliance reports, each subsequent Compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.
 - v. For annual Compliance reports, the first Compliance report must cover the period beginning on the compliance date that is specified for your affected source in 40 CFR 63.6595 and ending on December 31.
 - vi. For annual Compliance reports, the first Compliance report must be postmarked or delivered no later than January 31 following the end of the first calendar year after the compliance date that is specified for your affected source in 40 CFR 63.6595.
 - vii. For annual Compliance reports, each subsequent Compliance report must cover the annual reporting period from January 1 through December 31.
 - viii. For annual Compliance reports, each subsequent Compliance report must be postmarked or delivered no later than January 31.
- f. Pursuant to 40 CFR 63.6650(c), the Compliance report must contain the information in 40 CFR 63.6650(c)(1) through (6).
- i. Company name and address.
 - ii. Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report.
 - iii. Date of report and beginning and ending dates of the reporting period.
 - iv. If you had a malfunction during the reporting period, the compliance report must include the number, duration, and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize

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emissions in accordance with 40 CFR 63.6605(b), including actions taken to correct a malfunction.

- v. If there are no deviations from any emission or operating limitations that apply to you, a statement that there were no deviations from the emission or operating limitations during the reporting period.
- g. Pursuant to 40 CFR 63.6650(h), if you own or operate an emergency stationary RICE with a site rating of more than 100 brake HP that operates for the purpose specified in 40 CFR 63.6640(f)(4)(ii), you must submit an annual report according to the requirements in 40 CFR 63.6650(h)(1) through (3).
 - i. The report must contain the following information:
 - A. Company name and address where the engine is located.
 - B. Date of the report and beginning and ending dates of the reporting period.
 - C. Engine site rating and model year.
 - D. Latitude and longitude of the engine in decimal degrees reported to the fifth decimal place.
 - E. Hours spent for operation for the purpose specified in 40 CFR 63.6640(f)(4)(ii), including the date, start time, and end time for engine operation for the purposes specified in 40 CFR 63.6640(f)(4)(ii). The report must also identify the entity that dispatched the engine and the situation that necessitated the dispatch of the engine.
 - F. If there were no deviations from the fuel requirements in 40 CFR 63.6604 that apply to the engine (if any), a statement that there were no deviations from the fuel requirements during the reporting period.
 - G. If there were deviations from the fuel requirements in 40 CFR 63.6604 that apply to the engine (if any), information on the number, duration, and cause of deviations, and the corrective action taken.
 - ii. The first annual report must cover the calendar year 2015 and must be submitted no later than March 31, 2016. Subsequent annual reports for each calendar year must be submitted no later than March 31 of the following calendar year.
 - iii. The annual report must be submitted electronically using the subpart specific reporting form in the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (www.epa.gov/cdx). However, if the reporting form specific to 40 CFR 63 Subpart ZZZZ is not

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available in CEDRI at the time that the report is due, the written report must be submitted to the Illinois EPA or USEPA at the appropriate address listed in 40 CFR 63.13.

35. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.

36a. Pursuant to 35 Ill. Adm. Code 214.122(b)(2)(C)(iii), on and after January 1, 2017, the owner or operator of a new fuel combustion emission source with actual heat input smaller than, or equal to, 73.2 MW (250 mmBtu/hr), burning liquid fuel exclusively, must comply with the following:

The owner or operator must notify the Illinois EPA within 30 days after discovery of deviations from any of the requirements in this 35 Ill. Adm. Code 214.122(b)(2). At minimum, and in addition to any permitting obligations, the notification must include a description of the deviations, a discussion of the possible cause of the deviations, any corrective actions taken, and any preventative measures taken.

b. Pursuant to 35 Ill. Adm. Code 214.305(a)(3)(C), except as provided in 35 Ill. Adm. Code 214.305(b), (c), and (d), on and after January 1, 2017, the owner or operator of a process emission source must comply with the following:

The owner or operator must notify the Illinois EPA within 30 days after discovery of deviations from any of the requirements in 35 Ill. Adm. Code 214.305(a). At minimum, and in addition to any permitting obligations, such notification must include a description of the deviations, a discussion of the possible cause of the deviations, any corrective actions taken, and any preventative measures taken.

37a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.

b. One (1) copy of required reports and notifications shall be sent to:

Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)

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P.O. Box 19276
Springfield, Illinois 62794-9276

It should be noted that the 150,000 gallon fuel oil storage tank and two (2) 193 Hp diesel fire pump engines are ~~is~~ exempt from permitting, pursuant to 35 Ill. Adm. Code 201.146(n)(3) and 201.146(i), respectively.

If you have any questions on this permit, please call German Barria at 217/785-1705.

Sincerely,

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:GB:

Attachment A - Emission Summary

This attachment provides a summary of the maximum emissions from the Corn Mill & Grain Elevator operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from such a plant. The resulting maximum emissions are below the levels, (e.g., 100 tons/year for CO, NO_x, and PM₁₀) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled, and control measures are more effective than required in this permit.

<u>Emission Unit</u>	<u>E M I S S I O N S (Tons/Year)</u>					
	<u>CO</u>	<u>NO_x</u>	<u>PM</u>	<u>PM₁₀</u>	<u>SO₂</u>	<u>VOM</u>
Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS)			11.88	11.88		
Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS)			6.71	6.71		
Dry Corn Milling, Processing and Products Handling			30.85	30.85		
Corn Mill Products Storage			0.50	0.50		
Corn Mill Products Milling and Handling			9.52	8.35		
Boiler #1						
Natural Gas	34.56	20.57	3.13	3.13	0.25	2.26
Distillate Fuel Oil	2.13	8.50	1.40	1.40	0.09	0.09
Clayton Boiler					0	0
Natural Gas	9.98	11.89	0.90	0.90	0.07	0.65
Distillate Fuel Oil	2.13	8.50	1.40	1.40	0.09	0.09
Emergency Generator Set DG-100	0.60	2.60	0.08	0.08	0.01	0.07
Totals	<u>12.7149</u> -40	<u>22.9952</u> -06	66.37	<u>2.3865</u> 20	0.51	3.16

GB:

Attachment B - Table 8 to Subpart ZZZZ of Part 63-Applicability of General Provisions to Subpart ZZZZ.

As stated in 40 CFR 63.6665, you must comply with the following applicable general provisions.

General provisions citation	Subject of citation	Applies to subpart	Explanation
§63.1	General applicability of the General Provisions	Yes.	
§63.2	Definitions	Yes	Additional terms defined in 40 CFR 63.6675.
§63.3	Units and abbreviations	Yes.	
§63.4	Prohibited activities and circumvention	Yes.	
§63.5	Construction and reconstruction	Yes.	
§63.6(a)	Applicability	Yes.	
§63.6(b)(1)-(4)	Compliance dates for new and reconstructed sources	Yes.	
§63.6(b)(5)	Notification	Yes.	
§63.6(b)(6)	[Reserved]		
§63.6(b)(7)	Compliance dates for new and reconstructed area sources that become major sources	Yes.	
§63.6(c)(1)-(2)	Compliance dates for existing sources	Yes.	
§63.6(c)(3)-(4)	[Reserved]		
§63.6(c)(5)	Compliance dates for existing area sources that become major sources	Yes.	
§63.6(d)	[Reserved]		
§63.6(e)	Operation and maintenance	No.	
§63.6(f)(1)	Applicability of standards	No.	
§63.6(f)(2)	Methods for determining compliance	Yes.	
§63.6(f)(3)	Finding of compliance	Yes.	
§63.6(g)(1)-(3)	Use of alternate standard	Yes.	
§63.6(h)	Opacity and visible emission standards	No	Subpart ZZZZ does not contain opacity or visible emission standards.
§63.6(i)	Compliance extension procedures and criteria	Yes.	
§63.6(j)	Presidential compliance exemption	Yes.	
§63.7(a)(1)-(2)	Performance test dates	Yes	Subpart ZZZZ contains performance test dates at 40 CFR 63.6610, 63.6611, and 63.6612.
§63.7(a)(3)	CAA section 114 authority	Yes.	

General provisions citation	Subject of citation	Applies to subpart	Explanation
§63.7(b)(1)	Notification of performance test	Yes	Except that 40 CFR 63.7(b)(1) only applies as specified in 40 CFR 63.6645.
§63.7(b)(2)	Notification of rescheduling	Yes	Except that 40 CFR 63.7(b)(2) only applies as specified in 40 CFR 63.6645.
§63.7(c)	Quality assurance/test plan	Yes	Except that 40 CFR 63.7(c) only applies as specified in 40 CFR 63.6645.
§63.7(d)	Testing facilities	Yes.	
§63.7(e)(1)	Conditions for conducting performance tests	No.	Subpart ZZZZ specifies conditions for conducting performance tests at 40 CFR 63.6620.
§63.7(e)(2)	Conduct of performance tests and reduction of data	Yes	Subpart ZZZZ specifies test methods at 40 CFR 63.6620.
§63.7(e)(3)	Test run duration	Yes.	
§63.7(e)(4)	Administrator may require other testing under section 114 of the CAA	Yes.	
§63.7(f)	Alternative test method provisions	Yes.	
§63.7(g)	Performance test data analysis, recordkeeping, and reporting	Yes.	
§63.7(h)	Waiver of tests	Yes.	
§63.8(a)(1)	Applicability of monitoring requirements	Yes	Subpart ZZZZ contains specific requirements for monitoring at 40 CFR 63.6625.
§63.8(a)(2)	Performance specifications	Yes.	
§63.8(a)(3)	[Reserved]		
§63.8(a)(4)	Monitoring for control devices	No.	
§63.8(b)(1)	Monitoring	Yes.	
§63.8(b)(2)-(3)	Multiple effluents and multiple monitoring systems	Yes.	
§63.8(c)(1)	Monitoring system operation and maintenance	Yes.	
§63.8(c)(1)(i)	Routine and predictable SSM	No	
§63.8(c)(1)(ii)	SSM not in Startup Shutdown Malfunction Plan	Yes.	
§63.8(c)(1)(iii)	Compliance with operation and maintenance requirements	No	
§63.8(c)(2)-(3)	Monitoring system installation	Yes.	
§63.8(c)(4)	Continuous monitoring system (CMS) requirements	Yes	Except that subpart ZZZZ does not require Continuous Opacity Monitoring System (COMS).
§63.8(c)(5)	COMS minimum procedures	No	Subpart ZZZZ does not require COMS.

General provisions citation	Subject of citation	Applies to subpart	Explanation
§63.8(c)(6)-(8)	CMS requirements	Yes	Except that subpart ZZZZ does not require COMS.
§63.8(d)	CMS quality control	Yes.	
§63.8(e)	CMS performance evaluation	Yes	Except for 40 CFR 63.8(e)(5)(ii), which applies to COMS.
		Except that 40 CFR 63.8(e) only applies as specified in 40 CFR 63.6645.	
§63.8(f)(1)-(5)	Alternative monitoring method	Yes	Except that 40 CFR 63.8(f)(4) only applies as specified in 40 CFR 63.6645.
§63.8(f)(6)	Alternative to relative accuracy test	Yes	Except that 40 CFR 63.8(f)(6) only applies as specified in 40 CFR 63.6645.
§63.8(g)	Data reduction	Yes	Except that provisions for COMS are not applicable. Averaging periods for demonstrating compliance are specified at 40 CFR 63.6635 and 63.6640.
§63.9(a)	Applicability and State delegation of notification requirements	Yes.	
§63.9(b)(1)-(5)	Initial notifications	Yes	Except that 40 CFR 63.9(b)(3) is reserved.
		Except that 40 CFR 63.9(b) only applies as specified in 40 CFR 63.6645.	
§63.9(c)	Request for compliance extension	Yes	Except that 40 CFR 63.9(c) only applies as specified in 40 CFR 63.6645.
§63.9(d)	Notification of special compliance requirements for new sources	Yes	Except that 40 CFR 63.9(d) only applies as specified in 40 CFR 63.6645.
§63.9(e)	Notification of performance test	Yes	Except that 40 CFR 63.9(e) only applies as specified in 40 CFR 63.6645.
§63.9(f)	Notification of visible emission (VE)/opacity test	No	Subpart ZZZZ does not contain opacity or VE standards.
§63.9(g)(1)	Notification of performance evaluation	Yes	Except that 40 CFR 63.9(g) only applies as specified in 40 CFR 63.6645.
§63.9(g)(2)	Notification of use of COMS data	No	Subpart ZZZZ does not contain opacity or VE standards.

General provisions citation	Subject of citation	Applies to subpart	Explanation
§63.9(g)(3)	Notification that criterion for alternative to RATA is exceeded	Yes	If alternative is in use.
		Except that 40 CFR 63.9(g) only applies as specified in 40 CFR 63.6645.	
§63.9(h)(1)-(6)	Notification of compliance status	Yes	Except that notifications for sources using a CEMS are due 30 days after completion of performance evaluations. 40 CFR 63.9(h)(4) is reserved.
			Except that 40 CFR 63.9(h) only applies as specified in 40 CFR 63.6645.
§63.9(i)	Adjustment of submittal deadlines	Yes.	
§63.9(j)	Change in previous information	Yes.	
§ 63.9(k)	Electronic reporting procedures	Yes	Only as specified in 40 CFR 63.9(j).
§63.10(a)	Administrative provisions for recordkeeping/reporting	Yes.	
§63.10(b)(1)	Record retention	Yes	Except that the most recent 2 years of data do not have to be retained on site.
§63.10(b)(2)(i)-(v)	Records related to SSM	No.	
§63.10(b)(2)(vi)-(xi)	Records	Yes.	
§63.10(b)(2)(xii)	Record when under waiver	Yes.	
§63.10(b)(2)(xiii)	Records when using alternative to RATA	Yes	For CO standard if using RATA alternative.
§63.10(b)(2)(xiv)	Records of supporting documentation	Yes.	
§63.10(b)(3)	Records of applicability determination	Yes.	
§63.10(c)	Additional records for sources using CEMS	Yes	Except that 40 CFR 63.10(c)(2)-(4) and (9) are reserved.
§63.10(d)(1)	General reporting requirements	Yes.	
§63.10(d)(2)	Report of performance test results	Yes.	
§63.10(d)(3)	Reporting opacity or VE observations	No	Subpart ZZZZ does not contain opacity or VE standards.
§63.10(d)(4)	Progress reports	Yes.	

General provisions citation	Subject of citation	Applies to subpart	Explanation
§63.10(d)(5)	Startup, shutdown, and malfunction reports	No.	
§63.10(e)(1) and (2)(i)	Additional CMS Reports	Yes.	
§63.10(e)(2)(ii)	COMS-related report	No	Subpart ZZZZ does not require COMS.
§63.10(e)(3)	Excess emission and parameter exceedances reports	Yes.	Except that 40 CFR 63.10(e)(3)(i)(C) is reserved.
§63.10(e)(4)	Reporting COMS data	No	Subpart ZZZZ does not require COMS.
§63.10(f)	Waiver for recordkeeping/reporting	Yes.	
§63.11	Flares	No.	
§63.12	State authority and delegations	Yes.	
§63.13	Addresses	Yes.	
§63.14	Incorporation by reference	Yes.	
§63.15	Availability of information	Yes.	

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Long Term Meal System (LTMS) & Rail Meal/Grain Transfer (4750-0033-0001) controlled by Baghouse Filters 3788FB;	17e	0.0006	20,000	0.10	0.45	0.1	0.45	TRUE	TRUE	4750-0025-0015	Removed From Service	NA	NA															
LTMS & Rail Meal/Grain Loadout (4750-0033-0011) controlled by Baghouse Filters MAC 14404741S;	17e	0.0006	34,600	0.18	0.78	0.18	0.78	TRUE	TRUE	4750-0025-0015	Removed From Service	NA	NA															
Flour Pellet Cooler (4750-0025-0015) controlled by Baghouse Filters MAC Cyclone HE39;	17e	0.0055	8,000	0.38	1.65	0.38	1.65	TRUE	TRUE	4750-0025-0015	Removed From Service	NA	NA															
Hominy Screener General Aspiration (4750-0029-0045) controlled by Baghouse Filters MICROPUL 1005-6-20;	17e	0.0006	7,600	0.04	0.17	0.04	0.17	TRUE	TRUE	4750-0029-0045	Hominy Screener General Aspiration	MICROPUL 1005-6-20	Filter	0.0020	0.0015	7,600	0.13	0.57	0.1	0.43	7,600	TRUE	0.57	0.43	TRUE	TRUE	Yes	
Hominy Loadout Fugitives	17e				1.90		1.90			4912-0000-0000	Hominy Loadout Fugitive		Fugitive				6.90			1.02								
Grain Loadout Fugitives	17e				0.10		0.10			4912-0000-0001	Grain Loadout Fugitive		Fugitive				0.10			0.10								
					7.78		7.78										16.64			9.01				16.54			8.91	
LTMS Truck/Rail Dump Pit (4750-0033-0000A);	17e			0.03			0.03			4750-0025-0015	Removed From Service	NA	NA															
LTMS Truck Loadout (4750-0033-0000B);	17e			0.54			0.54			4750-0025-0015	Removed From Service	NA	NA															
				0.57			0.57													0.00								
Boiler House/Grounds:																												
One (1) 96.55 mmBtu/hour Natural Gas/Distillate Fuel-Oil Fired Boiler with Low NOx Burner (Boiler #1);				3.13			3.13			4840-0004-0004	B&W 96.55 MMBtu/hr Natural Gas Boiler	NA	NA						3.21									
One (1) 27.90 mmBtu/hour Natural Gas-Fired/Distillate Fuel-Oil Fired Boiler (Clayton Boiler);				0.9			0.9			4840-0006-0007	Clayton 27.90 MMBtu/hr Natural Gas Boiler	NA	NA						0.93									
One (1) 2,168 engine Hp Diesel-Powered Emergency Generator Set (DG-100);				0.08			0.08				Removed From Service	NA	NA															
One (1) 2,168 engine Hp Diesel-Powered Emergency Generator Set (DG-100);				0.08			0.08			4800-4861-0000	Two 193 HP Emergency Diesel Fire Pumps	NA	NA						0.05									
				4.19			4.19													4.19								
				62.60			62.63													160.11					160.01			93.55
																				Total PTE				164.30			97.83	

After Pending CCM260 Project

pending project reused as	4912-0002-0054	CCM260 Process Aspiration	5 105 Carter-Day	filter	0.0020	0.0020	40,600	0.7	3.05	0.7	3.05								
CCM260 removed	4912-0002-0054	Hominy Bulk Truck Loadout Aspiration	DD 484RF12	filter	0.0002	0.0015	-37,000	-0.63	-2.78	-0.48	-2.08								
removed	4880-0034-0035	South APM Binning	APM 41144.12	filter	0.0020	0.0015	-30,000	-0.51	-2.25	-0.39	-1.69								
removed	4750-0029-0015	Feed Mill Conveying General Aspiration	MICROPUL 1005-6-20	filter	0.0020	0.0015	-7,600	-0.13	-0.57	-0.1	-0.43								
removed	4750-0029-0027	Round Bin General Aspiration	APM 14072.6	filter	0.0020	0.0015	-7,134	-0.12	-0.54	-0.09	-0.40								
removed	4860-0017-0026	Bin 345 Germ Receiver	BUHLER 365-6-30	filter	0.0020	0.0015	-1,800	-0.03	-0.14	-0.02	-0.10								
removed	4860-0018-0007	North Hominy Feed Grinding General Aspiration	MICROPUL 1F2	filter	0.0020	0.0015	-14,000	-0.24	-1.05	-0.18	-0.79								
															Post CCM260 Project				
															Total PTE 160.02 95.39				

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Boiler Natural Gas limits are based on a heat content higher than 1,000 Btu/CF. Using 1,000 Btu/CF the annual limits should be:

Boiler (MMBTu/hr)	Fuel Use (MMCF/yr)	CO (tpy)	NOx (tpy)	PM/PM10 (tpy)	SO2 (tpy)	VOC (tpy)
B&W (96.55)	845.8	35.52	21.14	3.21	0.25	2.33
Clayton (27.90)	244.4	10.26	12.22	0.93	0.07	0.67

Changes to emission unit (filter and cyclone) grain loading based on what is achievable and can be demonstrated. Below is the justification for the grain loading values used to calculate FESOP PTE.

Cell F15

Truck Dump No.

Stack Test Nov 15, 1999 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM/PM10	0.00165	0.00165	0.0020	0.002

Use 90% CI and expected filter grain loading.

Cell F16/F17

Truck Dump No. 2 (and all other grain receiving baghouses)

Stack Test Feb 22, 2007 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM	0.00017	0.00017	0.00031	0.002
PM10	0.00035	0.00017	0.00031	0.0015

Use 0.002 for PM, expected filter grain loading and because the stack test showed good values, use 0.0015 for PM10 (75% of 0.002).

Cell F18

Vacuum System Filters

Stack Test None

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM/PM10	0.001	-	-	0.001

Expected value for vacuum filters.

Cell F19

LTMS Handling Aspiration Filter (grain handling aspiration)

Stack Test Oct 8, 2004 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM/PM10	0.00129	0.00129	0.0015	0.0015

Use 90% CI.

Cell F37/F38

Corn Cleaning Filter (three corn cleaning filters)

Stack Test Sep 13, 2000 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP

PM	0.00063	0.00063	0.0011	0.002
PM10	0.00087	0.00063	0.0011	0.0015

Use 0.002 for PM, expected filter grain loading and because the stack test showed good values, use 0.0015 for PM10 (75% of 0.002).

Cell F39/F40

Bran/Camas Milling Aspiration

Stack Test Sep 13, 2000 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM	0.00063	0.00034	0.00041	0.002
PM10	0.00087	0.00034	0.00041	0.0015

Use 0.002 for PM, expected filter grain loading and because the stack test showed good values, use 0.0015 for PM10 (75% of 0.002).

Cell F41/F42

S. Lunchroom Corn Milling Aspiration (use for all dry corn milling processing filters)

Stack Test Sep 14, 2000 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM	0.00063	0.00037	0.00047	0.002
PM10	0.00087	0.00037	0.00047	0.0015

Use 0.002 for PM, expected filter grain loading and because the stack test showed good values, use 0.0015 for PM10 (75% of 0.002).

Cell F43/F44

Destrehan Esher Wyss Dryer Cyclone Stack Test (use only for whole grain dryer cyclone)

Stack Test Mar 22, 2016 Method 201A/202

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM	0.03597	0.00040	0.00052	0.030
PM10	0.02536	0.00364	0.00432	0.020

Stack Test values from Destrehan look pretty good, but cyclone emission with condensables can be unpredictable, use a realistically expected grain loading.

Cell F45/F94

One other dry corn mill process cyclone and two specialty milling cyclones

Stack Test None

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM/PM10	0.020	-	-	0.020

Use expected cyclone grain loading.

Cell F95

Two specialty milling filters installed after 2015

Stack Test None

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM/PM10	0.0020	-	-	0.0020

Use expected filter grain loading.

Cell F96/F97 and F192/F193

S Lunchroom Filter (80 specialty milling filters installed prior to 2015 and 8 hominy feed mill filters)

Stack Test Sep 14, 2000 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM	0.00037	0.00037	0.00047	0.002
PM10	0.00060	0.00037	0.0047	0.0015

Use 0.002 for PM, expected filter grain loading and because the stack test showed good values, use 0.0015 for PM10 (75% of 0.002).

Cell F95

Rail Loadout Filter (single filter only)

Stack Test Feb 10, 2011 Method 5

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM/PM10	0.00067	0.00067	0.00071	0.0020

Use expected filter grain loading.

Cell F96/F497

Tail Stock Dryer Cyclone (use only three dryer cyclones)

Stack Test Sep 13, 2000 Method 5 and 201A/202

Pollutant	AER value	Test Avg	Test 90%CI	FESOP
PM	0.0454	0.0454	0.052	0.0454
PM10	0.00193	0.00193	0.002	0.0020

Pm uses stack test average, PM10 uses expected filter and stack test 90% Cl..

EXHIBIT C



September 2, 2022

Cassandra Metz
Office of Community Relations
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794

Re: Comments on Public Notice Federally Enforceable State Operating Permit (FESOP)
Bunge Milling, Inc – Danville Facility
Source ID No. 183020ABT

Dear Ms. Metz:

Bunge submits this letter to provide comments on the proposed Federally Enforceable State Operating Permit (FESOP), Application No. 96020027, for the Bunge Milling, Inc. facility located in Danville, Illinois, facility ID No. 183020ABT.

Bunge has reviewed the public notice version of the proposed permit and has serious concerns about some of the language and permit conditions. Bunge looks forward to the agencies' careful consideration of our comments below.

- 1) On pages 1 through 6 of 35, List of Emission Unit for which the permit is issued:
 - Listing the specific baghouse model numbers in the FESOP is not necessary and provides no benefit to the permit. Under 35 IAC 201.146(hhh) replacement of air pollution control equipment is exempted from the requirement to obtain a construction permit. Therefore, when a baghouse is replaced with a different model baghouse the model number will not match what is listed in the FESOP. Bunge requests that reference to a specific baghouse model numbers be removed from the description of each emission unit. *Example: Truck Dump #1 (5012-0001-0016) controlled by Baghouse Filter APM-40072-10*
 - Bunge reviewed the list of emission units and discovered some emission unit ID numbers and unit descriptions that are not accurate. Bunge request that the emission unit ID numbers and unit descriptions be updated to reflect the changes listed below. Some of these changes are to standardize the naming convention for emission units at the facility, some are to correct inaccuracies, and some are to allow the emission unit names to match emission unit names used in conditions 12a, 12b and 12c of the permit. See the redlined copy of the FESOP for a complete list of updated emission unit numbers and names. Some emission units were removed in the redlined version of the permit either because they are already included in the list as part of another emission unit or no longer exist at the facility.
 - Railcar Dump Pit and Section D & E General Aspiration (5012-0007-0015) controlled by Baghouse Filter
 - Truck Dump #4 and West Gallery Aspiration (5012-0005-0021) controlled by Baghouse Filter
 - Bldg 115 Corn Cleaning (4880-0034-0069) controlled by Baghouse Filter
 - North Street Truck Dump #2 (5012-0002-0012) controlled by Baghouse Filter



- Bldg 105/115 General Aspiration (4880-0034-0001) controlled by Baghouse Filter
 - Bldg 102/105 General Aspiration (4880-0034-0027) controlled by Baghouse Filter
 - Pack and Bulk Loading Bldg 115 (4870-0013-0024) controlled by Baghouse Filter
 - 3/4 Pulvocron Meal Bin (4990-0002-0008) controlled by Baghouse Filter
 - 1/2 Pulvocron Meal Bin (4990-0005-0010) controlled by Baghouse Filter
 - 9/10 Pulvocron Meal Bin (4990-0004-0011) controlled by Baghouse Filter
 - 7/8 Pulvocron Meal Bin (4990-0003-0008) controlled by Baghouse Filter
 - Hibond Visc Flake Roller Mill (4990-0006-0024) controlled by Baghouse Filter
 - Blended Food Packaging Aspiration (4820-0001-0052) controlled by Baghouse Filter
 - Allbond Visc Flour General Aspiration (4900-0001-0068) controlled by Baghouse Filter
 - 5/6 Allbond Receiver (4900-0001-0058) controlled by Baghouse Filter
 - Blending General Aspiration (4990-0007-0036) controlled by Baghouse Filter
 - Blending General Aspiration (4990-0007-0032) controlled by Baghouse Filter
 - Finished Product General Aspiration (4990-0006-0040) controlled by Baghouse Filter
 - Fiber Receiving General Aspiration (4990-0011-0001) controlled by Baghouse Filter
 - Fiber Receiving General Aspiration (4990-0011-0029) controlled by Baghouse Filter
 - Four (4) Ingredient Bins (601 (4820-0003-0022), 602 (4820-0003-0026), 603 (4820-0003-0030), and 604 (4820-0003-0034) controlled by Baghouse Filters
 - Micro Ingredient Dump Aspiration (4820-0003-0018) controlled by Baghouse Filter
 - Reprocessing General Aspiration (4900-0005-0001) controlled by Baghouse Filter
 - #6 Pulvocron (4900-0001-0042) controlled by Baghouse Filter
 - Germ Dust Aspiration (4860-0017-0073) controlled by Cyclone (not by a Filter)
 - Pneumatic Lift Receiver for Coarse Whole Grain transfer (WG260) (4880-0048-0012)
 - PCM Hammermill (4900-0003-0011) controlled by Filter
 - USG Hammermill (4900-0008-0027) controlled by Filter
 - USG Secondary Extruder Transfer (4900-0008-0022) (no control)
 - Whole Grain Dryer (4880-0046-0017)
 - Whole Grain Hammermill (4880-0046-0028)
 - Whole Grain Aspiration (4880-0046-0042)
 - USG Primary Extruder Transfer (4900-0007-0020)
 - 6th Floor Radar Pulsar (4860-0018-0044)
 - Hominy Feed Bins Aspiration (4860-0018-0048) controlled by Baghouse Filter
 - Hominy Grind General Aspiration (4750-0029-0001) controlled by Baghouse Filter
- 2) On page 6 of 35, Condition 1.c.: There are numerous construction permits have been issued to the facility that have emission limits or conditions that could conflict with conditions in the FESOP or no longer apply but are still enforceable. Bunge requests that this condition be amended to include all operating permits and construction permits.
- 3) On page 6 of 35, Condition 3.a.:
- This condition states that Products Receiving is subject to the NSPS for Grain Elevators. Only Grain Receiving is subject to the NSPS for Grain Elevators not all



Product Receiving. Bunge requests that the words Products Receiving be removed from this condition. Bunge also no longer receives soybeans at this facility. The vacuum systems listed are not subject to the NSPS. The condition should read Corn Receiving, Cleaning and Storage.

- This condition lists the affected facilities to which the NSPS applies but does not specify which emission units at the facility are subject to the NSPS. Bunge requests that this condition be amended to state that the emission units included in the Corn Receiving, Cleaning and Storage (NSPS) emission unit group are subject to the Grain Elevator NSPS, subpart DD while the emission units in the Corn Receiving, Cleaning and Storage (Pre-NSP) emission unit group are not.
- 4) On page 7 of 35, Condition 4.a.: Bunge request that the exception to 35 IAC 212.123(a) be referenced. That is, include the clause ...or as allowed under 35 IAC 212.123(b).
- 5) On page 15 of 35, Condition 9.a.: This condition states that compliance with opacity standards in 40 CFR Part 60 shall be determined by conducting observations in accordance with Method 9 in appendix A of 40 CFR Part 60. It is not clear in the condition that this requirement refers to the initial compliance demonstration. Bunge requests that the condition be amended to state that initial compliance with opacity standards in 40 CFR Part 60 shall be determined by conducting observations in accordance with Method 9 in appendix A of 40 CFR Part 60.
- 6) On page 17 of 35, Condition 11.g, 11.h and 11.i.: These conditions appear to be artifact conditions from a permit for a different facility used as a template for Bunge's FESOP and were inadvertently left in the permit or contain references to the prior facility.
- Condition g references using liquid by-products or waste materials as fuel sources. The two permitted boilers at the Bunge facility can only burn natural gas. Bunge requests that this condition be removed.
 - Condition h allows Illinois EPA the right to sample all fuels stored at the facility. Bunge does not store any fuels at the facility. Bunge requests that this condition be removed.
 - Condition i references the Ag Transload Facility. Bunge believes this should say the Bunge Facility. Bunge request that the condition be amended to replace Ag Transload Facility with Bunge Facility.
 - Lettering of condition i (now g) and l (now j) should be modified to account for conditions g and h being removed.
- 7) On pages 18 through 23 of 35, Conditions 12.a, 12.b, and 12.c:
- Emission unit name and emission rate changes:
 - Bldg 105/115 General Aspiration 0.002, 0.0015, 55,000, 0.94, 4.13, 0.71, 3.10
 - Bldg 102/105 General Aspiration 0.002, 0.0015, 43,700, 0.75, 3.28, 0.56, 2.46
 - #5 Pulvocron should be #6 Pulvocron
 - Bldg 112 Vacuum hourly emission rates should be 0.01 lb/hr, not zero
 - Pneumatic Lift Receiver for WG260 Transfer, PM10 emission rate should be 0.51 tpy
 - PCM Hammermill, PM10 emission rate should be 0.49 tpy
 - USG Hammermill, PM10 emission rate should be 0.49 tpy
 - USG Secondary Extruder Transfer, PM10 emission rate should be 3.00 tpy

- 8) On page 23 of 35, Condition 12.f.: This condition requires the facility to monitor and record data from 136 emission units on a daily basis and calculate daily emission from each emission unit so that a 365-day rolling emission total from each emission unit can be used to demonstrate compliance with annual emission limits on each emission unit on a daily basis. It is unrealistic to expect the facility to perform daily and 365-day emission calculations to demonstrate compliance with annual limits. Except for the fugitive emission sources, the annual emission limits are based on 8760 hour per year of operation. In lieu of recording actual hours per day each emission unit operated, if Bunge were to assume each emission unit operated 24 hour per day 365 days per year the resulting emissions calculated would demonstrate compliance with the limits. Performing daily emission calculation for the point source emissions provides no benefit. For the three fugitive emission sources, Bunge proposes that monthly and 12-month rolling emission calculations would be sufficient to demonstrate compliance with these annual emission limits. Bunge requests that the conditions be amended to say that compliance with the annual limits in Conditions 12(a) through 12(e) be determined on a monthly basis and compliance determined on a 12-month rolling basis.
- 9) On pages 24 through 27, Conditions 14 and 15.: Conditions 14 and 15 are related to performance testing required by NSPS 40 CFR Part 60 regulations. Conditions 14 and 15 restate the methods for performing performance tests under 40 CFR Part 60. Two NSPS 40 CFR subparts apply to the Bunge facility; Subpart Dc for natural gas fired boiler between 10 and 100 MMBtu/hr and Subpart DD for grain elevators. Only Subpart DD contains any performance testing that would apply to any emission unit at the Bunge facility and then only for new, modified, or reconstructed emission units that are also affected facilities under Subpart DD. Adding a new Subpart DD emission unit, reconstructing, or modifying (as defined by Part 60) a Subpart DD emission unit would require an air construction permit. Any performance testing necessary should be addressed in the construction permit. Having these conditions in the FESOP provides no benefit they only serve to clutter and complicate the permit. Bunge expects a permit with only relevant permit conditions so reading and understanding each condition and compliance obligations are as easy as possible. For these reasons Bunge request the conditions 14 and 15 be removed from the permit.
- 10) On pages 27 and 28, Conditions 16.b. and 18.a.: Condition 16.b states testing required by Conditions 17 and 18 shall be performed upon a written request from the Illinois EPA. Condition 18.a. states that within 90 days after the issuance of this permit the permittee shall i conduct Method 22 testing on all 136 emission units, and ii conduct Method 5 testing on all 136 emission units. These two conditions conflict.
- Bunge believes that it is Illinois EPA intention to require testing to be performed upon written request. If this is the case the written request should identify the emission unit required to be tested, the purpose of the test, the test Methods to be used and any further testing instruction such as test duration or test frequency. There is no need to complicate the FESOP by having conditions 17 or 18 in the permit. They only serve to clutter and complicate the permit. Bunge requests to change Condition 16.b to read Upon written request from Illinois EPA to perform emission testing the permittee shall perform the requested testing using a qualified independent testing service. Bunge further requests that conditions 17 and 18 be removed from the permit as they now



serve no purpose.

- If, however, it is Illinois EPA intention to require Method 22 and Method 5 testing on 136 emission units within 90 days of the FESOP being issued, Bunge feels this is an unrealistic expectation and objects to this requirement.
- If Condition 18 is not removed as requested as requested above, Bunge provides the following comments on Condition 18
- On page 28 of 35, Condition 18.a.i.: This condition contains the statement Thereafter, this testing shall be conducted on a quarterly basis. This requirement is inconsistent with the requirement to test based on a written request by Illinois EPA. Bunge request that this statement be removed from the permit.
- On page 29 of 35, Condition 18.a.ii.: This condition contains the statement Thereafter, this testing shall be conducted at least once every five years. This requirement is inconsistent with the requirement to test based on a written request by Illinois EPA. Bunge request that this statement be removed from the permit.
- On page 29 of 35, Condition 18.c: This condition requires a written test plan be submitted to Illinois EPA stating that this plan shall include at a minimum:
 - i. The name (or other identification) of the emission unit(s) to be tested and the name and address of the facility at which they are located;
 - ii. The name and address of the independent testing service(s) performing the tests, with the names of the individuals who may be performing sampling and analysis and their experience with similar tests;
 - iii. The specific determinations of emissions and/or performance which are intended to be made, including the site(s) in the ductwork or stack at which sampling will occur;
 - iv. The specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of the maximum emissions, maximum operating rate, minimum control performance, the levels of operating parameters for the emission unit, including associated control equipment, at or within which compliance is intended to be shown, and the means by which the operating parameters will be determined;
 - v. The test method(s) which will be used, with the specific analysis method, if the method can be used with different analysis methods. The specific sampling, analytical and quality control procedures which will be used, with an identification of the standard methods upon which they are based;
 - vi. Any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification
 - vii. Any proposed use of an alternative test method, with detailed justification
 - viii. The format and content of the Source Test Report.

Bunge is concerned that these conditions are not consistent with regulations promulgated by the Illinois Pollution Control Board, specifically 35 IAC 283.220. 35 IAC 283.220(c) specifies what is required to be in a test plan. It states that a test plan must specify:

- The purpose of the test,
- The operating parameters,
- The test method, and
- Any other procedures that will be followed when conducting an emissions test



Bunge North America, Inc.
321 E. North Street
Danville, IL 61832

pursuant to the provisions of this Part.
Furthermore, 35 IAC 283.220(d) states that a test plan need not be submitted where the source intends to use a standard test method or procedure.

Bunge requests that Condition 18.c be amended so that the required content of a test plan is consistent with what is required by the regulation and add language to incorporate the part of the regulation that allows for circumstances when a test plan is not required.

- 11) On page 33 of 35, Conditions 23.a.ix and 23.a.x: These conditions are related to the daily emission calculations required by Condition 12.f. Bunge requested in a previous comment to amend Condition 12.f to be a monthly requirement. Accordingly, Bunge requests that these conditions be similarly amended, Condition 23.a.ix should change hours/day to hours/month and Condition 23.a.x should change Daily to Monthly.

Our comments present numerous concerns with the proposed FESOP permit. Because it is Bunge's desire to comply with the permit and the permit conditions it is not unreasonable to expect the conditions to be succinct, reasonable, and supported by regulation. Thank you for your careful consideration of our comments.

Please contact me at (314) 292-2937 or by email at james.burris@bunge.com if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "James A. Burris, Jr." with a stylized flourish at the end.

James A. Burris, Jr. PE
Environmental Specialist

Enclosure: Redlined version of the public notice version of the proposed FESOP permit.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT -- NSPS SOURCE

PERMITTEE

Bunge Milling, Inc.
Attn: Paul Catterson
321 East North Street
Danville, Illinois 61832

<u>Application No.:</u> 96020027	<u>I.D. No.:</u> 183020ABT
<u>Applicant's Designation:</u>	<u>Date Received:</u> December 5, 2011
<u>Operation of:</u> Corn Mill & Grain Elevator	
<u>Date Issued:</u>	<u>Expiration Date:</u>
<u>Source Location:</u> 321 E. North Street, Danville, Vermilion County	

This permit is hereby granted to the above-designated Permittee to OPERATE emission unit(s) and/or air pollution control equipment consisting of:

Corn ~~, Soybean & Products~~ Receiving, Cleaning and Storage (Pre-NSPS):
Truck Dump #1 (5012-0001-0016) controlled by Baghouse Filters ~~APM 40072-10~~;
Hoffman Bldg 301 Vacuum (5012-0010-0054) controlled by Baghouse Filters ~~HOFFMAN 48X96~~;

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West Headhouse General Aspiration (5012-0005-0029) controlled by Baghouse ~~e~~ Filters ~~DD 484RF12~~;

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~~Railcar Dump Pit and Section D & E General Aspiration (5012-0007-0015) controlled by Baghouse Filter Railcar Dump Pit and D & E General Aspiration (5012-0004-0015) controlled by Baghouse Filters 37RF8; and~~

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Track 6 Vacuum (5012-0010-0047) controlled by Baghouse Filters ~~HOFFMAN 48X96~~;
Cleanings Discharge (4870-0013-0015) controlled by Baghouse Filters ~~BUHLER 16S-6-30~~;

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Corn ~~, Soybean & Products~~ Receiving, Cleaning and Storage (NSPS):
Truck Dump #4 & W. Gallery Aspiration (5012-0005-0021) controlled by Baghouse

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Filters ~~DD 484RF12~~;
Cleaning North APM (4870-0013-0001) controlled by Baghouse Filters ~~APM 41216-12~~;

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~~Bldg 115~~ Corn Cleaning ~~Bldg 115~~ (4880-0034-0069) controlled by Baghouse Filters ~~TD 484RF12~~;

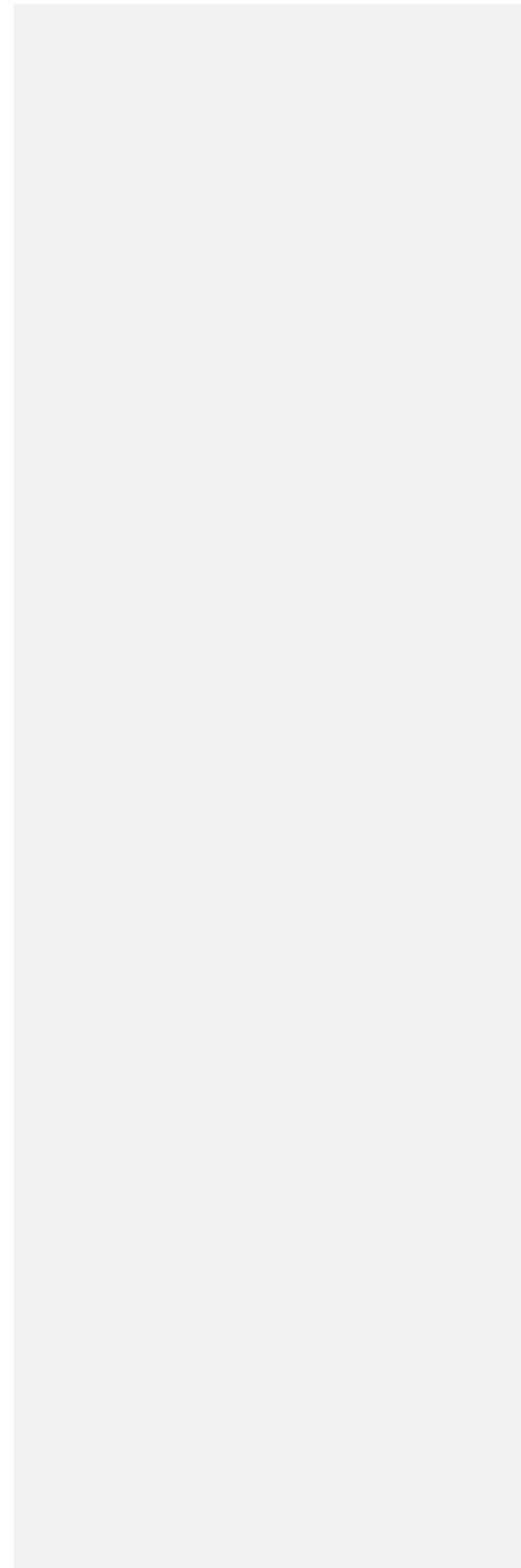
~~North Street Grain/Meal~~ Truck Dump ~~Pit~~ #2 (5012-0002-0012) controlled by Baghouse ~~Filters DD 48RF12~~;

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2125 S. First Street, Champaign, IL 61820 (217) 278-5800
1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

PLEASE PRINT ON RECYCLED PAPER



Dry Corn Milling, Processing and Products Handling:

Bemos Bagging (4870-0010-0055) controlled by Baghouse Filters ~~APM 16019.8~~;
~~APM 40020.8~~;
-Bagging General Aspiration (4870-0010-0030) controlled by Baghouse Filters
APM 40020.8;
Bagging Packer General Aspiration (4870-0013-0019) controlled by Baghouse
Filters ~~APM 14042.8~~;
Bran Dryer Process (4880-0042-0057) controlled by Baghouse Filters ~~APM
14036.8~~;
Bran Sifter Process (4880-0042-0062) controlled by Baghouse Filters ~~APM
10144.8~~;
East Meal Dryer/Cooler (4880-0034-0054) controlled by Baghouse Filters ~~APM
40120.10~~;
West Meal Dryer (4880-0034-0059) controlled by Baghouse Filters ~~APM 40144.8~~;
Bldg 105/115 General Aspiration (4880-0034-~~00270001~~) controlled by Baghouse
Filters ~~DD 484RF12~~;
Bldg 102/105 General Aspiration (4880-0034-00~~2791~~) controlled by Baghouse
Filters ~~MCF 144-756~~;
Bldg 105 Vacuum (4880-0032-0052) controlled by Baghouse Filters ~~HOFFMAN
36X96~~;
Bulk Loading White Goods (4870-0021-0001) controlled by Baghouse Filters ~~DD-
484RF12~~;
Bldg 104 Vacuum (4870-0015-0016) controlled by Baghouse Filters ~~HOFFMAN-
38405A~~;
Bran Bin (4880-0042-0054) controlled by Baghouse Filters ~~BUHLER 16S-6-30~~;
South Lunchroom Screening (4880-0034-0010) controlled by Baghouse Filters ~~CD-
484RF12~~;
South CD Screening (4880-0034-0042) controlled by Baghouse Filters ~~CD-
484RF12~~;
North CD General Aspiration (4880-0034-0048) controlled by Baghouse Filters ~~CD
484RF12~~;
North Lunchroom Screening (4880-0034-0019) controlled by Baghouse Filters ~~CD
484RF12~~;
Pack ~~and~~ Bulk Loading Bldg 115 (4870-0013-0024) controlled by Baghouse
Filters ~~TD 484RF12~~;
CAMAS/Bran Bldg 115 (4880-0034-0077) controlled by Baghouse Filters ~~TD-
484RF12~~;
Thru/Tail Stock Dryers Bldg 115 (4880-0034-0071) controlled by Baghouse
Filters ~~TD 484RF12~~;
Bldg 115 Vacuum (4880-0032-0070) controlled by Baghouse Filters ~~HOFFMAN
S54002~~;
Track 2 Railcar Unloading Secondary Receiver (4870-0005-0003) controlled by
Baghouse Filters ~~USS INC. 15CF P/D~~;
Lab Filter (4932-0001-0001) controlled by Baghouse Filters ~~APM 14106.4~~;
1/2 Pulvocron Meal Receiver (4990-0005-0012) controlled by Baghouse Filters
~~BUHLER 9-6-100~~;
1/2 Pulvocron Visc Flour Receiver (4990-0005-0042) controlled by Baghouse
Filters ~~BUHLER 16-8-100~~;
3/4 Pulvocron Meal Receiver (4990-0002-0010) controlled by Baghouse Filters
~~BUHLER 9-6-100~~;
9/10 Pulvocron Meal Secondary Receiver (4990-0004-0013) controlled by
Baghouse Filters ~~BUHLER 16009.4~~;
7/8 Pulvocron Meal Secondary Receiver (4990-0003-0010) controlled by Baghouse
Filters ~~BUHLER 16009.4~~;

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Page 3

Three (3) Mills (#3 Pulvocron (4990-0002-0019), #4 Pulvocron (4990-0002-0022), and #5 Pulvocron (4900-0001-0039)) controlled by Baghouse Filters ~~BUHLER 37-8-220~~;

Two (2) Mills (#1 Pulvocron (4990-0005-0021) and #2 Pulvocron (4990-0005-0024)) controlled by Baghouse Filters ~~BUHLER 37-8-220~~;

Four (4) Mills (#7 Pulvocron (4990-0003-0019), #8 Pulvocron (4990-0003-0022), #9 Pulvocron (4990-0004-0022) and #10 Pulvocron (4990-0004-0025)) controlled by Baghouse Filters ~~APM 16022-8~~;

3/4 Pulvocron Grinder Surge Bin (4990-0002-0008) controlled by Baghouse Filters ~~MICROPUL 2-1/2B~~;

1/2 Pulvocron Grinder Surge Bin (4990-0005-0010) controlled by Baghouse Filters ~~MICROPUL 2-1/2B~~;

9/10 Pulvocron Grinder Surge Bin (4990-0004-0011) controlled by Baghouse Filters ~~APM 16104-4~~;

7/8 Pulvocron Grinder Surge Bin (4990-0003-0008) controlled by Baghouse Filters ~~APM 16104-4~~;

1/2 Flour Surge Bin (4990-0005-0028) controlled by Baghouse Filters ~~MICROPUL 2-1/2B~~;

3/4 Flour Surge Bin (4990-0002-0026) controlled by Baghouse Filters ~~MICROPUL 2-1/2B~~;

7/8 Flour Surge Bin (4990-0003-0026) controlled by Baghouse Filters ~~APM 16104-4~~;

9/10 Flour Surge Bin (4990-0004-0029) controlled by Baghouse Filters ~~APM 16104-4~~;

~~Hibond~~BOND Visc- Flake Roller Mill (4990-0006-0024) controlled by Baghouse Filters ~~APM 15066-8~~;

CSM Blended Food Receiver (4820-0001-0029) controlled by Baghouse Filters ~~APM 40070-7~~;

Blended Food Packaging Aspiration (4820-0001-0052) controlled by Baghouse Filters ~~APM 16150-6~~;

~~ALBOND~~Allbond Visc- Flour General Aspiration (4900-0001-0068) controlled by Baghouse Filters ~~BUHLER 16-8-100~~;

Milk Bins (4820-0003-0007) controlled by Baghouse Filters ~~MICROPUL 6B~~;

300 Series Binning (4990-0007-0049) controlled by Baghouse Filters ~~MICROPUL 1F1~~;

Soy Meal General Aspiration (4990-0001-0002) controlled by Baghouse Filters ~~APM 16022-4~~;

Soy Meal Surge Bin (4990-0001-0006) controlled by Baghouse Filters ~~MICROPUL 6B~~;

Meal Bin Cooler (4990-0001-0025) controlled by Baghouse Filters ~~APM 400072-10~~;

3/4 Soy Flour Receiver (4990-0002-0043) controlled by Baghouse Filters ~~APM 16014-8~~;

Tri Cal Bins (4820-0003-0072) controlled by Baghouse Filters ~~APM 16009-8~~;

5/6 Allbond Receiver (4900-0001-0058) controlled by Baghouse Filters ~~APM 16014-8~~;

7/8 Soy Flour Receiver (4990-0003-0032) controlled by Baghouse Filters ~~APM 16014-8~~;

Five (5) Bins (Bin 308 (4990-0002-0033), 309 (4990-0002-0036), 310 (4820-0003-0038), 508 (4820-0002-0068), and 509 (4820-0002-0072)) controlled by Baghouse Filters ~~MICROPUL 6B~~;

9/10 Pulvicron Receiver (4990-0004-0037) controlled by Baghouse Filters ~~BUHLER 16-6-220~~;

Milk Bins (4820-0002-0038) controlled by Baghouse Filters ~~MICROPUL 21-6-220~~;

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Milk Bin Bag Dump (4820-0002-0035) controlled by Baghouse Filters APM 14048.6;
 Blending Batch Bin General Aspiration (4990-0007-0029) controlled by Baghouse Filters ~~BUHLER 25S-6-30~~;
 Blending General Aspiration (4990-0007-0036) controlled by Baghouse Filters ~~BUHLER 16S-6-30~~;
 Blending General Aspiration (4990-0007-0032) controlled by Baghouse Filters ~~MICROPUL 36S-8-30~~;
 Two (2) CSB Binning General Aspiration (4820-0003-0063 and 4820-0003-0059) controlled by Baghouse Filters ~~BUHLER 64S-6-20~~;
 Finished Product General Aspiration (4990-0006-0040) controlled by Baghouse Filters ~~BUHLER 9-8-220~~;
 #5 SL General Aspiration & #5 Expander (4900-0001-0091) controlled by Baghouse Filters ~~APM 14024.6~~;
 Fiber Receiving General Aspiration (4990-0011-0001) controlled by Baghouse Filters ~~BUHLER 9-8-220~~;
 PCM Binning (4820-0002-0011) controlled by Baghouse Filters ~~MICROPUL 1F1~~;
 -CF Bran Packing Binning (4870-0010-0005) controlled by Baghouse Filters ~~MICROPUL 25-8-220~~;
 Bldg 111 Vacuum (4900-0005-0035) controlled by Baghouse Filters ~~HOFFMAN 60X120~~;
 110/210 Receiver General Aspiration (4870-0006-0006) controlled by Baghouse Filters ~~APM 16030.4~~;
 Fiber Receiving General Aspiration (4990-0011-0029) controlled by Baghouse Filters ~~APM 16019.4~~;
 Cooling Tower (4990-0001-0029) controlled by Baghouse Filters ~~APM 40072.10~~;
 FourTwo (42) Ingredient Bins (601 (4820-0003-0022),) and 602 (4820-0003-0026), 603 (4820-0003-0030), and 604 (4820-0003-0034) controlled by Baghouse Filters ~~MICROPUL 4B~~;
 Ingredient Bin 603 (4820-0003-0030) controlled by Baghouse Filters ~~MICROPUL 2 1/2 B~~;
 Ingredient Bin 604 (4820-0003-0034) controlled by Baghouse Filters ~~APM 15105.4~~;
 Micro Ingredient Dump ~~Aspiration Filter~~ (4820-0003-0018) controlled by Baghouse Filters ~~APM 15105.4~~;
 Mixer General Aspiration (4820-0003-0004) controlled by Baghouse Filters ~~BUHLER 25S-6-30~~;
 3/4 Hammermill (4900-0001-0065) controlled by Baghouse Filters ~~APM 16009.6~~;
 #3 & #4 Expanders (4900-0001-0006) controlled by Baghouse Filters ~~APM 16009.6~~;
 Reprocessing General ~~Cooler Dryer Reef~~Aspiration (4900-0005-0001) controlled by Baghouse ~~Filters CD 376RF10~~;
 #6 ~~Pulverizer Grinder Pulvocron~~ (4900-0001-0042) controlled by Baghouse Filters ~~BUHLER 37-8-220~~;
 5/6 Pulverizer AB Finished Product Surge Bin (4900-0001-0046) controlled by Baghouse Filters ~~MICROPUL 4B~~;
 Pellet Bins (4900-0002-0032) controlled by Baghouse Filters ~~BUHLER 16S-6-30~~;
 Viscosity Flour Receiver (4990-0006-0027) controlled by Baghouse Filters ~~APM 16022.8~~;
 Conditioning Receiver/Soy Meal Grinder (4990-0011-0010) controlled by Baghouse Filters ~~APM 16014.8~~;
 Grind Reject/Scrap Bin (4900-0005-0007) controlled by Baghouse Filters ~~MICROPUL 2 1/2B~~;
 Bldg 112 Vacuum (4900-0005-0029) controlled by Baghouse Filters ~~HOFFMAN 36X96~~;

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AB Grinder Surge Bin (4900-0001-0030) controlled by Baghouse Filters ~~BUHLER-37-8-220~~;
N CD General Aspiration & #5 Expander (4900-0005-0006) controlled by Baghouse Filters ~~CD-484RF12~~;
South Hominy Feed Bin General Aspiration (4860-0018-0003) controlled by Baghouse Filters ~~MICROPUL-1F2~~;
Secondary Clean Grinding (4860-0022-0017) controlled by Baghouse Filters ~~APM-15030-8~~;
Bran Dryer (4860-0024-0003) controlled by ~~Corona~~ Cyclone;
Track 16 Rail Loadout (4912-0006-0017) controlled by Baghouse Filters ~~WEIDENMAN-LFT-2X7~~;
Germ Dust Aspiration (4860-0017-0073) controlled by ~~Baghouse Filters APM-40120-8~~ Cyclone;
Feed Mill General Aspiration (4860-0023-0001) controlled by Baghouse Filters ~~APM-40120-8~~;
Germ Dryer (4860-0017-0003) controlled by ~~Cyclone~~ DAY CYCLONE HV56;
FTS Dryer Aspiration (4860-0019-0003) controlled by ~~CORONA-15-CYCLONE~~ Cyclone;
-Pet Bran Kice Lites Aspiration (4860-0024-0037) controlled by Baghouse Filters ~~MICROPUL~~;
Pneumatic Lift Receiver for Coarse Whole Grain transfer (WG260) ~~(4880-0048-0012)~~;
PCM Hammermill ~~(4900-0003-0011)~~ -controlled by Filter ~~System (78-03+11)~~;
USG Hammermill ~~(4900-0008-0027)~~ controlled by Filter ~~System (78-03+27)~~;
USG ~~Extruder Pellet~~ Secondary Extruder Transfer ~~controlled by Collection Cyclone (78-08+22)~~ (4900-0008-0022);
~~Whole Grain Dryer (4880-0046-0017)~~;
~~Whole Grain Hammermill (4880-0046-0028)~~;
~~Whole Grain Aspiration (4880-0046-0042)~~;
~~USG Primary Extruder Transfer (4900-0007-0020)~~;
~~6th Floor Radar Pulsar (4860-0018-0044)~~;

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~~One (1) #1 Coarse Gravity Table Aspiration Cyclone Collector (05:68) (17,000 dsefm) controlled by the S-105 Roof Carter Day Filter (334:86);~~
~~One (1) #2 Fine Gravity Table Aspiration Cyclone Collector (06:88) (17,000 dsefm) controlled by the S-105 Roof Carter Day Filter (334:86);~~
~~One (1) #1 Satake Degerminator Cyclone Collector (45:07) (1,400 dsefm) controlled by the S-105 Roof Carter Day Filter (334:86);~~
~~One (1) #1 Satake Aspiration Cyclone Collector (45:12) (1,400 dsefm) controlled by the S-105 Roof Carter Day Filter (334:86);~~
~~One (1) #2 Satake Degerminator Cyclone Collector (45:09) (1,400 dsefm) controlled by the S-105 Roof Carter Day Filter (334:86);~~
~~One (1) #2 Satake Aspiration Cyclone Collector (45:24) (1,400 dsefm) controlled by the S-105 Roof Carter Day Filter (334:86);~~
~~Satake Sifter and Sifter Air Locks controlled by the S-105 Roof Carter Day Filter (334:86);~~ CCM260 Process Aspiration (4912-0002-0054) controlled by Filter;
~~One (1) Pneumatic Transfer Line and Cyclone Receiver (45:20) controlled by 8th Floor Donaldson Filter (34:27) controlled by the S-105 Roof Carter Day Filter (334:86);~~
~~One (1) Pneumatic Transfer Line and Cyclone Receiver (23:102) controlled by West MAC Filter (34:01) controlled by the S-105 Roof Carter Day Filter (334:86);~~

Corn Mill Products Storage:

Bldg 201/202 Vacuum (4912-0008-0006) controlled by Baghouse Filters ~~HOFFMAN 36X96~~;

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Bldg 208 Vacuum (4912-0009-0005) controlled by Baghouse Filters ~~HOFFMAN~~
~~36X96~~;

Hominy Feed Bins Aspiration (~~4750-0029-00744860-0018-0048~~) controlled by
Baghouse Filters ~~DONALDSON 276RFW12~~;

Corn Mill Products Milling and Handling:

Hominy Binning (4750-0029-0032) controlled by Baghouse Filters ~~APM 40240.8~~;

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Hominy Grinder General Aspiration (4750-0029-0001) controlled by Baghouse Filters ~~APM 40224.4~~;
Truck Hominy Loadout (4912-0004-0022) controlled by Baghouse Filters ~~376RF8~~;
Rail Hominy/Grain Loadout #1 (4912-0003-0011) controlled by Baghouse Filters ~~376RF12~~;
~~Long Term Meal System (LTMS) & Rail Meal/Grain Transfer (4750-0033-0001) controlled by Baghouse Filters 376RF8~~;
~~LTMS & Rail Meal/Grain Loadout (4750-0033-0011) controlled by Baghouse Filters MAC 144MCF416~~;
Hominy Screener General Aspiration (4750-0029-0045) controlled by Baghouse Filters ~~MICROPUL 1008-6-20~~;

Boiler House/Grounds:

One (1) 96.55 mmBtu/hour Natural Gas-Fired Boiler with Low NO_x Burner (Boiler #1);
One (1) 27.90 mmBtu/hour Natural Gas-Fired Boiler (Clayton Boiler); and
Fugitive PM and PM₁₀ emissions

pursuant to the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This Federally Enforceable State Operating Permit (FESOP) is issued to limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 100 tons/year for Carbon Monoxide (CO), Nitrogen Oxides (NO_x), and Particulate Matter less than 10 microns (PM₁₀)). As a result, the source is excluded from the requirements to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit, are described in Attachment A.
- b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.
- c. This permit supersedes all operating and construction permit(s) for this location.
2. The Clayton Boiler is subject to the New Source Performance Standard (NSPS) for Small Industrial - Commercial - Institutional Steam Generating Units, 40 CFR Part 60 Subparts A and Dc. The Illinois EPA is administering the NSPS in Illinois on behalf of the United States Environmental Protection Agency (USEPA) under a delegation agreement. Pursuant to 40 CFR 60.40c(a), except as provided in 40 CFR 60.40c(d), (e), (f), and (g), the affected facility to which 40 CFR 60 Subpart Dc applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million British thermal units per hour (mmBtu/hr)) or less, but greater than or equal to 2.9 MW (10 mmBtu/hr).
- 3a. The Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS) emission units except the Hoffman Bldg 301 Vacuum and the Track 6 Vacuum are subject to the NSPS for Grain Elevators, 40 CFR Part 60 Subparts A and DD. The Illinois EPA is administering the NSPS in Illinois on behalf of the USEPA under a delegation agreement. Pursuant to 40 CFR 60. 300(a), the provisions of 40 CFR 60 Subpart DD apply to each affected facility &

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~~facility~~ at any grain terminal elevator or any grain storage elevator, except as provided under 40 CFR 60.304(b). ~~—~~ The affected facilities are each truck unloading station, truck loading station, barge and ship unloading station, barge and ship loading station, railcar loading station, railcar unloading station, grain dryer, and all grain handling operations. 40 CFR Part 60 Subpart DD does not apply to the emission units in the Corn Receiving, Cleaning and Storage (Pre-NSPS) emission unit group.

- b. Pursuant to 40 CFR 60.300(b), any facility under 40 CFR 60.300(a) which commences construction, modification or reconstructed after August 3, 1978 is subject to the requirements of 40 CFR 60 Subpart DD.
- c. Pursuant to 40 CFR 60.302(b), on and after the date on which the performance test required to be conducted by 40 CFR 60.8 is completed, no owner or operator subject to the provisions of 40 CFR 60 Subpart DD shall cause to be discharged into the atmosphere from any affected facility except a grain dryer any process emission which:
 - i. Contains particulate matter in excess of 0.023 g/dscm (ca. 0.01 gr/dscf).
 - ii. Exhibits greater than 0 percent opacity.
- d. Pursuant to 40 CFR 60.302(c), on and after the 60th day of achieving the maximum production rate at which the affected facility will be operated, but no later than 180 days after initial startup, no owner or operator subject to the provisions of 40 CFR 60 Subpart DD shall cause to be discharged into the atmosphere any fugitive emission from:
 - i. Any individual truck unloading station, railcar unloading station, or railcar loading station, which exhibits greater than 5 percent opacity.
 - ii. Any grain handling operation, which exhibits greater than 0 percent opacity.
 - iii. Any truck loading station which exhibits greater than 10 percent opacity.
- 4a. The Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (Pre-NSPS); Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; Corn Mill Products Milling and Handling; Boiler #1, and Clayton Boiler are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122 or as allowed under 35 Ill. Adm. Code 212.123(b).
- b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute

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period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.

- c. This source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.
- d. When processing and handling processed materials, the emission units constructed on or after April 14, 1972 within the following groups: ~~Corn, Soybean & Products~~ Receiving, Cleaning and Storage (Pre-NSPS); ~~Corn, Soybean & Products~~ Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).
- e. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
 E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

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	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

f. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units for Which Construction or Modification Commenced on or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

g. When processing and handling processed materials, the emission units constructed before April 14, 1972 within the following groups: ~~Corn, Soybean & Products~~ Receiving, Cleaning and Storage (Pre-NSPS); ~~Corn, Soybean & Products~~ Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.322(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause

or allow the emission of particulate matter into the atmosphere in any one hour period from any process emission unit for which construction or modification commenced prior to April 14, 1972, which, either alone or in combination with the emission of particulate matter from all other similar process emission units at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.322(c).

- h. Pursuant to 35 Ill. Adm. Code 212.322(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.322(c) shall be determined by using the equation:

$$E = C + A(P)^B$$

where:

P = process weight rate; and,
 E = allowable emission rate; and,

- i. For process weight rates up to 27.2 Mg/hr (30 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.985	4.10
B	0.67	0.67
C	0	0

- ii. For process weight rates in excess or 27.2 Mg/hr (30 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	25.21	55.0
B	0.11	0.11
C	-18.4	-40.0

- i. Pursuant to 35 Ill. Adm. Code 212.322(c), Limits for Process Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972:

P Mg/hr	Metric		English	
	E kg/hr	P T/hr	P T/hr	E lbs/hr
0.05	0.27	0.05	0.05	0.55
0.1	0.42	0.10	0.10	0.87
0.2	0.68	0.20	0.20	1.40
0.3	0.89	0.30	0.30	1.83
0.4	1.07	0.40	0.40	2.22
0.5	1.25	0.50	0.50	2.58
0.7	1.56	0.75	0.75	3.38
0.9	1.85	1.00	1.00	4.10
1.8	2.9	2.00	2.00	6.52
2.7	3.9	3.00	3.00	8.56
3.6	4.7	4.00	4.00	10.40
4.5	5.4	5.00	5.00	12.00

P	Metric	English	E
Mg/hr	kg/hr	T/hr	lbs/hr
9.	8.7	10.00	19.20
13.	11.1	15.00	25.20
18.	13.8	20.00	30.50
23.	16.2	25.00	35.40
27.2	18.15	30.00	40.00
32.0	18.8	35.00	41.30
36.0	19.3	40.00	42.50
41.0	19.8	45.00	43.60
45.0	20.2	50.00	44.60
90.0	23.2	100.00	51.20
140.0	25.3	150.00	55.40
180.0	26.5	200.00	58.60
230.0	27.7	250.00	61.00
270.0	28.5	300.00	63.10
320.0	29.4	350.00	64.90
360.0	30.0	400.00	66.20
400.0	30.6	450.00	67.70
454.0	31.3	500.00	69.00

where:

P = Process weight rate in Mg/hr or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

j. The handling of grain in the Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (Pre-NSPS); Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling Operations are subject to 35 Ill. Adm. Code Part 212 Subpart S (Agriculture). Pursuant to 35 Ill. Adm. Code 212.462, unless otherwise exempted pursuant to 35 Ill. Adm. Code 212.461(c) or (d), or allowed to use alternate control according to 35 Ill. Adm. Code 212.461(g), existing grain-handling operations with a total annual grain through-put of 300,000 bushels or more shall apply for an operating permit pursuant to 35 Ill. Adm. Code Part 201, and shall demonstrate compliance with the following:

i. Cleaning and Separating Operations.

- A. Particulate matter generated during cleaning and separating operations shall be captured to the extent necessary to prevent visible particulate matter emissions directly into the atmosphere.
- B. For grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area, air contaminants collected from cleaning and separating operations shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90 percent by weight prior to release into the atmosphere.

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ii. Major Dump-Pit Area.

Induced Draft.

- A. Induced draft shall be applied to major dump pits and their associated equipment (including, but not limited to, boots, hoppers and legs) to such an extent that a minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated in unloading operations. The minimum face velocity at the effective grate surface shall be at least 200 fpm, which shall be determined by using the equation:

$$V = Q/A$$

where:

V = face velocity; and
Q = induced draft volume in scfm; and
A = effective grate area in ft²; and

- B. The induced draft air stream for grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be confined and conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90 percent by weight;
- C. Means or devices (including, but not limited to, quick-closing doors, air curtains or wind deflectors) shall be employed to prevent a wind velocity in excess of 50 percent of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph. The wind velocity shall be measured, with the induced draft system not operating, at a point midway between the dump-pit area walls at the point where the wind exits the dump-pit area, and at a height above the dump-pit area floor of approximately 2 ft; or

iii. Internal Transferring Area.

- A. Internal transferring area shall be enclosed to the extent necessary to prohibit visible particulate matter emissions directly into the atmosphere.
- B. Air contaminants collected from internal transfer operations for grain-handling sources having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90 percent by weight prior to release into the atmosphere.

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iv. Load-Out Area.

- A. Truck and hopper car loading shall employ socks, sleeves or equivalent devices which extend 6 inches below the sides of the receiving vehicle, except for topping off. Choke loading shall be considered an equivalent method as long as the discharge is no more than 12 inches above the sides of the receiving vehicle.
- B. Box car loading shall employ means or devices to prevent the emission of particulate matter into the atmosphere to the fullest extent which is technologically and economically feasible.

k. Pursuant to 35 Ill. Adm. Code 212.463, unless otherwise exempted pursuant to 35 Ill. Adm. Code 212.461(c) or (d) or allowed to use alternate control according to 35 Ill. Adm. Code 212.461(g), grain-drying operations for which construction or modification commenced prior to June 30, 1975, with a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity (using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers) shall be operated in such a fashion as to preclude the emission of particulate matter larger than 300 microns mean particle diameter, shall apply for an operating permit pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the following:

- i. Column Dryers. The largest effective circular diameter of transverse perforations in the external sheeting of a column dryer shall not exceed 0.094 inch, and the grain inlet and outlet shall be enclosed.
- ii. Rack Dryers. No portion of the exhaust air of rack dryers shall be emitted to the ambient atmosphere without having passed through a particulate collection screen having a maximum opening of 50 mesh, U.S. Sieve Series.
 - A. All such screens will have adequate self-cleaning mechanisms, the exhaust gas of which for grain-handling facilities having a grain through-put of not more than 2 million bushels per year or located outside a major population area shall be ducted through air pollution control equipment which has a rated and actual particulate removal efficiency of 90 percent by weight prior to release into the atmosphere.
 - B. All such screens will have adequate self-cleaning mechanisms, the exhaust gas of which for grain-handling sources having a grain through-put exceeding 2 million bushels per year and located in a major population area shall be ducted through air pollution control equipment which has a rated and actual particulate removal efficiency

of 98 percent by weight prior to release into the atmosphere.

- iii. Other Types of Dryers. All other types of dryers shall be controlled in a manner which shall result in the same degree of control required for rack dryers pursuant to 35 Ill. Adm. Code 212.463(b).
 - iv. New and Modified Grain-Drying Operations. Grain-drying operations constructed or modified on or after June 30, 1975, shall file applications for construction and operating permits pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the control equipment requirements of 35 Ill. Adm. Code 212.463, except for new and modified grain-drying operations which do not result in a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineer Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers.
5. Boiler #1 and Clayton Boiler are subject to 35 Ill. Adm. Code Part 216 Subpart B (Fuel Combustion Emission Sources). Pursuant to 35 Ill. Adm. Code 216.121, no person shall cause or allow the emission of carbon monoxide (CO) into the atmosphere from any fuel combustion emission source with actual heat input greater than 2.9 MW (10 mmBtu/hr) to exceed 200 ppm, corrected to 50 percent excess air.
- 6a. This permit is issued based on the Cooling Tower at this source not being subject to the NESHAP for Process Cooling Towers, 40 CFR 63 Subpart Q because the cooling tower is not operated with chromium-based water treatment chemicals and is not either major sources or is an integral part of a facility that is a major source.
- b. This permit is issued based on the source no longer being subject to the NESHAP for Solvent Extraction for Vegetable Oil Production, 40 CFR 63 Subpart GGGG, because the source no longer operates a vegetable oil production process and is no longer a major source of HAP emissions.
- c. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to the NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63 Subpart DDDDD because this source is not or is part of, a major source of Hazardous Air Pollutant (HAP) emissions as defined in 40 CFR 63.2.
- d. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to the requirements of the NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources, 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11195(e), gas-fired boilers are not subject to 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11237, gas-fired boiler includes any boiler that burns gaseous fuels not combined with any solid fuels, burns liquid fuel only during periods of gas curtailment, gas supply emergencies, or periodic testing on liquid fuel. Periodic testing of liquid fuel shall not exceed a combined total of 48 hours during any calendar year.

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- e. This permit is issued based on the source not being subject to the National Emission Standards (NESHAP) for Area Sources: Prepared Feeds Manufacturing, 40 CFR 63 Subpart DDDDDDD because the source does not use a material containing chromium or a material containing manganese in the manufacturing of prepared feeds.
- 7a. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of 35 Ill. Adm. Code 212.314 shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to 35 Ill. Adm. Code 212.314 is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.
- b. This permit is issued based on the handling of grain in the Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (Pre-NSPS); Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling Operations not being subject to 35 Ill. Adm. Code Part 212 Subpart L while handling grain. Pursuant to 35 Ill. Adm. Code 212.461(a), 35 Ill. Adm. Code 212.302(a), 212.321, and 212.322 shall not apply to grain-handling and grain-drying operations, portable grain-handling equipment and one-turn storage space.
- 8. This permit is issued based on Boiler #1 and Clayton Boiler at this source not being subject to 35 Ill. Adm. Code Part 215 Subpart K. Pursuant to 35 Ill. Adm. Code 215.303, the provisions of 35 Ill. Adm. Code 215.301 and 215.302 shall not apply to fuel combustion emission sources.
- 9a. Pursuant to 40 CFR 60.11(b), initial compliance with opacity standards in 40 CFR Part 60 shall be determined by conducting observations in accordance with Method 9 in appendix A of 40 CFR Part 60, any alternative method that is approved by the Illinois EPA or USEPA, or as provided in 40 CFR 60.11(e)(5). For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).
- b. Pursuant to 40 CFR 60.11(c), the opacity standards set forth in 40 CFR Part 60 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.
- c. Pursuant to 40 CFR 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner

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consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Illinois EPA or USEPA which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

- 10a. Housekeeping Practices. Pursuant to 35 Ill. Adm. Code 212.461(b), all grain-handling and grain-drying operations, regardless of size, must implement and use the following housekeeping practices:
- i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
 - ii. Cleaning and Maintenance.
 - A. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
 - B. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
 - C. The yard and surrounding open area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.
 - iii. Dump Pit.
 - A. Aspiration equipment shall be maintained and operated.
 - B. Dust control devices shall be maintained and operated.
 - iv. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.
 - v. Property. The yard and driveway of any source shall be asphalted, oiled or equivalently treated to control dust.
 - vi. Housekeeping Check List. Housekeeping check lists shall be completed by the manager and maintained on the premises for inspection by Illinois EPA personnel.
- 11a. In the event that the operation of this source results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in raw material or installation of controls, in order to eliminate the odor nuisance.
- b. The baghouse filters and cyclones shall be in operation at all times when the associated emission units are in operation and emitting air contaminants.

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- c. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the baghouse filters and cyclones such that the baghouse filters and cyclones are kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.
- d. Each receiving dump pit shall be inspected for proper operation while receiving is occurring, at least once each week (Monday through Sunday) when grain is received.
- e. The source shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed.
- f. Boiler #1 and Clayton Boiler shall only be operated with natural gas as the fuel. The use of any other fuel in Boiler #1 or Clayton Boiler may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.
- ~~g. Organic liquid by products or waste materials shall not be used in any emission unit at this source without written approval from the Illinois EPA.~~
- ~~h. The Illinois EPA shall be allowed to sample all fuels stored at the above location.~~
- ~~i-g.~~ All normal traffic pattern access areas and all normal traffic pattern roads and parking facilities which are located on ~~Ag Transload~~the Bunge Facility property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis.
All areas treated with water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by Condition 11(~~j-i~~).
- ~~j-h.~~ All unloading and transporting operations of materials collected by pollution control equipment shall be enclosed or shall utilize spraying, pelletizing, screw conveying or other equivalent methods.
- ~~k-i.~~ Grinding mills, screening operations, bucket elevators, conveyor transfer points, conveyors, bagging operations, storage bins and fine product truck and railcar loading operations shall be sprayed with water or a surfactant solution, utilize choke-feeding or be treated by an equivalent method in accordance with an operating program.
- ~~l-j.~~ The emission units described in Conditions 11(~~g-i~~), (~~h-j~~), and (~~i-k~~) shall be operated under the provisions of an operating program, consistent with 35 Ill. Adm. Code 212.310 and 212.312, and prepared by the owner or operator and submitted to the Illinois EPA for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.
- ~~m-k.~~ As a minimum the operating program shall include the following:

- i. The name and address of the source;
- ii. The name and address of the owner or operator responsible for execution of the operating program;
- iii. A map or diagram of the source showing approximate locations of storage piles, conveyor loading operations, normal traffic pattern access areas surrounding storage piles and all normal traffic patterns within the source;
- iv. Location of unloading and transporting operations with pollution control equipment;
- v. A detailed description of the best management practices utilized to achieve compliance with 35 Ill. Adm. Code 212.301, including an engineering specification of particulate collection equipment, application systems for water, oil, chemicals and dust suppressants utilized and equivalent methods utilized;
- vi. Estimated frequency of application of dust suppressants by location of materials; and
- vii. Such other information as may be necessary to facilitate the Illinois EPA's review of the operating program.

~~n-1.~~ Within 90 days from date of issuance of this permit a Fugitive Particulate Operating Program must be submitted by the Permittee and is incorporated herein by reference. The source shall be operated under and shall comply with the provisions of this Fugitive Particulate Operating Program and any amendments to the Fugitive Particulate Operating Program submitted pursuant to Condition 11(1) and (m).

~~e-m.~~ The operating program shall be amended from time to time by the owner or operator so that the operating program is current. Such amendments shall be consistent with Condition 11(1) and (m) and shall be submitted to the Illinois EPA within thirty (30) days of any such amendment. Any future amendment to the Fugitive Particulate Operating Program made by the Permittee during the permit term is automatically incorporated by reference provided the revision is not expressly disapproved, in writing, by the Illinois EPA. In the event that the Illinois EPA notifies the Permittee of a deficiency with any revision to the Fugitive Particulate Operating Program, the Permittee shall be required to revise and resubmit the Fugitive Particulate Operating Program within thirty (30) days of receipt of the notification to address the deficiency.

12a. Emissions from and operation of the Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (Pre-NSPS) shall not exceed the following limits:

Emission Unit	PM Grain PM ₁₀ Grain Total Flow			E M I S S I O N S			
	PM Loading (gr/dscf)	PM ₁₀ Loading (gr/dscf)	Grain Rate (scfm)	PM (lbs/Hr)	PM ₁₀ (Tons/Yr)	PM ₁₀ (lbs/Hr)	PM ₁₀ (Tons/Yr)
Truck Dump #1	0.002	0.0015	18,500	0.32	1.39	0.24	1.04

Hoffman Bldg 301 Vacuum	0.001	0.001	1,000	0.01	0.04	0.01	0.04
West Headhouse General Aspiration	0.0015	0.0015	55,000	0.71	3.10	0.71	3.10
Railcar Dump Pit and Section D&E General Aspiration	0.0015	0.0015	21,600	0.28	1.22	0.28	1.22
Track 6 Vacuum	0.001	0.001	700	0.01	0.03	0.01	0.03
Cleanings Discharge	0.002	0.0015	1,900	0.03	0.14	0.02	0.11
Grain Receiving Fugitives					<u>3.01</u>		<u>3.01</u>
				Total:	8.93		8.55

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source, and 8,760 hours/year of operation.

- b. Emissions from and operation of the Corn, ~~Soybean & Products~~ Receiving, Cleaning and Storage (NSPS) shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Grain Total Flow Rate (scfm)	E M I S S I O N S			
				PM (lbs/Hr)	PM (Tons/Yr)	PM ₁₀ (lbs/Hr)	PM ₁₀ (Tons/Yr)
Truck Dump #4 and Gallery Aspiration	0.002	0.002	36,017	0.62	2.70	0.62	2.70
Cleaning North APM	0.002	0.0015	41,000	0.70	3.08	0.53	2.31
Bldg-115 Corn Cleaning	0.002	0.0015	57,372	0.98	4.31	0.74	3.23
North Street-Truck Truck	0.002	0.0015	25,109	0.43	<u>1.89</u>	0.32	<u>1.41</u>
				Total:	11.98		9.65

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These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source, and 8,760 hours/year of operation.

- c. Emissions from and operation of the Dry Corn Milling, Processing and Products Handling shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Grain Total Flow Rate (scfm)	E M I S S I O N S			
				PM (lbs/Hr)	PM (Tons/Yr)	PM ₁₀ (lbs/Hr)	PM ₁₀ (Tons/Yr)
Bemos Bagging	0.002	0.0015	1,660	0.03	0.12	0.02	0.09
Bagging General Aspiration	0.002	0.0015	3,400	0.06	0.26	0.04	0.19
Bagging Packer General Aspiration	0.002	0.0015	4,400	0.08	0.33	0.06	0.25
Bran Dryer Process	0.002	0.0015	2,200	0.04	0.17	0.03	0.12
Bran Sifter Process	0.002	0.0015	6,215	0.11	0.47	0.08	0.35
East Meal Dryer/Cooler	0.002	0.0015	13,000	0.22	0.98	0.17	0.73
West Meal Dryer	0.002	0.0015	13,295	0.23	1.00	0.17	0.75
Bldg 105/115 General	0.002	0.0015	4355,700	0.9475	4.13	0.7156	3.10

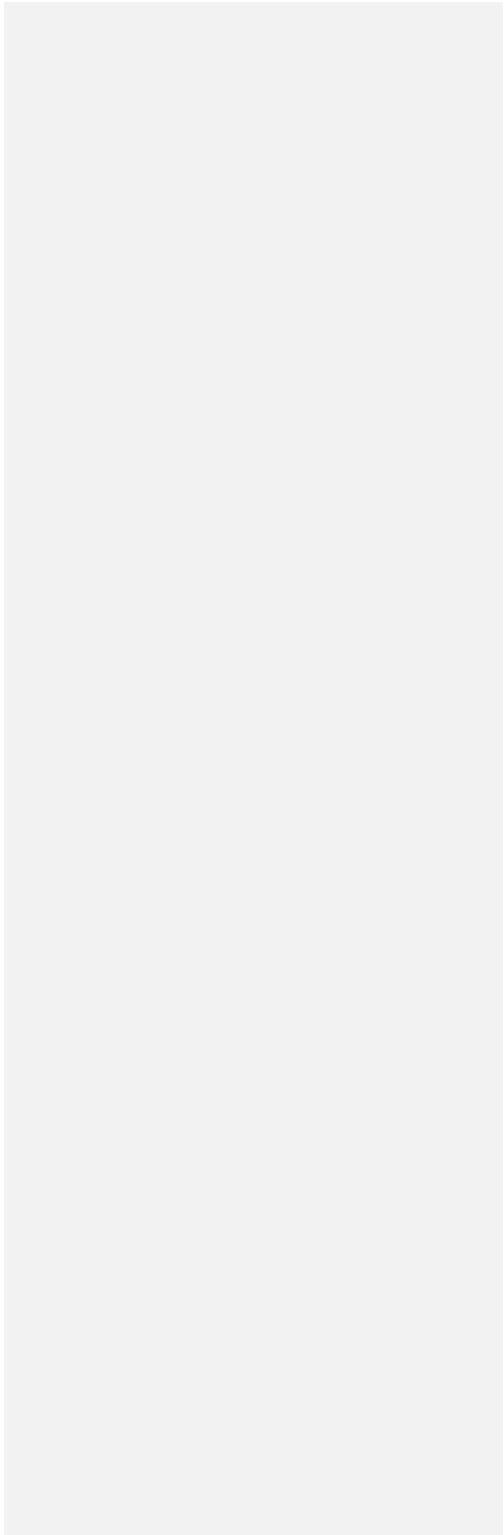
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Aspiration							
Bldg 102/105 General							
Aspiration	0.002	0.0015	55,043,700	0.9475	3.284-13	0.5671	
Bldg 105 Vacuum	0.001	0.001	1,500	0.01	0.06	0.01	0.06
Bulk Loading White Goods	0.002	0.0015	36,000	0.62	2.70	0.46	2.03
Bldg 104 Vacuum	0.001	0.001	1,500	0.01	0.06	0.01	0.06
Bran Bin	0.002	0.0015	980	0.02	0.07	0.01	0.06
South Lunchroom					3.22	0.55	2.41
Screening	0.002	0.0015	42,826	0.73			
South CD Screening	0.002	0.0015	41,000	0.70	3.08	0.53	2.31
North CD General							
Aspiration	0.002	0.0015	33,300	0.57	2.5	0.43	1.88
North Lunchroom							
Screening	0.002	0.0015	40,000	0.69	3.00	0.51	2.25
Pack and Bulk Loading Bldg 115	0.002	0.0015	42,000	0.72	3.15	0.54	2.37
CAMAS/Bran Bldg 115	0.002	0.0015	45,021	0.77	3.38	0.58	2.54
Thru/Tail Stock Dryers							
Bldg 115	0.002	0.0015	56,000	0.96	4.2	0.72	3.15
Bldg 115 Vacuum	0.001	0.001	825	0.01	0.03	0.01	0.03
Track 2 Railcar							
Unloading Secondary							
Receiver	0.002	0.0015	440	0.01	0.03	0.01	0.02
Lab Filter	0.002	0.0015	900	0.02	0.07	0.01	0.05
1/2 Pulvocron Meal							
Receiver	0.002	0.0015	380	0.01	0.03	0.01	0.02
1/2 Pulvocron Visc Flour							
Receiver	0.002	0.0015	380	0.01	0.03	0.01	0.02
3/4 Pulvocron Meal							
Receiver	0.002	0.0015	380	0.01	0.03	0.01	0.02
9/10 Pulvocron Meal							
Secondary Receiver	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
7/8 Pulvocron Meal							
Secondary Receiver	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#3 l	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#4 l	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#5 l	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#1 l	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#2 l	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
#7 l	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#7 l	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#9 l	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
#10 Pulvocron	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
3/4 Pulvocron Meal Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
1/2 Pulvocron Meal Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
9/10 Pulvocron Meal Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
7/8 Pulvocron Meal Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
1/2 Flour Surge Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
3/4 Flour Surge Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
7/8 Flour Surge Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
9/10 Flour Surge Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
Hibond Visc Flake Roller							
Mill	0.002	0.0015	7,200	0.12	0.54	0.09	0.41
CSM Blended Food	0.002	0.0015	4,077	0.07	0.31	0.05	0.23

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Receiver							
Blended Food Packaging	0.002	0.0015	10,000	0.17	0.75	0.13	0.56
Aspiration							

Allbond Visc Four							
General Aspiration	0.002	0.0015	867	0.01	0.07	0.01	0.05
Milk Bins	0.002	0.0015	400	0.01	0.03	0.01	0.02



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300 Series Binning	0.002	0.0015	4,452	0.08	0.33	0.06	0.25
Soy Meal General							
Aspiration	0.002	0.0015	1,435	0.02	0.11	0.02	0.08
Soy Meal Surge Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
Meal Bin Cooler	0.002	0.0015	14,000	0.24	1.05	0.18	0.79
3/4 Soy Flour Receiver	0.002	0.0015	700	0.01	0.05	0.01	0.04
Tri Cal Bins	0.002	0.0015	780	0.01	0.06	0.01	0.04
5/6 Allbond Receiver	0.002	0.0015	1,100	0.02	0.08	0.01	0.06
7/8 Soy Flour Receiver	0.002	0.0015	1,100	0.02	0.08	0.01	0.06
Bin 308	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 309	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 310	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 508	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bin 509	0.002	0.0015	500	0.01	0.04	0.01	0.03
9/10 Pulvocron Receiver	0.002	0.0015	700	0.01	0.05	0.01	0.04
Milk Bins	0.002	0.0015	867	0.01	0.07	0.01	0.05
Milk Bin Bag Dump	0.002	0.0015	6,000	0.10	0.45	0.08	0.34
Blending Batch Bin							
General Aspiration	0.002	0.0015	1,250	0.02	0.09	0.02	0.07
Blending General							
Aspiration	0.002	0.0015	1,055	0.02	0.08	0.01	0.06
Blending General							
Aspiration	0.002	0.0015	1,645	0.03	0.12	0.02	0.09
CSB Binning General							
Aspiration	0.002	0.0015	3,200	0.05	0.24	0.04	0.18
CSB Binning General							
Aspiration	0.002	0.0015	2,739	0.05	0.21	0.04	0.15
Finished Product General							
Aspiration	0.002	0.0015	742	0.01	0.06	0.01	0.04
#5 SE General Aspiration							
#5 Expander	0.002	0.0015	3,000	0.05	0.23	0.04	0.17
Fiber Receiving General							
Aspiration	0.002	0.0015	648	0.01	0.05	0.01	0.04
PCM Binning	0.002	0.0015	2,241	0.04	0.17	0.03	0.13
CF Bran Packing Binning	0.002	0.0015	1,232	0.02	0.09	0.02	0.07
Bldg 111 Vacuum	0.001	0.001	1,500	0.01	0.06	0.01	0.06
110/210 Receiver General							
Aspiration	0.002	0.0015	1,400	0.02	0.11	0.02	0.08
Fiber Receiving General							
Aspiration	0.002	0.0015	1,000	0.02	0.08	0.01	0.06
Cooling Tower	0.002	0.0015	14,000	0.24	1.05	0.18	0.79
Ingredient Bin 601	0.002	0.0015	210	0.004	0.02	0.003	0.01
Ingredient Bin 602	0.002	0.0015	210	0.004	0.02	0.003	0.01
Ingredient Bin 603	0.002	0.0015	210	0.004	0.02	0.003	0.01
Ingredient Bin 604	0.002	0.0015	210	0.004	0.02	0.003	0.01
Micro Ingredient Dump							
Aspiration	0.002	0.0015	2,500	0.04	0.19	0.03	0.14
Mixer General Aspiration	0.002	0.0015	1,500	0.03	0.11	0.02	0.08

3/4 Hammermill	0.002	0.0015	1,258	0.02	0.09	0.02	0.07
#3 & #4 Expanders	0.002	0.0015	1,017	0.02	0.08	0.01	0.06
Reprocessing General Aspiration	0.002	0.0015	27,550	0.47	2.07	0.35	1.55
#65 Pulvocron	0.002	0.0015	2,904	0.05	0.22	0.04	0.16
5/6 Pulverizer AB							
Finished Product Surge Bin	0.002	0.0015	570	0.01	0.04	0.01	0.03
Pellet Bins	0.002	0.0015	705	0.01	0.05	0.01	0.04
Viscosity Flour Receiver Conditioning	0.002	0.0015	2,143	0.04	0.16	0.03	0.12
Receiver/Soy Meal Grinding	0.002	0.0015	1,350	0.02	0.1	0.02	0.08
Grind Reject/Scrap Bin	0.002	0.0015	500	0.01	0.04	0.01	0.03
Bldg 112 Vacuum	0.001	0.001	500	0.01	0.02	0.01	0.02
AB Grinder Surge Bin	0.002	0.0015	2,100	0.04	0.16	0.03	0.12
N CD General Aspiration & #5 Expander	0.002	0.0015	36,000	0.62	2.70	0.46	2.03
South Hominy Feed Bin General Aspiration	0.002	0.0015	15,000	0.26	1.13	0.19	0.84
Secondary Clean Grinding	0.002	0.0015	2,000	0.03	0.15	0.03	0.11
Bran Dryer	0.0454	0.002	6,888	2.68	11.74	0.12	0.52
Track 16 Rail Loadout	0.002	0.0015	30,000	0.51	2.25	0.39	1.69
Germ Dust Aspiration	0.02	0.02	7,400	1.27	5.56	1.27	5.56
Feed Mill General Aspiration	0.002	0.0015	16,000	0.27	1.2	0.21	0.9
Germ Dryer	0.0454	0.002	10,000	3.89	17.04	0.17	0.75
FTS Dryer Aspiration	0.0454	0.002	6,888	2.68	11.74	0.12	0.52
Pet Bran Kice Lites Aspiration	0.002	0.0015	1,600	0.03	0.12	0.02	0.09
Pneumatic Lift Receiver for WG260 Transfer	0.02	0.02	682	0.12	0.51	0.12	0.51
PCM Hammermill	0.0020	0.0020	6,500	0.11	0.49	0.11	0.49
USG Hammermill	0.0020	0.0020	6,500	0.11	0.49	0.11	0.49
USG Secondary Extruder Transfer	0.0200	0.0200	4,000	0.69	3.00	0.69	0.69
Whole Grain Dryer	0.0300	0.0200	1,400	0.36	1.58	0.24	1.05
Whole Grain Hammermill	0.0020	0.0015	6,000	0.1	0.45	0.08	0.34
Whole Grain Aspiration	0.0020	0.0015	5,080	0.09	0.38	0.07	0.29
USG Primary Extruder Transfer	0.0200	0.0200	4,000	0.69	3.00	0.69	3.00
6th Floor Radar Pulsar	0.0020	0.0015	7,400	0.13	0.56	0.1	0.42
CCM260 Process							
Aspiration(S 105							
Carter-Day)	0.0020	0.0020	40,600	0.7	3.05	0.7	3.05
				Total:	116.69		62.80

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

- d. Emissions from and operation of the Corn Mill Products Storage shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S			
				PM (lbs/Hr)	PM ₁₀ (Tons/Yr)	PM (lbs/Hr)	PM ₁₀ (Tons/Yr)
Bldg 201/202 Vacuum	0.0010	0.0010	700	0.01	0.03	0.01	0.03
Bldg 208 Vacuum	0.0010	0.0010	700	0.01	0.03	0.01	0.03
Hominy Feed Bins Aspiration	0.0020	0.0015	21,000	0.36	1.58	0.27	1.18
				Total:	1.64		1.24

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

- e. Emissions from and operation of the Corn Mill Products Milling and Handling shall not exceed the following limits:

Emission Unit	PM Grain Loading (gr/dscf)	PM ₁₀ Grain Loading (gr/dscf)	Total Flow Rate (scfm)	E M I S S I O N S			
				PM (lbs/Hr)	PM ₁₀ (Tons/Yr)	PM (lbs/Hr)	PM ₁₀ (Tons/Yr)
Hominy Binning	0.0020	0.0015	30,000	0.51	2.25	0.39	1.69
Hominy Grind General Aspiration	0.0020	0.0015	21,000	0.36	1.58	0.27	1.18
Hominy Truck Loadout	0.0020	0.0015	34,960	0.6	2.62	0.45	1.97
Track 15 Bulk Rail Loadout	0.0020	0.0020	34,960	0.6	2.62	0.6	2.62
Hominy Screener General Aspiration	0.0020	0.0015	7,600	0.13	0.57	0.1	0.43
Hominy Loadout Fugitive					6.90		1.02
Grain Loadout Fugitive					0.10	0.27	0.10
				Total:	16.64		9.01

These limits are based on the maximum exhaust air flow rate, maximum grain loading determined by stack testing at the source or manufacturers' guaranty, and 8,760 hours/year of operation.

- f. Compliance with the annual limits in Conditions 12(a) through 12(e) of this permit shall be determined on a ~~daily-monthly~~ basis and compliance demonstrated on a 12-month rolling basis from the sum of the data for the current day plus the preceding 364 days (running 365 days total).
- g. Emissions from and operation of Boiler #1 shall not exceed the following limits:
 - i. Natural Gas Usage: 84.58 mmscf/month, 845.78 mmscf/year.
 - ii. Emissions from the combustion of natural gas:

Pollutant	Emissions		
	(lbs/mmscf)	(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	84.0	3.55	35.52

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Nitrogen Oxides (NO _x)	50.0	2.11	21.14
Particulate Matter (PM)	7.6	0.32	3.21
Sulfur Dioxide (SO ₂)	0.6	0.02	0.25
Volatile Organic Material (VOM)	5.5	0.23	2.33

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

h. Emissions from and operation of Clayton Boiler shall not exceed the following limits:

i. Natural Gas Usage: 24.44 mmscf/month, 244.40 mmscf/year.

ii. Emissions from the combustion of natural gas:

Pollutant	Emissions		
	(lbs/mmscf)	(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	84.0	1.03	10.26
Nitrogen Oxides (NO _x)	100.0	1.22	12.22
Particulate Matter (PM)	7.6	0.09	0.93
Sulfur Dioxide (SO ₂)	0.6	0.01	0.07
Volatile Organic Material (VOM)	5.5	0.07	0.67

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

i. Compliance with the annual limits in Condition 12(g) and (h) of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).

13. This permit is issued based on the Potential to Emit (PTE) for Hazardous Air Pollutants (HAPs) as listed in Section 112(b) of the Clean Air Act from this source being less than 10 tons/year of any single HAP and 25 tons/year of any combination of such HAPs. As a result, this permit is issued based on the emissions of all HAPs from this source not triggering the requirements to obtain a CAAPP Permit from the Illinois EPA.

~~14a. Pursuant to 40 CFR 60.8(a), except as specified in 40 CFR 60.8(a)(1), (a)(2), (a)(3), and (a)(4), at such other times as may be required by the Illinois EPA or USEPA under section 114 of the Clean Air Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Illinois EPA or USEPA a written report of the results of such performance test(s).~~

~~b. Pursuant to 40 CFR 60.8(b), performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart of 40 CFR Part 60 unless the Illinois EPA or USEPA~~

- ~~i. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;~~
 - ~~ii. Approves the use of an equivalent method;~~
 - ~~iii. Approves the use of an alternative method the results of which the Illinois EPA or USEPA has determined to be adequate for indicating whether a specific source is in compliance;~~
 - ~~iv. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Illinois EPA's or USEPA's satisfaction that the affected facility is in compliance with the standard; or~~
 - ~~v. Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Illinois EPA's or USEPA's authority to require testing under section 114 of the Clean Air Act.~~
- ~~c. Pursuant to 40 CFR 60.8(c), performance tests shall be conducted under such conditions as the Illinois EPA or USEPA shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Illinois EPA or USEPA such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.~~
- ~~d. Pursuant to 40 CFR 60.8(d), the owner or operator of an affected facility shall provide the Illinois EPA or USEPA at least 30 days prior notice of any performance test, except as specified under other subparts of 40 CFR Part 60, to afford the Illinois EPA or USEPA the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the Illinois EPA or USEPA as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Illinois EPA or USEPA by mutual agreement.~~
- ~~e. Pursuant to 40 CFR 60.8(e), the owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:~~
- ~~i. Sampling ports adequate for test methods applicable to such facility. This includes:
 - ~~A. Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be~~~~

~~accurately determined by applicable test methods and procedures; and~~

~~B. Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures.~~

~~ii. Safe sampling platform(s).~~

~~iii. Safe access to sampling platform(s).~~

~~iv. Utilities for sampling and testing equipment.~~

~~f. Pursuant to 40 CFR 60.8(f), unless otherwise specified in the applicable subpart of 40 CFR Part 60, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard under 40 CFR Part 60. For the purpose of determining compliance with an applicable standard under 40 CFR Part 60, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Illinois EPA's or USEPA's approval, be determined using the arithmetic mean of the results of the two other runs.~~

~~g. Pursuant to 40 CFR 60.11(e)(2), except as provided in 40 CFR 60.11(e)(3), the owner or operator of an affected facility to which an opacity standard in 40 CFR Part 60 applies shall conduct opacity observations in accordance with 40 CFR 60.11(b), shall record the opacity of emissions, and shall report to the Illinois EPA or USEPA the opacity results along with the results of the initial performance test required under 40 CFR 60.8. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.~~

~~15a. Pursuant to 40 CFR 60.303(a), in conducting the performance tests required in 40 CFR 60.8, the owner or operator shall use as reference methods and procedures the test methods in appendix A of 40 CFR Part 60 or other methods and procedures as specified in 40 CFR 60.303, except as provided in 40 CFR 60.8(b). Acceptable alternative methods and procedures are given in 40 CFR 60.303(c).~~

~~b. Pursuant to 40 CFR 60.303(b), the owner or operator shall determine compliance with the particulate matter standards in 40 CFR 60.302 as follows:~~

~~i. Method 5 shall be used to determine the particulate matter concentration and the volumetric flow rate of the effluent gas. The sampling time and sample volume for each run shall be at~~

~~least 60 minutes and 1.70 dsem (60 dsef). The probe and filter holder shall be operated without heaters.~~

~~ii. Method 2 shall be used to determine the ventilation volumetric flow rate.~~

~~iii. Method 9 and the procedures in 40 CFR 60.11 shall be used to determine opacity.~~

~~e. Pursuant to 40 CFR 60.303(c)(1), the owner or operator may use the following as alternatives to the reference methods and procedures specified in 40 CFR 60.303: For Method 5, Method 17 may be used.~~

16a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:

i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.

ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.

b. ~~Testing required by Conditions 17 and 18 shall be performed u~~Upon a written request from the Illinois EPA to perform emissions testing, the Permittee shall perform the requested testing by using a qualified independent testing service.

~~17a. Pursuant to 35 Ill. Adm. Code 212.107, for both fugitive and nonfugitive particulate matter emissions, a determination as to the presence or absence of visible emissions from emission units shall be conducted in accordance with Method 22, 40 CFR part 60, Appendix A, except that the length of the observing period shall be at the~~

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~~discretion of the observer, but not less than one minute. 35 Ill. Adm. Code Part 212 Subpart A shall not apply to 35 Ill. Adm. Code 212.301.~~

~~b. Pursuant to 35 Ill. Adm. Code 212.109, except as otherwise provided in 35 Ill. Adm. Code Part 212, and except for the methods of data reduction when applied to 35 Ill. Adm. Code 212.122 and 212.123, measurements of opacity shall be conducted in accordance with Method 9, 40 CFR Part 60, Appendix A, and the procedures in 40 CFR 60.675(c) and (d), if applicable, except that for roadways and parking areas the number of readings required for each vehicle pass will be three taken at 5-second intervals. The first reading shall be at the point of maximum opacity and second and third readings shall be made at the same point, the observer standing at right angles to the plume at least 15 feet away from the plume and observing 4 feet above the surface of the roadway or parking area. After four vehicles have passed, the 12 readings will be averaged.~~

~~c. Pursuant to 35 Ill. Adm. Code 212.110(a), measurement of particulate matter emissions from stationary emission units subject to 35 Ill. Adm. Code Part 212 shall be conducted in accordance with 40 CFR Part 60, Appendix A, Methods 5, 5A, 5D, or 5E.~~

~~d. Pursuant to 35 Ill. Adm. Code 212.110(b), the volumetric flow rate and gas velocity shall be determined in accordance with 40 CFR Part 60, Appendix A, Methods 1, 1A, 2, 2A, 2C, 2D, 3, and 4.~~

~~e. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.~~

~~18a. Within ninety (90) days after the issuance of this permit, the Permittee shall:~~

~~i. Conduct observations to determine visual emissions using USEPA Method 22 from the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill Products Storage; and Corn Mill Products Milling and Handling during conditions which are representative of maximum emissions in order to demonstrate compliance with 35 Ill. Adm. Code 212.123. Thereafter, this testing shall be conducted on a quarterly basis no later than 30 days after the end of the preceding calendar quarter.~~

~~ii. Measure and quantify the emissions of PM (gr/dscf and lb/hr) and PM₁₀ (gr/dscf and lb/hr) emissions from the Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS); Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS); Dry Corn Milling, Processing and Products Handling; Corn Mill~~

~~Products Storage; and Corn Mill Products Milling and Handling during conditions which are representative of maximum emissions in order to demonstrate compliance with 35 Ill. Adm. Code 212.321 and Condition 13(b) of this permit. Thereafter, this testing shall be conducted at least once every (5) five years from the preceding testing date.~~

~~b. The following methods and procedures shall be used for testing of emissions, unless another method is approved by the Illinois EPA (refer to 40 CFR 60, Appendix A for USEPA test methods).~~

Sample and Velocity Traverses for Stationary Sources	USEPA Method 1
Sample and Velocity Traverses for Stationary Sources with Small Stacks or Ducts	USEPA Method 1A
Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)	USEPA Method 2
Direct Measurement of Gas Volume through Pipes and Small Ducts	USEPA Method 2A
Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)	USEPA Method 2C
Measurement of Gas Volume Flow Rates in Small Pipes and Ducts	USEPA Method 2D
Gas Analysis for the Determination of Dry Molecular Weight	USEPA Method 3
Determination of Moisture Content in Stack Gases	USEPA Method 4
Determination of Particulate Matter from Stationary Sources	USEPA Method 5
Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters	USEPA Method 5D
Visual Determination of the Opacity of Emissions from Stationary Sources	USEPA Method 9
Visual Determination of Fugitive Emissions from Material Sources	USEPA Method 22

~~c. Within sixty (60) days prior to the actual date of testing, the Permittee shall submit a written test plan to the Illinois EPA, Bureau of Air, Compliance Section Manager. This plan shall include at a minimum:~~

~~i. The name (or other identification) of the emission unit(s) to be tested and the name and address of the facility at which they are located;~~

~~ii. The name and address of the independent testing service(s) performing the tests, with the names of the individuals who may be performing sampling and analysis and their experience with similar tests;~~

~~iii. The specific determinations of emissions and/or performance which are intended to be made, including the site(s) in the ductwork or stack at which sampling will occur;~~

~~iv. The specific conditions under which testing will be performed, including a discussion of why these conditions will be~~

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~~representative of the maximum emissions, maximum operating rate, minimum control performance, the levels of operating parameters for the emission unit, including associated control equipment, at or within which compliance is intended to be shown, and the means by which the operating parameters will be determined;~~

~~v. The test method(s) which will be used, with the specific analysis method, if the method can be used with different analysis methods. The specific sampling, analytical and quality control procedures which will be used, with an identification of the standard methods upon which they are based;~~

~~vi. Any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification;~~

~~vii. Any proposed use of an alternative test method, with detailed justification; and~~

~~viii. The format and content of the Source Test Report.~~

~~d. The Permittee shall provide the Illinois EPA with written notification of testing at least thirty (30) days prior to testing and again five (5) days prior to the testing to enable the Illinois EPA to have an observer present. This notification shall include the name of emission unit(s) to be tested, scheduled date and time, and contact person with telephone number.~~

~~e. If testing is delayed, the Permittee shall promptly notify the Illinois EPA by e-mail or facsimile, at least five (5) days prior to the scheduled date of testing or immediately, if the delay occurs in the five (5) days prior to the scheduled date. This notification shall also include the new date and time for testing, if set, or a separate notification shall be sent with this information when it is set.~~

~~f. The Permittee shall submit the Final Source Test Report(s) for these tests accompanied by a cover letter stating whether or not compliance was shown, to the Illinois EPA, Bureau of Air, Compliance Section Manager within thirty (30) days after the test results are compiled, but no later than sixty (60) days after the date of testing or sampling. The Final Source Test Report shall include as a minimum:~~

~~i. General information describing the test, including the name and identification of the emission source, which was tested, date of testing, names of personnel performing the tests, and Illinois EPA observers, if any;~~

~~ii. A summary of results;~~

~~iii. Description of test procedures and method(s), including description and map of emission units and sampling points, sampling train, testing and analysis equipment, and test schedule;~~

~~iv. Detailed description of test conditions, including:~~

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- ~~A. List and description of the equipment (including serial numbers or other equipment specific identifiers) tested and process information (i.e., mode(s) of operation, process rate or throughput, fuel or raw material consumption rate, and heat content of the fuels);~~
- ~~B. Control equipment information (i.e., equipment condition and operating parameters) during testing; and~~
- ~~C. A discussion of any preparatory actions taken (i.e., inspections, maintenance and repair).~~
- ~~v. Data and calculations, including copies of all raw data sheets and records of laboratory analyses, sample calculations, and data on equipment calibration. Identification of the applicable regulatory standards and permit conditions that the testing was performed to demonstrate compliance with, a comparison of the test results to the applicable regulatory standards and permit conditions, and a statement whether the test(s) demonstrated compliance with the applicable standards and permit conditions;~~
- ~~vi. An explanation of any discrepancies among individual tests, failed tests or anomalous data;~~
- ~~vii. The results and discussion of all quality control evaluation data, including a copy of all quality control data; and~~
- ~~viii. The applicable operating parameters of the pollution control device(s) during testing (temperature, pressure drop, flow rate, etc.), if any.~~

- 19a. Pursuant to 40 CFR 60.7(b), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.
- b. Pursuant to 40 CFR 60.7(f), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows:

The Illinois EPA or USEPA, upon notification to the source, may require the owner or operator to maintain all measurements as required by 40 CFR 60.7(f), if the Illinois EPA or USEPA determines these records are required to more accurately assess the compliance status of the affected source.

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- 20a. i. Pursuant to 40 CFR 60.48c(g)(1), except as provided under 40 CFR 60.48c(g)(2) and (g)(3), the owner or operator of each affected facility shall record and maintain records of the amounts of each fuel combusted during each operating day.
- ii. Pursuant to 40 CFR 60.48c(g)(2), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility that combusts only natural gas, wood, fuels using fuel certification in 40 CFR 60.48c(f) to demonstrate compliance with the SO₂ standard, fuels not subject to an emissions standard (excluding opacity), or a mixture of these fuels may elect to record and maintain records of the amount of each fuel combusted during each calendar month.
- iii. Pursuant to 40 CFR 60.48c(g)(3), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility or multiple affected facilities located on a contiguous property unit where the only fuels combusted in any steam generating unit (including steam generating units not subject to 40 CFR 60 Subpart Dc) at that property are natural gas, wood, distillate oil meeting the most current requirements in 40 CFR 60.42c to use fuel certification to demonstrate compliance with the SO₂ standard, and/or fuels, excluding coal and residual oil, not subject to an emissions standard (excluding opacity) may elect to record and maintain records of the total amount of each steam generating unit fuel delivered to that property during each calendar month.
- b. Pursuant to 40 CFR 60.48c(i), all records required under 40 CFR 60.48c shall be maintained by the owner or operator of the affected facility for a period of two years following the date of such record.
21. Pursuant to 40 CFR 63.10(b)(3), if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to Section 112(d) or (f) of the Clean Air Act, and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under 40 CFR Part 63) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the USEPA and/or Illinois EPA to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of 40 CFR Part 63 for this purpose for particular categories of stationary sources. If

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relevant, the analysis should be performed in accordance with USEPA guidance materials published to assist sources in making applicability determinations under Section 112 of the Clean Air Act, if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under 40 CFR 63.10(b)(3) shall not by themselves create an obligation for the owner or operator to obtain a Title V permit.

22. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- 23a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:
 - i. Records addressing use of good operating practices for the baghouse filters and cyclones:
 - A. Records for periodic inspection of the baghouse filters and cyclones with date, individual performing the inspection, and nature of inspection; and
 - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
 - ii. The Permittee shall keep a copy of the Fugitive Particulate Operating Program, any amendments or revisions to the Fugitive Particulate Operating Program, and the Permittee shall also keep a record of activities completed according to the Fugitive Particulate Operating Program.
 - iii. Records of housekeeping check lists;
 - iv. Records for the inspections required by Conditions 11(d) and (e), with date, time and observations if such information is not incorporated in the housekeeping check list.
 - v. Total flow rate for each baghouse blower (scfm);
 - vi. Total grain loading for each process (gr/dscf);
 - vii. Total hours of operation of each baghouse (hours/~~day~~month and hours/year);
 - viii. ~~Monthly~~Daily and annual emissions of PM, and PM₁₀ from the source with supporting calculations (tons/month and tons/year).
 - ix. Natural gas usage for Boiler #1 (mmscf/month and mmscf/year);
 - x. Natural gas usage for the Clayton Boiler (mmscf/month and mmscf/year); and

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- xi. Monthly and annual emissions of CO, NO_x, PM, PM₁₀, SO₂, and VOM from the combustion of natural gas, with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Condition 23(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.
- 24. Pursuant to 40 CFR 60.7(a)(4), any owner or operator subject to the provisions of 40 CFR Part 60 shall furnish the Illinois EPA or USEPA written notification or, if acceptable to both the Illinois EPA and USEPA and the owner or operator of a source, electronic notification, as follows:

A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Illinois EPA or USEPA may request additional relevant information subsequent to this notice.
- 25. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.
- 26a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.
- b. One (1) copy of required reports and notifications shall be sent to:
 - i. Via mail or overnight delivery:

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Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276

ii. and electronically:

epa.boa.smu@illinois.gov

Field Code Changed

It should be noted that the two (2) 193 Diesel Fire-Pump Engines are exempt from permitting, pursuant to 35 Ill. Adm. Code 201.146(i) and the 150,000 gallon fuel oil storage tank is exempt from permitting, pursuant to 35 Ill. Adm. Code 201.146(n)(3)

If you have any questions on this permit, please call German Barria at 217/785-1705.

Sincerely,

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:GB:tan

Attachment A - Emission Summary

This attachment provides a summary of the maximum emissions from the Corn Mill & Grain Elevator operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from such a plant. The resulting maximum emissions are below the levels, (e.g., 100 tons/year for CO, NO_x, and PM₁₀) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled, and control measures are more effective than required in this permit.

<u>Emission Unit</u>	<u>E M I S S I O N S (Tons/Year)</u>					
	<u>CO</u>	<u>NO_x</u>	<u>PM</u>	<u>PM₁₀</u>	<u>SO₂</u>	<u>VOM</u>
Corn, Soybean & Products Receiving, Cleaning and Storage (Pre-NSPS)			8.93	8.55		
Corn, Soybean & Products Receiving, Cleaning and Storage (NSPS)			11.98	9.65		
Dry Corn Milling, Processing and Products Handling			116.69	62.80		
Corn Mill Products Storage			1.64	1.24		
Corn Mill Products Milling and Handling			16.64	9.01		
Boiler #1, Natural Gas	35.52	21.14	3.21	3.21	0.25	2.33
Clayton Boiler NG	10.26	12.22	0.93	0.93	0.07	0.67
Totals	45.78	33.36	160.02	95.39	0.32	3.00

GB:tan



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

STANDARD CONDITIONS
FOR
OPERATING PERMITS

May, 1993

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. The issuance of this permit does not release the Permittee from compliance with state and federal regulations which are part of the Illinois State Implementation Plan, as well as with other applicable statutes and regulations of the United States or the State of Illinois or with applicable local laws, ordinances and regulations.
2. The Illinois EPA has issued this permit based upon the information submitted by the Permittee in the permit application. Any misinformation, false statement or misrepresentation in the application shall be grounds for revocation under 35 Ill. Adm. Code 201.166.
3.
 - a. The Permittee shall not authorize, cause, direct or allow any modification, as defined in 35 Ill. Adm. Code 201.102, of equipment, operations or practices which are reflected in the permit application as submitted unless a new application or request for revision of the existing permit is filed with the Illinois EPA and unless a new permit or revision of the existing permit(s) is issued for such modification.
 - b. This permit only covers emission sources and control equipment while physically present at the indicated plant location(s). Unless the permit specifically provides for equipment relocation, this permit is void for an item of equipment on the day it is removed from the permitted location(s) or if all equipment is removed, notwithstanding the expiration date specified on the permit.
4. The Permittee shall allow any duly authorized agent of the Illinois EPA, upon the presentation of credentials, at reasonable times:
 - a. To enter the Permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. To have access to and to copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. To obtain and remove samples of any discharge or emission of pollutants; and
 - e. To enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring or recording any activity, discharge or emission authorized by this permit.
5. The issuance of this permit:
 - a. Shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are located;

- b. Does not release the Permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the facilities;
 - c. Does not take into consideration or attest to the structural stability of any unit or part of the project; and
 - d. In no manner implies or suggests that the Illinois EPA (or its officers, agents, or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. The facilities covered by this permit shall be operated in such a manner that the disposal of air contaminants collected by the equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 7. The Permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 8. The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.
 9. No person shall cause or allow continued operation during malfunction, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur, which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:
 - a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
 - b. Maintain the following records for a period of no less than two (2) years:
 - i. Date and duration of malfunction, breakdown, or startup,
 - ii. Full and detailed explanation of the cause,
 - iii. Contaminants emitted and an estimate of quantity of emissions,
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup, and
 - v. Measures taken to reduce future occurrences and frequency of incidents.
 10. If the permit application contains a compliance program and project completion schedule, the Permittee shall submit a project completion status report within thirty (30) days of any date specified in the compliance program and project completion schedule or at six month intervals, whichever is more frequent.
 11. The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.

EXHIBIT D

James Burris

From: Barria, German <German.Barria@Illinois.gov>
Sent: Wednesday, January 4, 2023 11:41 AM
To: James Burris
Cc: Bernoteit, Bob
Subject: Bunge North America - ID #183020ABT

CAUTION: This email originated from outside of Bunge. Do not click links or open attachments unless you recognize the sender !

Dear Mr. Burris,

IEPA has prepared the final FESOP permit (No. 96020027) and in response to your comments on the draft permit, here is our response to those comments:

Comment #1: The listing of emission units has been revised per your request.

Comment #2: Construction permits in Illinois cannot be superseded by an operating permit. This condition is intended to mean that this FESOP supersedes the prior CAAPP permit and all previous state operating permits issued to the source.

Comment #3: Condition 3(a) has been revised to state that only the Corn Receiving, Cleaning and Storage (NSPS) are subject to the NSPS for Grain Elevators, 40 CFR Part 60 Subparts A and DD.

Comment #4: The requested change to Condition 4(a) would be a change to regulatory language. The exception from 35 Ill. Adm. Code 212.123(a) is already addressed in Condition 4(b).

Comment #5: The language in Condition 9(a) is taken from the underlying regulatory language.

Comment #6: Conditions 11(g) through (i) of the public notice draft permit have been removed. The conditions following the deleted conditions have been renumbered.

Comment #7: The proposed changes to the emission limits were not supported by the application that was submitted prior to the public notice and comment period. Any future increases to these permit limits need to be request via construction permit applications.

Comment #8: Because the permitted PM10 emissions of the source total to more than 95% of the major source threshold for the Clean Air Act Permit Program (CAAPP), the short term emission limits and recordkeeping must be on a daily basis to ensure that the source never exceeds the annual emission limits on a rolling basis (365 day total).

Comment #9: Under 40 CFR 60.8(a), the Illinois EPA or USEPA may request retesting of the emission units subject to the NSPS requirements.

Comment #10: Periodic testing of the emission units that have emissions of the pollutant of concern (i.e., for which the source is potentially major) and that are equipped with pollution controls is an expectation of the Illinois EPA, Bureau of Air. The period for such stack testing is to be not less than once every five years.

Electronic Filing: Received, Clerk's Office 02/14/2023 **PCB 2023-092**

Comment #11: Daily recordkeeping of emissions and surrogate parameters (including throughputs and production rates) need to be on a daily basis to ensure that the source never exceeds the annual emission limits on a rolling basis (365 day total) because the emissions of PM10 are limited to more than 95% of the major source threshold for CAAPP.

Thank you.

German Barria

Environmental Protection Specialist,
IEPA, Bureau of Air, Permit Section, FESOP/LOP Unit
Phone: 217-785-0767



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EXHIBIT E

10.4 Attachment 4 - State Construction and Operating Permits

The following permits and attachments contain applicable requirements to this source and are an integral part of this permit. The permit conditions contained in these attachments should be thoroughly reviewed and complied with, including all emission limitations, monitoring, recordkeeping, and reporting requirements. **In the event that there are conflicting provisions in the incorporated State Construction and Operating Permits, the most recently issued permit conditions shall apply.** Also if any requirements of these permits and attachments that conflict with those requirements found in Sections 3 through 9 are superseded by those requirements found in Sections 3 through 9.

217/782-2113

CONSTRUCTION PERMIT GRANT - REVISED

PERMITTEE

Lauhoff Grain Co.
 Attn: Richard E. Fentem
 321 East North St.
 Danville, IL 61832

Application No.: 90100058 I.D. No.: 183020ABT
Applicant's Designation: 215-01 Date Received: June 12, 1991
Subject: Fluid Bed Dryer and Soy Dehulling
Date Issued: August 27, 1991
Location: 321 East North St., Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a fluid bed dryer controlled by three cyclones and a soy dehuller, operation controlled by a baghouse as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours (Hour/Year)</u>	<u>Particulate Matter Emissions (Lb/Hour)</u>	<u>(Tons/Year)</u>
Fluid Bed Dryer	8568	2.7	11.6
Soy Dehulling	8568	0.31	1.3

These limits are based on a process weight rate of 360,000 lbs/hour and combined control efficiency of the fluid bed dryer cyclones at 99.85%. Compliance with annual limits shall be determined from a running total of 12 months of data.

2. Within 180 days of initial startup of new equipment or achievement of normal operation, the meal dryer and cooling tower and reserve germ cooling tower (201-12, 201-13, and 208-08) shall permanently cease operation.
3. Appropriate operating records shall be maintained to allow the Agency to review compliance with the limits in Condition 1.

It should be noted that this permit has been revised removing previous Condition 2 which required testing of particulate matter emissions.

It should also be noted that the net increase in particulate matter from the fluid bed dryer and soy dehulling may be less than the 12.9 tons/year allowed by Condition 1. This is because they are accompanied by a contemporaneous decrease in actual emissions of particulate matter from the shutdown of equipment, as addressed by Condition 2.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:mab/672L/sp/87-88

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard Fentem
321 East North Street
Danville, Illinois 61832

Application No. 92040058
Applicant's Designation: SO310-0102
Subject: North Street Truck Dump Aspiration
Date Issued: April 28, 1992
Location: 321 East North Street, Danville

I.D. No.: 183020ABT
Date Received: April 16, 1992

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a baghouse as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon replacement of two 9,600 scfm baghouses with a 35,000 scfm baghouse without any increase in emissions above those previously allowed.

If you have any questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:jmm/sp/135N/41

cc: Region 3

- i. PM -- 0.05 lb/10⁶ btu.
 - ii. SO₂ -- 0.8 lb/10⁶ btu. This limit is to be met on a daily 24 hour average basis.
 - iii. NO_x -- 0.6 lb/10⁶ btu. This limit is to be met on a daily 24 hour average basis.
 - iv. CO -- 200 ppm corrected to 50% excess air.
- b. The emissions from the Package (FM) Boiler shall not exceed the following rates:
- i. PM -- 0.02 lb/10⁶ btu.
 - ii. SO₂ -- 0.3 lb/10⁶ btu from firing fuel oil.
 - iii. NO_x -- 0.2 lb/10⁶ btu on a 30 day rolling average basis.
 - iv. CO -- 200 ppm corrected to 50% excess air.
- c. Emissions of particulate matter from limestone and ash silos shall be limited through installation of bag filters designed to emit no more than 0.03 grains/dry cubic foot. Emissions of particulate matter from coal handling and conveying shall be controlled with enclosures and a wet dust suppression system.

Condition 2 represents the application of the Best Available Control Technology for PM, SO₂, NO_x and CO as required by Section 165 of the Clean Air Act. Limits are to be met on an hourly basis unless otherwise specified.

- 3a. Annual emissions from the CFB and FM boilers shall not exceed the following amounts:

Emissions - Tons/Yr				
Boiler	PM	SO ₂	NO _x	CO
CFB	69.4	1110.8	833.1	305
FM	3.5	3.1	234.8	47

- b. The NO_x limit for the CFB boiler represents an increase of 22.4 tons/yr above the limit in the construction permit. This increase is not the result of any physical modification but rather a greater than anticipated heat input capacity.
- c. The NO_x limit for the FM boiler represents an increase of 26.8 tons/yr above the limit that would have been imposed by the construction permit after the Subpart Db NSPS were promulgated. This increase is due to the addition of a superheating section to the boiler which increased the heat input capacity.

Condition 3 is required to ensure that the project will be operated in accordance with the description presented in the application.

- 4a. This permit is issued for the standby generator based upon its operation in a standby mode with no net increase in emissions.
- b. Except for purposes of testing, the diesel generator shall operate only when the CFB boiler is down or is in the process of being shut down.
- 5a. The permittee shall maintain and operate continuous opacity, SO₂, NO_x, and O₂ monitoring systems on the CFB boiler, and continuous NO_x and O₂ monitoring systems on the FM boiler. All records with respect to the operation of the monitors shall be retained for two years and shall be available for inspection by the Agency.
- b. For both the FM and CFB boilers, the permittee shall fulfill the requirements for monitoring in the NSPS, 40 CFR 60.13 and 60.45.
6. The permittee shall submit quarterly reports to the Agency of any and all opacity, SO₂, NO_x and CO measurements which exceed the respective emission limits per NSPS and BACT limitations as specified above and other applicable limits. These reports shall provide for each such incident, the pollutant emission rate, the date and duration of the incident, and whether it occurred during startup, malfunction, breakdown, or shutdown. If an incident occurred during malfunction or breakdown, all corrective actions taken shall also be reported. These reports shall also specify periods during which the continuous monitoring systems were not in operation. These reports shall be submitted no later than 30 days after the end of the calendar quarter, once shakedown and testing of the boiler are complete.
7. The permittee shall fulfill the requirements for reporting in the NSPS, 40 CFR 60.7(c) and 60.45(g).
8. The permittee shall report analyses of the coal burned in the CFB boiler on a quarterly basis. The reports shall include analyses performed on representative grab samples of coal at a frequency of no less than weekly.
9. All required notification and reports shall be sent to the following address unless otherwise indicated:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Field Operations Section
2009 Mall St.
Collinsville, Illinois 62234
618/346-5120
10. Operation of the CFB boiler in excess of applicable emission standards is allowed during startup, malfunction and breakdown.
11. The Permittee shall notify the Agency's regional office by telephone as soon as possible during normal working hours upon the occurrence of excess emissions due to malfunctions, or breakdowns. The Permittee shall comply with all reasonable and safe directives of the regional office regarding such malfunctions and breakdowns. Within five (5) working days of such occurrence the Permittee shall give a written follow-up notice to the Agency's regional office providing an explanation of the occurrence, the length of time during which

operation continued under such conditions, measures taken by the Permittee to minimize excess emissions and correct deficiencies, and when normal operation resumed.

- 12a. The permittee shall maintain records of excess emissions during malfunctions and breakdowns. As a minimum, these records shall include:
- (i) date and duration of malfunction or breakdown;
 - (ii) a full and detailed explanation of the cause for such emissions;
 - (iii) the contaminants emitted and an estimate of the quantity of emissions;
 - (iv) the measures used to reduce the quantity of emissions and the duration of the occurrence; and
 - (v) the steps taken to prevent similar malfunctions or breakdowns or reduce their frequency and severity.
- b. These records shall be retained for at least two years following an event, maintained at a readily accessible location at the plant, and be available to representatives of the Agency during normal working and/or operating hours.

If you have any questions on this, please call Shashi Shah at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:SRS:jmm/sp0786L/30-33

cc: IEPA, FOS, Region 3
IEPA, FOS, CMU
USEPA, Region V

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Company Name
Attention: Name
Address
City, Illinois 00000

Application No: 12345678

I.D. No.: 123456AAA

Applicants Designation:

Date Received: Month day number, 1997

Subject: Subject

Date Issued: Month day number, 1997

Location: Address, City

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and /or air pollution control equipment consisting of !VARIABLE! as described in the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based on negligible emissions of particulate matter from the baghouse on the general aspiration system. For this purpose, emissions shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 ton/year.

If you have any questions concerning this letter, please contact Bruce Rodely at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:BDR:bdr/12345678

cc: Region #

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard E. Fentem
321 E. North Street
Danville, IL 61832

Application No.: 93030045 I.D. No.: 183020ABT
Applicant's Designation: Date Received: March 6, 1995
Subject: General Aspiration Corn Mill 101-5
Date Issued: March 22, 1993
Location: 321 E. North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a baghouse system 101-05 as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon replacing two baghouses that control SO #105-07 and #105-08 with a single baghouse #101-5, without any increase in emissions of particulate matter into the atmosphere.

If you have any questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:jmm/sp/119P/26

cc: Region 3

217/782-2113

OPERATING PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard Fentem
321 E. North St.
Danville, IL 61832

Application No.: 72121265 I.D. No.: 183020ABT
Applicant's Designation: Date Received: March 10, 1995
Subject: Corn and Soybean Oil Processing
Date Issued: March 27, 1995 Expiration Date: March 20, 1997
Location: 321 E. North St., Danville

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of four solvent condenser systems; edible cooling/storage S.B. Flakes with rotoclone 204-3, edible soya plt. with adsorber 204.4; Gen asp toasted germ cooler with aerodyne separators/filters 206-2; corn and soybean oil extraction with primary and secondary cyclones; DTDC system with cyclone and enclosure 205.01 and DTDC system 210-01 as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1a. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours (Hour/Year)</u>	<u>Particulate Matter Emissions Lb/Hour</u>	<u>Emissions Ton/Yr</u>
DTDC	8232	5.0	20.2

These limits are based on the maximum projected emissions from this operation based on information provided in the permit application and other emission data available to the Agency. Compliance with annual limits shall be determined from a running total of 12 months of data.

b. Particulate matter₁₀ shall constitute no more than 70% of the particulate matter emissions.

If you have any questions on this, please call Don Hanco at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:imm/241P/68

cc: Region 3

217/782-2113

OPERATING PERMIT

PERMITTEE

Lauhoff Grain Company
Attn: Richard E. Fentem
321 East North Street
Danville, IL 61832

Application No.: 72121264

I.D. No.: 183020ABT

Applicant's Designation:

Date Received: April 9, 1991

Subject: Hopper Car Dump

Date Issued: April 12, 1991

Expiration Date: April 9, 1996

Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of hopper car dump with a bag collector as described in the above-referenced application. This Permit is subject to standard conditions attached hereto.

It should be noted that the grain dryer is being withdrawn from the operation.

Bharat Mathur, P.E.
Acting Manager, Permit Section
Division of Air Pollution Control

BM:SRS:ds:0175M/52

cc: Region 3

217/782-2113

OPERATING PERMIT - REVISED

PERMITTEE

Lauhoff Grain Co.
 Attn: Richard E. Fentem
 321 East North Street
 Danville, Illinois 61832

Application No.: 72121261 I.D. No.: 183020ABT
Applicant's Designation: Date Received: January 26, 1996
Subject: Corn Processing Operation
Date Issued: April 12, 1996 Expiration Date: December 27, 1998
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of corn and soybean process operation (list attached) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours (Hour/Year)</u>	<u>Particulate Matter Lb/Hour</u>	<u>Emissions Ton/Yr</u>
SO 112-05 Bran filters	8568	0.23	0.9
103-06 109-03 109-04	8100	0.16	0.6
Bins 601-604 Milling filters	1200	0.08	0.05
115-02, 03, 04	8112	2.60	10.5

These limits are based on the information provided in the permit application. Compliance with annual limits shall be determined from a running total of 12 months of data.

2. This permit is issued based upon modifying the corn milling operation by adding related equipment and increasing milling capacity to 100,000 bu/day.
3. For the corn mill production the Permittee shall keep records of the following items and such other items as may be appropriate in order that compliance with the requirements of Condition 2 may be verified.
 - a. Maintain operating and maintenance records for the baghouse control system.
 - b. Amount of corn milled on a monthly basis.

These records required by the permit shall be retained for at least three years. These records shall be available for inspection upon request by the Agency.

4. This permit is issued based on negligible emissions of particulate matter from Micro-Ingredient Dump and Mixing conveyor. For this purpose, emissions shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 ton/year.
5. This permit is issued based upon replacing the existing baghouse with a new baghouse for corn mill (101-01), without any increase in emissions of particulate matter into the atmosphere.
6. This permit is issued based upon adding a baghouse to the white goods operation (S.O. 104-2) and general process operations (S.O. 112-31), without any increase in emissions of particulate matter into the atmosphere.
7. This permit is issued based upon replacing two baghouses that controlled SO #105-7 and 08 with a single baghouse 101-05, without any increase in emissions of particulate matter into the atmosphere.
8. This permit is issued based upon adding a new rail loadout without an increase in throughput and without increasing particulate matter into the atmosphere.

It should be noted that this permit has been revised to include the operation of the equipment described in Construction Permit 95070081.

It should be noted that this permit has been revised to include operation of the equipment described in construction permit 89050063, 90080010, 90110063, 91080010, 93030045, 96010107 and also to show that the following sources have been removed from services 112-01 #1 expander and 112-02 #2 expander.

If you have any questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:sad

cc: Region 3

217/782-2113

OPERATING PERMIT - REVISED

PERMITTEE

Lauhoff Grain Co.
Attn: Richard Fentem
321 East North Street
Danville, IL 61832

Application No.: 72120886 I.D. No.: 183020ABT
Applicant's Designation: S0310-0102 Date Received: April 16, 1992
Subject: Storage Elevator
Date Issued: April 29, 1992 Expiration Date: March 13, 1994
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of (list attached) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon replacement of two 9,600 scfm baghouses with a 35,000 scfm baghouse without any increase in emissions above those previously allowed.
2. This permit is issued based upon replacement of existing baghouses with new baghouses for the headhouse and transportation (301-047), and storage elevation west headhouse (301-01), without any increase in emissions above those previously allowed.

It should be noted that 5901this permit has been revised to include operation of the equipment described in construction permits 89090004, 90080010 and 92040058.

If you have any questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:jmm/sp/135N/42

cc: Region 3

Attachment

1. Gen aspiration west head house elevator operations with baghouse 301-02.
2. Gen aspiration sec. D, E with baghouse 304-02.
3. Dust return system collector with baghouse and air locks 310-02.
4. Gen aspiration truck dump with baghouse 310-01.
5. Gen aspiration truck dump with baghouse 301-02.
6. Gen aspiration sec. D-E with baghouse 304-03.
7. Gen aspiration head house and transfer system with baghouse 301-4.
8. Val cl. system truck 6/head house with separator and baghouse 301-05.
9. Gen aspiration for storage elev with baghouse 301-01.
10. Transfer belt (311-01), overhead belt (311-02) and return belt (311-03) with baghouse.

DMH:mab/539K/20

217/782-2113

OPERATING PERMIT - REVISED

PERMITTEE

Company Name
Attention: Name
Address
City, Illinois 61832

Application No: 72121261
Applicants Designation:
Subject: Corn Processing Operation
Date Issued: August 20, 1997
Location: 321 E. North St., Danville

I.D. No.: 183020ABT
Date Received: May 28, 1997
Expiration Date: December 27, 1998

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and /or air pollution control equipment consisting of corn and soybean process operation (list attached) as described in the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based on the fact that the above-specified units are identified in the Permittee's pending application for a CAAPP permit and are certified, by Permittee, to be in compliance with applicable regulations.
2. This permit does not preclude any future permitting review and evaluation nor does it shield the Permittee from any legal action for noncompliance with or circumvention of, applicable regulations.

It should be noted that a detailed review of the specified units will be performed during review of the pending CAAPP application submitted for these units.

If you have any questions concerning this letter, please contact Bruce Rodely at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:BDR:bdr/12345678

cc: Region 3

Emission Sources included in Permit 72121261

1. general aspiration for corn mill 101-05
2. gen aspiration regrind sys 105-09 with baghouse
3. gen aspiration RR track loading 105-10 with baghouse
4. gen aspiration dryer - coolers 105-11 with cyclone
5. MIGA dryer corn grits 105-12 with cyclone to roto-clone
6. storage to package allowed 110-1 with cyclone to baghouse
7. storage to package soya flour 110-2 with cyclone
8. storage to package all-bond 110-3 with cyclone to baghouse
9. storage to package corn flour 110-4 with cyclone to baghouse
10. gen aspiration to packaging building 110-5 with cyclone to baghouse
11. gen aspiration packaging building 110-6 with baghouse
12. aspiration system packers A110 packer 110-7 with baghouse
13. gen aspirator flour packer 110-8 with baghouse
14. gen aspirator mill elevator 110-9 with baghouse
15. transfer to blend system of soya flour 111-17 with cyclone baghouse
16. gen aspirator all-bond loadout 111-3 with baghouse
17. transfer to storage of corn pellets 111-4 with 2 cyclones to baghouse
18. transfer to blend corn pellets (PCM) 111-5 with cyclone to baghouse
19. gen aspiration PCM to blending 111-6 with baghouse
20. transfer to reprocess bean meal 111-7 with cyclone to baghouse
21. gen aspiration bean meal sterilization sys 111-9 with cyclone
22. gen aspiration bean meal surge bins 111-8 with baghouse
23. transfer to storage bins bean meal 111-10 with cyclone to baghouse
24. Sources 24-27 transferred to Permit 72120836. Sources 24-27 will be left blank to maintain numbers matching TAS sources
28. gen aspiration soya flour to pack/blend 111-16 with baghouse
29. transfer to blend misc. ingredient 111-18 with cyclone to baghouse
30. gen aspiration misc. ingredient hopper 111-19 with baghouse

31. gen aspiration soya flour weigh bin 111-20 with baghouse
32. gen aspiration batch bin 111-21 with baghouse
33. gen aspiration blender 111-22 with baghouse
34. gen aspiration corn-soya (CSM) blend 111-23 with baghouse
35. transfer to storage corn-soya (CSM) 111-24 with cyclone to baghouse
36. transfer to storage corn-soya (CSM) 111-25 with cyclone to baghouse
37. gen aspiration CSM to pack 111-26 with baghouse
38. transfer raw material to hibond sys 111-27 with baghouse
39. gen aspiration hibond syst 111-28 with baghouse
40. hibond recycle system 111-29 with baghouse
41. transfer to storage hibond 111-30 with two cyclones to baghouse
42. gen aspiration hibond packing 111-31 with baghouse
43. transfer regrind corn fl to storage 111-32 with baghouse
44. transfer break corn fl to storage 111-33 with baghouse
45. transfer corn fl. to track loading 111-34 with baghouse
46. gen aspiration corn fl to packing 111-35 with baghouse
47. vacuum cleaning 111 building 111-36 with baghouse
48. transfer extracted flakes to storage 111-37 with baghouse
49. transfer extracted soybean flakes to sizing 111-38 with baghouse
50. transfer sized soybean meal to screen bin 11-39 with baghouse
51. gen aspiration sizing and storage 111-40 with baghouse
52. cooling tower for bin 503 111-41 with baghouse
53. Wenger expander raw material supply system 112-3 with cyclone to baghouse
54. No. 3 expander raw material supply system 112-4 cyclone to baghouse
55. transfer expander system to grading 112-5 with baghouse
56. transfer expander to all-bond grinding 112-5 with cyclone
57. gen aspiration all bond surge bin 112-7 with baghouse
58. grinding system corn pellets 112-8 with baghouse
59. gen aspiration finished all-bond surge bin 112-9 with baghouse

60. gen aspiration PCM grinding 112-10 with baghouse
61. grinding system PCM 112-11 with cyclone to baghouse
62. gen aspiration finished PCM bins 112-12 with baghouse
63. transfer bean meal to grind system 112-13 with cyclone to baghouse
64. transfer bean meal to grind system 112-14 with cyclone to baghouse
65. grinding systems soybean meal 112-15, 16 with two baghouses
66. recycle system bean ML grind system 112-17 with cyclone to baghouse
67. grind system bean meal 112-18 with baghouse
68. gen aspiration grinding surge bins 112-19 with baghouse
69. gen aspiration grinding surge bins 112-20 with baghouses
70. gen aspiration finished product surge gins 112-21 with baghouse
71. gen aspiration finish soy fl surge bins 112-22 with baghouse
72. grind system bean meal scrap col 112-23 with baghouse
73. gen aspiration bean meal scrap surge bin 112-24 with baghouse
74. gen aspiration hibond grind surge bin 112-26 with baghouse
75. transfer hibond grind to sift 112-27 with cyclone to baghouse
76. gen aspiration finish hibond surge bin 112-26 with baghouse
77. vacuum cleaning 112 building 112-29 with baghouse
78. gen aspiration all bond grind surge bin 112-30 with baghouse
79. grinding sample room 348-1 with baghouse
80. hopper car cleaning tacks and misc. 500-01 with baghouse
81. bran bin filter 103-06, bran process filter 109-03 and bran dryer filter 109-04
82. general process filter 112-31
83. rail loadout (Construction Permit 95070081)
84. Milling filters 115-02, 03, 04

DMH:TDP:sad

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard E. Fentem
321 E. North Street
Danville, IL 61832

Application No.: 91080010 I.D. No.: 183020ABT
Applicant's Designation: S.O.112-31 Date Received: August 5, 1991
Subject: General Process Aspiration Filter
Date Issued: October 3, 1991
Location: 321 E. North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a baghouse for general process operations as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon adding a baghouse without any increase in emissions of particulate matter into the atmosphere.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:jmm/sp/653M/81

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard E. Fentem
321 East North Street
Danville, IL 61832

Application No.: 90110063 I.D. No.: 183020ABT
Applicant's Designation: S.O.104-02 Date Received: November 16, 1990
Subject: White Good Aspiration Filter
Date Issued: February 1, 1991
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a white goods baghouse (S.O. 104-02) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon adding a baghouse to an existing operation, without any increase in emissions of particulate matter into the atmosphere.

Bharat Mathur, P.E.
Acting Manager, Permit Section
Division of Air Pollution Control

BM:DMH:jmm/sp0011M/4

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard E. Fentem
321 East North Street
Danville, IL 61832

Application No.: 90080010 I.D. No.: 183020ABT
Applicant's Designation: Date Received: August 3, 1990
Subject: Baghouse and Related Equipment Replacement
Date Issued: August 17, 1990
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a replacement baghouse as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon replacing existing baghouses with new baghouses for the head house (301-047), truck loading (209-01) and corn mill (101-01), without any increase in emissions of particulate matter into the atmosphere.

Bharat Mathur, P.E.
Acting Manager, Permit Section
Division of Air Pollution Control

BM:DMH:jmm/sp0461L/28

cc: Region 3

2178/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: R.E. Fentem
321 East North Street
Danville, Illinois 61832

Application No.: 89050063
Applicant's Designation: SO111-42
Subject: Bins 601-604 Micro-Ing. & Mix Conveyor
Date Issued: June 29, 1989
Location: 321 East North Street, Danville

I.D. No.: 183020ABT
Date Received: May 18, 1989

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of bins 601-604, MICRO-Ingredient dump S.O. 111-46 and Mixing conveyor 49-03:04, all with baghouse controls as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours (Hour/Year)</u>	<u>Particulate Matter Emissions (Lb/Hour)</u>	<u>(Tons/Year)</u>
Bins 601-604	1200	0.08	0.12

These limits are based on the information provided in the permit application. Compliance with annual limits shall be determined from a running total of 12 months of data.

2. This permit is issued based on negligible emissions of particulate matter from Micro-Ingredient dump and Mixing conveyor. For this purpose, emissions shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 tons/year.

Terry A. Sweitzer, P.E.
Manager, Permit Section
Division of Air Pollution Control

TAS:DMH:mab/317K/84

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT - REVISED

PERMITTEE

Lauhoff Grain Co.
Attention: R.E. Fentem
321 East North St.
Danville, Illinois 61832

Application No.: 86070013
Applicant's Designation: 101-2&1014
Subject: Baghouse Mod 101-2 New Baghouse 101-4
Date Issued: September 9, 1986
Location: 321 East North St., Danville

I.D. No.: 183020ABT
Date Received: July 7, 1986

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a control modification and a new baghouse as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon replacement of a baghouse with a new baghouse without any increase in emissions from the thru-stock operation 101-02 above those previously allowed.
2. This permit is issued based upon adding a baghouse to the corn mill 101-04 operation without any increase in emissions above those previously allowed.

It should be noted that this permit has been revised to show the addition of a new baghouse for the corn mill operation.

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:DMH:bjh/1791F/38

cc: Region 3

2178/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attention: Richard E. Fentem
321 E. North St.
Danville, Illinois 61832

<u>Application No.:</u> 85010031	<u>I.D. No.:</u> 183020ABT
<u>Applicant's Designation:</u> 234-01	<u>Date Received:</u> January 14, 1985
<u>Subject:</u> LONG TERM STORAGE	
<u>Date Issued:</u> February 14, 1985	
<u>Location:</u> 100-200 Block N. Washington St., Danville	

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of long term storage with a baghouse as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions of particulate matter shall not exceed 1.3 tons/year. This limit is based on emission rates calculated using a standard emission factor and procedure and the maximum annual throughput (400,000 lbs/hour) indicated in the permit application.

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:DMH:ct/290E,54

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
321 East North Street
Danville, Illinois 61832

Attention: Richard Fentem

Application No.: 83060026 I.D. No.: 183020ABT
Applicant's Designation: SO204-02 Date Received: June 14, 1983
Subject: Vent System for Corn Oil Extraction Plant
Date Issued: July 26, 1983
Location: 321 E. North Street, Danville, Illinois

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a vent system for the corn oil extraction plant as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon replacement of the existing vent system with the new vent system without any increase in emissions above that previously allowed.

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:FSM:rd7730C/25

cc: Region 2

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Company
321 East North Street
Danville, Illinois 61832

Attention: Richard E. Fentem

Application No.: 82020007

I.D. No.: 183020ABT

Applicant's Designation: S O 212-02

Date Received: May 19, 1982

Subject: Meal Transport Load Out

Date Issued: June 28, 1982

Location: 321 East North Street, Danville, Illinois

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of 6 bins, conveyors, rail and truck load out and bag house as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions of Particulate matter (TSP) shall not exceed 0.5 tons/year. This limit is based on the maximum operating rate (400,000 Lb/hr) and the maximum hours of operation (8232 hrs/yr) indicated in the permit application.

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:FSM:jd/4617C/9

cc: Region 2

217/782-2113

CONSTRUCTION PERMIT

Application No.: 81020027
I.D. No.: 183020ABT
Applicant's Designation: 55-500-02
Received: February 13, 1981
Construction of: Extracted FTS Dust System Filter
Location: 321 East North Street, Danville, Illinois

March 6, 1981

Lauhoff Grain Company
321 E. North Street
Danville, Illinois 61832

Attention: Richard E. Fentem

Gentlemen:

Permit is hereby granted to construct the above-referenced equipment subject to standard conditions attached hereto and incorporated herein by reference.

Very truly yours,

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:JOA:bjm/2765H/5

cc: Region 2

217/782-2113

CONSTRUCTION PERMIT

Application No.: 81060007 I.D. No.: 183020ABT
Applicant's Designation: S O 226-01 Date Received: June 2, 1981
Subject: Rail Loadout System with Aspiration
Date Issued: July 2, 1981
Location: 321 East North Street, Danville, Illinois

PERMITTEE

Lauhoff Grain Co.
321 East North Street
Danville, Illinois 61832

Attention: Richard Fentem

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a soya meal rail loadout station with a general aspiration system and baghouse as described in the above-referenced application. This Permit is subject to standard conditions attached hereto, and the following special condition:

1. Emissions of particulate matter shall not exceed 1.31 tons/year. This limit is based on the maximum emission rate (0.3 lb./hr.) and the maximum hours of operation indicated in the permit application.

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:FSM:mgg1014c/1

cc: Region 2

217/782-2113

Application No.: 08004054

I.D. No.: 183020ABT S.O. 213-01

Received: April 28, 1980

Construction of: General Aspiration System for Truck Loadout Station

Location: 321 East North Street, Danville, Illinois

May 1, 1980

Lauhoff Grain Company
321 East North Street
Danville, Illinois 61832

Attention: Richard E. Fentem

Gentlemen:

Permit is hereby granted to construct the above-referenced equipment. This permit is granted subject to the following conditions:

1. Standard conditions attached hereto and incorporated herein by reference.

Very truly yours,

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:JDR:jab/1773B/6

217/782-2113

REVISED CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Company
321 East North Street
Danville, Illinois 61832

Attention: Richard E. Fentem

Application No.: C7205124

I.D. No.: 183020ABT

Applicant's Designation: 105-10

Date Received: May 14, 1984

Subject: Bulk Flour Loadout Track 5

Date Issued: June 1, 1984

Location: 321 East North Street, Danville, Illinois

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of replacement of portions of the equipment of source 105-10 as described in the above-referenced application. This permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon replacement of portions of the equipment for the bulk flour loadout system without any increase in emissions above those previously allowed.

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:FSM:bls/1185D,12

cc: Region 3

217/782-2113

REVISED CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
321 East North Street
Danville, Illinois 61832

Attention: Richard E. Fentem

Application No.: C7203005

I.D. No.: 183020ABT

Applicant's Designation: 112-05

Date Received: May 2, 1984

Subject: Reprocessing General Aspiration

Date Issued: June 26, 1984

Location: 321 East North Street, Danville, Illinois

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a revised operating rate, hours and control equipment for source 112-05 of the reprocessing system as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions of particulate matter from source 112-05 shall not exceed 8.5 tons/year. This limit is based on the maximum emission rate (0.23 lbs/hr) and the maximum hours of operation (8,568) indicated in the permit application.
2. This permit is issued based upon replacement of a rotoclone with a baghouse and a reduction in operating rate from 36,000 lbs/hr to 20,000 lbs/hr which will result in a reduction of 3.5 tons/year in the emission of particulate matter. This reduction is based on the average hours and operating rate of the existing operation and the maximum hours and operating rate of the new operation.

Bharat Mathur, P.E.
Manager, Permit Section
Division of Air Pollution Control

BM:FSM:sd/1290d/20

cc: Region 3
ID File

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Company
Attn: Richard E. Fetem
321 East North Street
Danville, Illinois 61832

Application No.: 87010029

I.D. No.: 183020ABT

Applicant's Designation:

Date Received: January 21, 1987

Subject: Bran Bins

Date Issued: February 25, 1987

Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of bran bin filter 103-06, bran process filter 109-03, bran dryer filter 109-04 as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following condition(s):

1. Emissions of particulate matter shall not exceed 0.6 tons/year. This limit is based on the maximum emission rate (0.16 lbs) and the maximum hours of operation (8100) indicated in the permit application.

Terry A. Sweitzer, P.E.
Manager, Permit Section
Division of Air Pollution Control

TAS:DMH:jmm/4089H/88

cc: Region 3

217/782-2113

OPERATING PERMIT -- REVISED

PERMITTEE

Bunge Grain Milling, Inc.
Attn: David McDermott
321 East North Street
Danville, Illinois 61832

Application No.: 00010011

I.D. No.: 183020ABT

Applicant's Designation:

Date Received: January 6, 2000

Subject: Expander #4 System

Date Issued: October 1, 2001

Expiration Date: October 1, 2006

Location: 321 East North Street, Robinson

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of an expander #4 system, controlled by existing baghouse (112-31) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special conditions:

1. This permit allows the Permittee to operate an expander #4 system that will give the flexibility to make different products without an increase in mill throughput.
2. This permit is issued based on negligible particulate matters (PM) emissions from the expander system. For this purpose emission shall not exceed 0.1 lb/hour and 0.44 tons/year.
3. At all times, the Permittee shall, maintain and operate the expander system and associated control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.
4. The Permittee shall keep an inspection and maintenance log for the baghouse. As a minimum, these logs shall show the data and nature of inspections, performance, preventative maintenance and repair.

Please note that the Permittee should update their CAAPP application to include this equipment by submitting form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information.

If you have any questions on this, please call Ricardo Ng at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:RNG:jar

cc: Region 3

217/782-2113

REVISED
JOINT CONSTRUCTION AND OPERATING PERMIT

PERMITTEE

Bunge Grain Milling, Inc.
Attn: David McDermott
321 East North Street
Danville, Illinois 61832

Application No.: 01060084

I.D. No.: 183020ABT

Applicant's Designation:

Date Received: June 28, 2001

Subject: New Expander #5 System

Date Issued: September 24, 2001

Operation Permit Expiration

Date: September 21, 2006

Location: 321 East North Street, Robinson

Permit is hereby granted to the above-designated Permittee to CONSTRUCT and OPERATE emission unit(s) and/or air pollution control equipment consisting of an expander #5 system, controlled by two existing filter baghouses (112-31 and 111-28) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special conditions:

1. This permit allows the Permittee to construct and operate an expander #5 system that will give the flexibility to make different products without an increase in mill throughput.
2. This permit is issued based on negligible particulate matter (PM) emissions from the new expander system. For this purpose emission shall not exceed 0.1 lb/hour and 0.44 tons/year.
3. At all times, the Permittee shall, maintain and operate the new expander system and associated control equipments, in a manner consistent with good air pollution control practice for minimizing emissions.
4. The Permittee shall keep an inspection and maintenance log for each baghouse. As a minimum, these logs shall show the data and nature of inspections, performance, preventative maintenance and repair.

Please note that the Permittee should update their CAAPP application to include this equipment by submitting Form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information.

If you have any questions on this, please call Ricardo Ng at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:RNG:jar

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Bunge Lauhoff
Attn: James M. Lay
321 East North Street
Danville, Illinois 61832

Application No.: 01070073

I.D. No.: 183020ABT

Applicant's Designation:

Date Received: July 26, 2001

Subject: LTMS Filter #2

Date Issued: September 10, 2001

Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of LTMS Filter #2 controlling emissions from existing long term meal storage area as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon the installation of LTMS Filter #2 without any increase in emissions of particulate matter to the atmosphere. The existing equipment is covered by a separate operating permit, 72121263.
2. The Permittee may operate the LTMS Filter #2 pursuant to this construction permit until the final action is taken on the Clean Air Act Permit Program (CAAPP) permit application. As a result the Permittee must still update the CAAPP application to include the aforementioned equipment.

If you have any questions on this, please call Minesh Patel at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:MVP:jar

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Bunge Milling, Inc.
Attn: James M. Lay
321 East North Street
Danville, Illinois 61832

Application No.: 02080017 I.D. No.: 183020ABT
Applicant's Designation: BAGHOUSE 115-04 Date Received: August 5, 2002
Subject: Modification to Existing Baghouse 115-04
Date Issued: August 27, 2002
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of changes to dryer controls in the dry room corn mill (Baghouse 115-04) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit allows the Permittee to increase the exhaust air volume for baghouse 115-04, by routing exhaust air of the tail stock dryer (Cyclones 115-06) to this same baghouse.
2. This permit is issued based upon no increase in permitted emissions of particulate matter (PM) and particulate matter less than 10 microns (PM₁₀), because the change to baghouse 115-04 will further control PM/PM₁₀ emissions from the tail stock dryer, eliminating cyclones 115-06, as a point of emissions.
3. At all times, the Permittee shall to the extent practicable, maintain and operate the baghouse 115-04, in a manner consistent with good air pollution control practice for minimizing emissions.
4. This permit is issued based on no change in capacity of the dry corn mill.
5. Emissions of PM and PM₁₀ from the thru stock and tail stock dryers and other units controlled by baghouse 115-04 combined shall not exceed 1.24 lb/hr and 5.4 tons/year.
- 6a. Upon written request from the Illinois EPA, the Permittee shall at his own expense, conduct test for PM and PM₁₀ emission and opacity in accordance with the applicable test methods and procedures as identified below.

Location of Sample Points	USEPA Method 1
Gas Flow and Velocity	USEPA Method 2
Flue Gas Weight	USEPA Method 3
Moisture	USEPA Method 4
Particulate Matter (PM)	USEPA Method 5
Particulate Matter (PM ₁₀)	USEPA Method 201A and 202
Opacity	USEPA Method 9

- b. The Illinois EPA shall be notified prior to these tests to enable the Illinois EPA to observe these tests. Notification of the expected date of testing shall be submitted a minimum of 30 days prior to the expected date. Notification of the actual date and expected time of testing shall be submitted a minimum of 5 working days prior to the actual date of the test. The Illinois EPA may at its discretion accept notifications with shorter advance notice provided that the Illinois EPA will not accept such notifications if it interferes with the Illinois EPA's ability to observe testing.
- c. At least 60 days prior to the actual date of testing, a written test plan shall be submitted to the Illinois EPA for review. This plan shall describe the specific procedures for testing, including as a minimum:
 - i. The person(s) who will be performing sampling and analysis and their experience with similar tests.
 - ii. The specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of maximum emissions and the means by which the operating parameters for the emission unit and any control equipment will be determined.
 - iii. The specific determinations of emissions and operation, which are intended to be made, including sampling and monitoring locations.
 - iv. The test method(s) that will be used, with the specific analysis method, if the method can be used with different analysis methods.
 - v. Any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification.
- d. Copies of the Final Reports(s) for these tests shall be submitted to the Illinois EPA within 14 days after the test results are compiled and finalized. The Final Report shall include as a minimum:
 - i. A summary of results.
 - ii. General information.
 - iii. Description of test method(s), including description of sample points sampling train, analysis equipment, and test schedule.
 - iv. Detailed description of test conditions, including:
 - A. Process information, e.g., equipment feed rate.
 - B. Control equipment information, i.e., equipment condition and operating parameters during testing.
 - v. Data and calculations, including copies of all raw data sheets and records of laboratory analyses, sample calculations, and data on equipment calibration.

- 7a. The Permittee shall keep a file containing an estimate of the maximum contribution of PM and PM₁₀ (pound/hour) from the tail stock dryer, thru stock dryer and other emission units controlled by Baghouse 115-04, considering maximum exhaust flow and nominal exhaust loading, with supporting documentation.
- b. The Permittee shall keep the following records related to emissions of the dry corn mill.
 - i. The Permittee shall keep an inspection and maintenance log for the baghouse 115-04.
 - ii. An estimate of excess PM and PM₁₀ emissions from each incident when a unit served by baghouse 115-04 operated so as to be unable to comply with the limits required in this permit;
 - iii. Total annual PM and PM₁₀ emission of the units served by baghouse 115-04 based on operating information and applicable emission factors and formulas with supporting calculations.
8. All records and logs required by this permit shall be retained at a readily accessible location at the source for at least five years from the date of entry and shall be made available for inspection and copying by the Illinois EPA upon request. Any records retained in an electronic format (e.g., computer) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA request for records during the course of a source inspection.
9. If there is an exceedance of the requirements of this permit as determined by the records required by this permit or by other means, the Permittee shall submit a report to the Illinois EPA's within 30 days after the exceedance. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts to reduce emissions and future occurrences.
10. Two copies of required reports and notifications concerning emissions equipment operation or performance testing shall be sent to:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: 217/782-5811 Facsimile: 217/524-4710

and one copy shall be sent to the Illinois EPA's regional office at the following address unless otherwise indicated:

Illinois Environmental Protection Agency
Division of Air Pollution Control
2009 Mall Street
Collinsville, Illinois 62234
Telephone: 618/346-5120 Facsimile: 618/346-5155

The Permittee should update their CAAPP application to include changes at the source due to modification on baghouse 115-04 by submitting form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information to accomplish this.

If you have any questions on this, please call Ricardo Ng at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:RNG:jar

cc: Region 3

217/782-2113

JOINT CONSTRUCTION AND OPERATING PERMIT

PERMITTEE

Bunge Milling, Inc.
Attn: James M. Lay
321 East North Street
Danville, Illinois 61832

Application No.: 03040020 I.D. No.: 183020ABT
Applicant's Designation: BAGHOUSE 201-20 Date Received: April 7, 2003
Subject: New Baghouse 201-20
Date Issued: May 8, 2003 Expiration Date: May 8, 2008
Location: 321 East North Streets, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT and OPERATE emission source(s) and/or air pollution control equipment consisting of a new baghouse 201-20 to replace, in part, two existing baghouses (212-01 and 212-02) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit allows the Permittee to install the new baghouse 201-20 to replace two existing baghouses 212-01 and 212-02, to support the existing baghouse 201-01 in the control of material handling from the soybean preparation portion of the soybean extraction process (PEU-5).
2. This permit is issued based on installation of the new baghouse 201-20 not resulting in an increase in material throughput from the soybean extraction process (PEU-5).
3. All equipment in the soybean extraction process (PEU-5) is subject to 35 IAC 212.321(a), which provides that: no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 IAC 212.321(c). [35 IAC 212.321(a)].
4. At all times, the Permittee shall to the extent practicable, maintain and operate the baghouse 201-20, in a manner consistent with good air pollution control practice for minimizing emissions.
5. Emissions of PM and PM₁₀ from the new baghouse 201-20 shall not exceed 0.11 lb/hr and 0.47 tons/year and from the existing baghouse 201-01 shall not exceed 0.15 lb/hr and 0.67 tons/year. Total limits for these two filters of 0.26 lb/hr and 1.14 tons/year.
- 6a. Upon written request from the Illinois EPA, the Permittee shall at his own expense, conduct test for PM and PM₁₀ emission and opacity in

accordance with the applicable test methods and procedures as identified below.

Location of Sample Points	USEPA Method 1
Gas Flow and Velocity	USEPA Method 2
Flue Gas Weight	USEPA Method 3
Moisture	USEPA Method 4
Particulate Matter (PM)	USEPA Method 5
Particulate Matter (PM ₁₀)	USEPA Method 201A and 202
Opacity	USEPA Method 9

- b. The Illinois EPA shall be notified prior to these tests to enable the Illinois EPA to observe these tests. Notification of the expected date of testing shall be submitted a minimum of 30 days prior to the expected date. Notification of the actual date and expected time of testing shall be submitted a minimum of 5 working days prior to the actual date of the test. The Illinois EPA may at its discretion accept notifications with shorter advance notice provided that the Illinois EPA will not accept such notifications if it interferes with the Illinois EPA's ability to observe testing.
- c. At least 60 days prior to the actual date of testing, a written test plan shall be submitted to the Illinois EPA for review. This plan shall describe the specific procedures for testing, including as a minimum:
 - i. The person(s) who will be performing sampling and analysis and their experience with similar tests.
 - ii. The specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of maximum emissions and the means by which the operating parameters for the emission unit and any control equipment will be determined.
 - iii. The specific determinations of emissions and operation, which are intended to be made, including sampling and monitoring locations.
 - iv. The test method(s) that will be used, with the specific analysis method, if the method can be used with different analysis methods.
 - v. Any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification.
- d. Copies of the Final Reports(s) for these tests shall be submitted to the Illinois EPA within 14 days after the test results are compiled and finalized. The Final Report shall include as a minimum:
 - i. A summary of results.
 - ii. General information.
 - iii. Description of test method(s), including description of sample points sampling train, analysis equipment, and test schedule.
 - iv. Detailed description of test conditions, including:

- A. Process information, e.g., equipment feed rate.
 - B. Control equipment information, i.e., equipment condition and operating parameters during testing.
- v. Data and calculations, including copies of all raw data sheets and records of laboratory analyses, sample calculations, and data on equipment calibration.
- 7a. The Permittee shall keep record of the amount of material being handled in the soybean extraction process (PEU-5).
- b. The Permittee shall keep the following records related to emissions for the baghouses 201-20 and 201-01 controlling the material handling from the soybean extraction process (PEU-5).
- i. The Permittee shall keep an inspection and maintenance log for the baghouses 201-20 and 201-01.
 - ii. An estimate of excess PM and PM₁₀ emissions from each incident when a unit served by baghouses 201-20 and 201-01 operated so as to be unable to comply with the limits required in this permit;
 - iii. Total annual PM and PM₁₀ emission of the units served by baghouses 201-20 and 201-01 based on operating information and applicable emission factors and formulas with supporting calculations.
8. All records and logs required by this permit shall be retained at a readily accessible location at the source for at least five years from the date of entry and shall be made available for inspection and copying by the Illinois EPA upon request. Any records retained in an electronic format (e.g., computer) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA request for records during the course of a source inspection.
9. If there is an exceedance of the requirements of this permit as determined by the records required by this permit or by other means, the Permittee shall submit a report to the Illinois EPA's within 30 days after the exceedance. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts to reduce emissions and future occurrences.
10. Two copies of required reports and notifications concerning emissions equipment operation or performance testing shall be sent to:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: 217/782-5811 Facsimile: 217/524-4710

and one copy shall be sent to the Illinois EPA's regional office at the following address unless otherwise indicated:

Illinois Environmental Protection Agency
Division of Air Pollution Control
2009 Mall Street
Collinsville, Illinois 62234
Telephone: 618/346-5120 Facsimile: 618/346-5155

The Permittee should update their CAAPP application to include changes at the source due to installation of new baghouse 201-20 by submitting form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information to accomplish this.

If you have any questions on this, please call Ricardo Ng at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:RNG:jar

cc: Region 3

217/782-2113

OPERATING PERMIT - REVISED

PERMITTEE

Lauhoff Grain Co.
 Attn: Richard E. Fentem
 321 East North Street
 Danville, Illinois 61832

Application No.: 72121263 I.D. No.: 183020ABT
Applicant's Designation: 243-01 Date Received: March 28, 1997
Subject: Soybean Process Operation
Date Issued: May 15, 1997 Expiration Date: July 20, 1999
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of (list attached) as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions of particulate matter from the truck loadout system shall not exceed 1.0 tons/year. This limit is based on the maximum controlled emissions and maximum hours of operation specified in the permit application.
2. Emissions of particulate matter from sources 212-02, 212-01, 208-18, 208-17, 205-01 and 203-02 shall not exceed 26.8 tons/year. This limit is based on the maximum controlled emission rate and maximum hours of operation specified in the permit application.
3. Emissions of particulate matter from the long term storage 243-01 shall not exceed 1.3 tons/year. This limit is based on emission rates calculated using a standard emission factor and procedure and the maximum annual throughput (4,000,000 lbs/hour) indicated in the permit application.
4. Emissions of particulate matter from 3 new bran bins shall not exceed 0.6 tons/year. This limit is based on the maximum emission rate (0.16 lbs) and the maximum hours of operation (8100) indicated in the permit application.
5. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours</u> (Hr/Yr)	<u>Particulate Matter Emissions</u> Lb/Hr	<u>T/Yr</u>
Fluid bed dryer	8568	2.7	11.6
Soy Dehulling	8568	0.31	1.3

These limits are based on a process weight rate of 360,000 lbs/hour. Compliance with annual limits shall be determined from a running total of 12 months of data.

- 6. Appropriate operating records shall be maintained to allow the Agency to review compliance with the limits in Conditions 1-5.
- 7a. Emissions of volatile organic material shall not exceed 0.0026 pounds of volatile organic material per pound of conventional soybeans crushed, pursuant to 35 Ill. Adm. Code 215.340(a).
- b. The permittee shall maintain records of solvent inventory and soybean crushed as required by 35 Ill. Adm. Code 215.344.
- 8. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Process Rate (Lbs/Hr)</u>	<u>Operating Hours (Hr/Yr)</u>	<u>Particulate Matter Emissions</u>	
			<u>(Lb/Hr)</u>	<u>(T/Yr)</u>
Soy Hull Pelletizing 201-19	32,000	8,568	3.4	14.7

These limits are based on information provided in the application. Compliance with annual limits shall be determined from a running total of 12 months of data.

- 9a. The Permittee shall maintain records of the following items, and such other items as may be appropriate to allow the Agency to review compliance with Condition 1.
 - i. Operating hours for each emission source.
 - ii. Amount of soy hull pelletizing processed on a monthly basis.
 - iii. Operating parameters for air pollution equipment.
- b. These records shall be retained for two years and shall be available for inspection and copying by the Agency.
- 10a. Within 90 days of a written request from the Agency, the particulate matter emissions from equipment in Condition 8 shall be measured by an approved testing service, during conditions representative of maximum emissions, pursuant to 35 Ill. Adm. Code 201.282.
- b. At least 30 days prior to the actual date of testing, a written Test Plan shall be submitted to the Agency for review and approval. This plan shall describe the specific procedures for testing, including:
 - i. The person(s) who will be performing sampling and analysis and their experience with similar tests.
 - ii. The conditions under which testing will be performed, including a discussion of why these conditions will be representative of maximum emissions and the means by which the operating parameters for the emission unit will be determined.

iii. The test method(s) which will be used, with the specific analysis method.

- c. The Agency shall be notified prior to testing to enable the Agency to observe these tests. Notification for the expected date of testing shall be submitted a minimum of thirty days prior to the expected date. Notification of the actual date and expected time of testing shall be submitted a minimum of five working days prior to the actual date of the tests.

It should be noted that this permit has been revised to remove special condition eight (8) of the permit issued August 21, 1995 and include construction permit 97030149.

If you have questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:sad

cc: Region 3

Emission Sources Covered by Permit 72121263
All With Cyclone or Baghouse Control

1. Soybean gravity tables
2. Mill building 201-2
3. Transfer ground
4. Bean conditioner replacement system
5. Pellet receiver
6. 4 meal cookers
7. Mill building flaking area replacement system
8. Mill building S201-8
9. Roll stand mill building 201-9
10. Mill building 201-10
11. Bean transfer to clean 201-14
12. Edible soy process 201-15
13. Edible soy grinding 201-16
14. Edible soy process 201-17
14. Transfer of extracted flakes 201-18
16. Meal storage 202-1
17. Meal coating 202-2
18. Vacuum cleaning building 202-3
19. Track 16, hominy feed loading 203-1
20. Track 17, soybean loading 203-2
21. Ground cleaning 208-1
22. Building cleaning 208-2
23. Building cleaning 206-3
24. Flour sifting 208-4
25. Corn products 208-5
26. Hominy feed corn products 208-6
27. Hominy feed corn products 208-7
28. Cleaning building 208-9
29. Corn dryer 208-10
30. Cracked bean conditioner 208-11
31. Corn feed dryer 208-12
32. Flour packing 208-14
33. Truck loadout system
34. Rail loadout system
35. Mean transport loadout 212.02 (construction permit 82020007)
36. Soybean preparation system 212-01 (construction permit 82020008)
37. Branbins (construction permit 87010029)
38. Soy Dehulling 215.02 (Construction permit 9010059)
39. Soy Hull Pelletizing

DMH:sad

217/782-2113

CONSTRUCTION PERMIT -- NSPS SOURCE

PERMITTEE

Lauhoff Grain Company
Attn: Marvin J. Woods
321 East North Street
Danville, Illinois 61832

Application No.: 95060158 I.D. No.: 183020AHK
Applicant's Designation: COGEN-1 Date Received: June 23, 1995
Subject: Petroleum Coke as Supplemental Fuel for CFB Boiler
Date Issued: June 28, 1995
Location: 320 East Madison Street, Danville

Permit is hereby granted to the above-designated Permittee to construct emission source(s) and/or air pollution control equipment consisting of petroleum coke supplemental fuel system for existing circulating fluidized bed boiler as described in the above referenced application. This Permit is subject to standard conditions attached hereto and the following special conditions:

1. The Permittee shall meet all applicable emission limitations for the circulating fluidized bed boiler currently permitted under operating permit 85110014, while using petroleum coke as supplemental fuel.
- 2a. Within 90 days of initial startup with the petroleum coke substitution, the effluent stream emissions of the circulating fluidized bed boiler shall be measured by an approved testing service or with the continuous emission monitoring system, during conditions which are representative of maximum emissions.
- b. The emission testing or continuous emission monitoring shall be performed for mode, namely, baseline stack test and while burning petroleum coke up to 50% substitution on a weight basis.
- c. i. USEPA test methods 40 CFR 60, Appendix A shall be used for following testing by an approved testing service unless another method is approved by the Agency or it is monitored by continuous emission monitoring system.
 - A. Particulate Matter (Method 5)
 - B. Sulfur dioxide (Method 6)
 - C. Carbon Monoxide (Method 10)
 - D. Opacity (Method 9)
- ii. Particulate matter testing requirement may be waived if there are satisfactory completion of other parameters used to demonstrate compliance with applicable limits. It is a prerequisite to

issuance of an operating permit, pursuant to 35 ILL. Adm. Code 201.160(a), (b) and (c).

- d. Prior to carrying out these tests, the Agency's regional office and the Agency's Source Emission Test Specialist shall be notified a minimum of thirty (30) days prior to the expected date of these tests and further notified a minimum of five (5) working days prior to the test of the exact date, time and place of these tests, to enable the Agency to witness these tests.

Illinois Environmental Protection Agency
Division of Air Pollution Control - Regional Office
2009 Mall Street
Collinsville, Illinois 62234

Illinois Environmental Protection Agency
Attn: Source Emission Test Specialist
Division of Air Pollution Control
Intercontinental Center
1701 First Avenue
Maywood, Illinois 60153

- e. Three (3) copies of the Final Report(s) for these tests shall be submitted to the Agency within 14 days after the test results are compiled and finalized, prior to or accompanying the operating permit application. Satisfactory completion of these tests and compliance with the limitations of this Permit shall be a prerequisite to the issuance of an operating permit.
- f. A copy of the Summary of Results, General Information, and Conclusions, as contained in the Final Report, shall also be submitted to the Source Emission Test Specialist.
- g. The Final Report either through stack testing or continuous emission monitoring shall also include records of laboratory analyses for the coal and maximum petroleum coke substitution rate for the test plan.

It should be noted that this permit is issued to allow petroleum coke substitution for circulating fluidized bed boiler fuel as indicated in the company's letter dated June 22 and 26, 1995.

If you have any questions on this, please contact Shashi Shah at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:SRS:jar

cc: Region 3
USEPA-Region V

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard Fentem
1 Lauhoff Center
Danville, Illinois 61832

Application No.: 95070081
Applicant's Designation: S.O. 111-28
Subject: Rail Loadout
Date Issued: August 18, 1995
Location: 321 E. North St., Danville

I.D. No.: 183020ABT
Date Received: July 20, 1995

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a rail loadout with a baghouse control as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon adding a new rail loadout, without any increase in emissions of particulate matter into the atmosphere.

If you have any questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:sad

cc: Region 3

- 5a. i. As part of the Operation Testing Program for wood fuel, the particulate matter emissions of the CFB boiler shall be measured by an approved testing service during conditions which are representative of maximum emissions, while firing only coal (baseline) and while burning wood up to 10% substitution on a weight basis.
- ii. The Agency may waive this testing at the request of the Permittee if the operational testing program is discontinued due to infeasibility or if consistent operation at more than 2.5% wood cannot be achieved or if continuous emission monitoring shows no change in opacity levels while burning wood, as compared to burning of only coal.
- b. USEPA Test Method 5, 40 CFR 60, Appendix A shall be used.
- c. Prior to carrying out these tests, the Agency's regional office and the Agency's Source Emission Test Specialist shall be notified a minimum of ten (10) days prior to the expected date of these tests and further notified a minimum of two (2) working days prior to the test of the exact date, time and place of these tests, to enable the Agency to witness these tests.

Illinois Environmental Protection Agency
Division of Air Pollution Control - Regional Office
2009 Mall Street
Collinsville, Illinois 62234

Illinois Environmental Protection Agency
Attn: Source Emission Test Specialist
Division of Air Pollution Control
Intercontinental Center
1701 First Avenue
Maywood, Illinois 60153

- d. Three (3) copies of the Final Report(s) for these tests shall be submitted to the Agency within 14 days after the test results are compiled and finalized. In addition to reporting on the emission testing, the Final Report shall include the opacity, carbon monoxide, sulfur dioxide and nitrogen oxide data measured by the continuous emissions monitoring systems during emissions testing. The Final Report shall also include the results of proximate and elemental analyses for the coal and wood fuel fired in the boiler during testing.
6. Within 60 days of the conclusion of the operational testing program for wood fuel, the Permittee shall submit a Program Completion Report summarizing the amount of wood fuel used, the conclusions of the program with respect to feasibility of firing wood fuel, the effect of wood fuel on emissions, and required practices to assure proper operation of the boiler and associated control equipment while firing wood fuel.
7. If the decision is made to fire wood fuel on a permanent basis, the Permittee shall submit detailed application for revision to the current operating permit to address firing of wood fuel and associated fuel handling and storage activities. The Agency may require additional

fuel analyses or emissions testing as part of approval, depending on the results of the trial program.

8. The issuance of this permit does not relieve the Permittee of the responsibility of complying with the provisions of the State of Illinois Rules and Regulations, Title 35, Land Pollution Control, and Section 39.2 of the Environmental Protection Act.

If you have any questions on this permit, please contact Shashi Shah at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:SRS:jar

cc: Region 3
USEPA-Region V
Ted Dragovich - BOL

217/782-2113

CONSTRUCTION PERMIT - REVISED

PERMITTEE

Lauhoff Grain Company
Attn: Marvin J. Woods, Vice President
321 East North Avenue
Danville, Illinois 61832

Application No.: 95100067 I.D. No.: 183020ABT
Applicant's Designation: COGEN-3 Date Received: May 7, 1997
Subject: Circulating Fluidized Bed Boiler - Supplemental Fuel Use
Date Issued: May 22, 1997
Location: 320 East Madison Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of using petroleum coke and tire chips as a supplement fuel to the existing coal feed CFB boiler with a fabric filter as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. The particulate matter and opacity limitations from the previous issued permit #85110014 from CFB boiler shall apply under supplemental fuel use.
- b. This Permit is issued for operation modification to CFB boiler for petroleum coke and tire chips substitution, without any significant increase in emissions.
- 2a. Within 180 days of initial burning of petroleum coke and tire chips, the effluent stream of the existing CFB boiler shall be measured for pollutants as indicated in proposal plan dated September 28, 1995 submitted to the Illinois Environmental Protection Agency.
- b. The emission testing or continuous emission monitoring shall be performed for two modes of operation, namely, I Baseline stack test while burning coal and II optimum successful petroleum coke and tire chips (up to 20%) substitution rate established from progressive feed rates as indicated in the application.
- c.
 - i. USEPA test methods 40 CFR 60, Appendix A shall be used for following testing by an approved testing service unless another method is approved by the Agency or it is monitored by continuous emission monitoring system.
 - A. Particulate Matter (Method 5).
 - B. Sulfur dioxide (Method 6).
 - C. Carbon Monoxide (Method 10).
 - D. Opacity (Method 9)

- ii. The Agency may waive the particulate matter emissions testing at the request of the Permittee if continuous emission monitoring shows no change in opacity levels while burning petroleum coke and tire chips, as compared to burning of only coal.
- d. i. All notifications, submissions and reports required pursuant to this permit shall be sent to the following address unless otherwise specified:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Unit (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5811
- ii. A copy of these notifications, submissions and reports, other than the Annual Emission Report addressed by Condition 3 and the Test Reports required by Condition 2(e), shall also be sent to the Agency's Air Regional Office at the following address, unless otherwise specified:

Illinois Environmental Protection Agency
Division of Air Pollution Control
5415 North University
Peoria, Illinois 62619
309/693-5461
- e. Three (3) copies of the Final Report(s) for these tests shall be submitted to the Agency within 14 days after the test results are compiled and finalized, prior to or accompanying the operating permit application. Satisfactory completion of these tests and compliance with the limitations of this Permit shall be a prerequisite to the issuance of an operating permit.
- f. A copy of the Summary of Results, General Information, and Conclusions, as contained in the Final Report, shall also be submitted to the Source Emission Test Specialist.
- g. The Final Report shall include records of laboratory analyses for the coal coke and tire chips, and the maximum tire chips substitution rate for the test plan.
- 3a. The use of petroleum coke and tire chips shall be limited to normal mode of operation for the CFB boiler.
- b. The use of petroleum coke and tire chips shall not be allowed during start up, malfunction and breakdown of the boiler or control equipment.
- c. The quantity of petroleum coke and tire chips use for this test plan shall not exceed the petroleum coke and tire chips substitution rate to the conventional fuel as indicated in the application.
- d. The Permittee shall keep records of the days and quantity of petroleum coke and tire chips used and submit it to the Field Engineer upon request.

- e. The Permittee shall provide updated process flow diagram and description as to how supplemental fuel limitations shall be monitored as part of the incorporation into the operating permit application.
- 4. With the Annual Emission Report required by 35 Ill. Adm. Code 254, the Permittee shall provide an annual summary of the weight of different fuels burned, i.e., petroleum coke and tire chips with supporting calculations.

It should be noted that this permit is revised to include information as submitted in company's letter dated May 6, 1997.

If you have any questions on this, please call Shashi Shah at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:SRS:jar

cc: Region 3

217/782-2113

OPERATING PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Marvin J. Woods, Vice President
321 East North Street
Danville, Illinois 61832

<u>Application No.:</u> 95100067	<u>I.D. No.:</u> 183020ABT
<u>Applicant's Designation:</u> COGEN-3	<u>Date Received:</u> September 29, 1997
<u>Subject:</u> Circulating Fluidized Bed Boiler - Supplemental Fuel Use	
<u>Date Issued:</u> December 18, 1997	<u>Expiration Date:</u> December 17, 2002
<u>Location:</u> 320 East Madison Street, Danville	

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of using petroleum coke and tire chips as a supplement fuel to the existing coal feed CFB boiler with a fabric filter as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based on the fact that the above-specified units are identified in the Permittee's pending application for a CAAPP permit and are certified, by Permittee, to be in compliance with applicable regulations.
2. This permit does not preclude any future permitting review and evaluation nor does it shield the Permittee from any level action for noncompliance with or circumvention of, applicable regulations.

It should be noted that a detailed review of the specified units will be performed during review of the pending CAAPP application submitted for these units.

Please note the Permittee should update their CAAPP application to include this equipment modification by submitting form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information.

If you have any questions on this, please call Bruce Rodely at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:BDR:jar

cc: Region 3

217/782-2113

OPERATING PERMIT - REVISED

PERMITTEE

Bunge Grain Milling, Inc.
 Attn: David McDermont
 321 East North Street
 Danville, Illinois 61832

Application No.: 95100067 I.D. No.: 183020ABT
Applicant's Designation: COGEN-3 Date Received: September 14, 1998
Subject: Circulating Fluidized Bed Boiler - Supplemental Fuel Use
Date Issued: January 14, 1999 Expiration Date: December 17, 2002
Location: 320 East Madison Street, Danville

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of using petroleum coke and tire chips as a supplement fuel to the existing coal feed CFB boiler with a fabric filter and a coal dust collection system on the existing coal transfer system as described in the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours (Hour/Year)</u>	<u>Particulate Matter Emissions (Lb/Hour)</u>	<u>(Ton/Year)</u>
F-108 Coal Handling Dust Collector	8,760	1.0	4.38

These limits are based on the information provided in the permit application. Compliance with annual limits shall be determined from a running total of 12 months of data.

2. This permit is issued based upon adding the coal dust collection system on the existing coal transfer system, which results in a reduction of particulate matter emissions.
3. This permit is issued based on the fact that the above-specified units are identified in the Permittee's pending application for a CAAPP permit and are certified, by Permittee, to be in compliance with applicable regulations.
4. This permit does not preclude any future permitting review and evaluation nor does it shield the Permittee from any legal action for noncompliance with or circumvention of, applicable regulations.

It should be noted that a detailed review of the specified units will be performed during review of the pending CAAPP application submitted for these units.

It should be noted that this permit has been revised to include operation of the equipment described in Construction permit 98090040.

Please note the Permittee should update their CAAPP application to include this equipment modification by submitting form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information.

If you have any questions concerning this letter, please contact Bruce Rodely at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:BDR:jar

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Company
Attn: Richard Fentem
321 East North Street
Danville, IL 61832

Application No.: 96010107 I.D. No.: 183020ABT
Applicant's Designation: SO 151-01 Date Received: January 26, 1996
Subject: Corn Mill Modification
Date Issued: April 10, 1996
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of corn mill modification with related equipment and three baghouses as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit is issued based upon modifying the corn milling operation by adding related equipment and increasing milling capacity to 100,000 bu/day.
2. Emissions and operation of equipment shall not exceed the following limits:

<u>Bagfilters</u>	<u>Operating Hours (Hour/Year)</u>	<u>Process Rate (Tons/Hour)</u>	<u>Particulate Matter Emissions (Lb/Hour)</u>	<u>(Tons/Year)</u>
115-02, 03, 04	8112	420	2.6	10.5

These limits are based on the information provided in the permit application.

3. For the corn mill production the Permittee shall keep records of the following items and such other items as may be appropriate in order that compliance with the requirements of Condition 2 may be verified.
 - a. Maintain operating and maintenance records for the baghouse control system.
 - b. Amount of corn milled on a monthly basis.

These records required by the permit shall be retained for at least three years. These records shall be available for inspection upon request by the Agency.

If you have any questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:drk

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
 Attn: Richard E. Fentem
 321 East North Street
 Danville, Illinois 61832

Application No.: 97030149 I.D. No.: 183020ABT
Applicant's Designation: Date Received: March 28, 1997
Subject: Soy Hull Pelletizing
Date Issued: May 14, 1997
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of soy hull pelletizing with cyclone control as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Process Rate (Lbs/Hr)</u>	<u>Operating Hours (Hr/Yr)</u>	<u>Particulate Matter Emissions (Lbs/Hr) (T/Yr)</u>	
Soy Hull Pelletizing 201-19	32,000	8,568	3.4	14.7

These limits are based on information provided in the application. Compliance with annual limits shall be determined from a running total of 12 months of data.

- 2a. The Permittee shall maintain records of the following items, and such other items as may be appropriate to allow the Agency to review compliance with Condition 1.
 - i. Operating hours for each emission source.
 - ii. Amount of soy hull pelletizing processed on a monthly basis.
 - iii. Operating parameters for air pollution equipment.
- b. These records shall be retained for two years and shall be available for inspection and copying by the Agency.
- 3a. Within 90 days of written request from the Agency, the particulate matter emissions of one of the soy hull pelletizing cyclone shall be measured by an approved testing service, during conditions which are representative of maximum emissions.
- b. The Agency shall be notified in writing a minimum of thirty (30) days prior to the expected date of these tests and further notified a minimum of five (5) working days prior to the test of the exact date,

time and place of these tests, to enable the Agency to witness these tests.

- c. The following methods and procedures shall be used for testing of emissions, unless another method is approved by the Agency: Refer to 40 CFR 60, Appendix A USEPA test methods.

Location of Sample Points	USEPA Method 1 (40 CFR 60, Appendix A)
Gas Flow and Velocity	USEPA Method 2 (40 CFR 60, Appendix A)
Particulate Matter	USEPA Method 5 (40 CFR 60, Appendix A)
PM10	USEPA Method 201 or 102A (40 CFR 51, Appendix M)

- d. Copies of the Final Report(s) for these tests shall be submitted to the Agency within 14 days after the test results are compiled and finalized. The Final Report shall include as a minimum the following:

- i. A summary of results
- ii. General information
- iii. Description of test method(s), including description of sampling points, sampling train, analysis equipment, and test schedule
- iv. Detailed description of test conditions, including
 - A. Process information, i.e., mode(s) of operation, process rate, e.g. fuel or raw material consumption
 - B. Control equipment information, i.e., equipment condition and operating parameters during testing, and
- v. Data and calculations, including copies of all raw data sheets and records of laboratory analyses, sample calculations, and data on equipment calibration

- e. Submittals of information shall be made as follows:

- i. Two copies of all notifications, reports or other submissions required by this permit shall be provided to the Agency at the following address, unless otherwise specified:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Section (#40)
1340 North Ninth Street
P.O. Box 19276
Springfield, Illinois 62794-9276

- ii. One copy of all notifications, reports and other submissions required by this permit, but not including the Annual Emission Report, shall also be provided to the Agency at the following address, unless otherwise specified:

Illinois Environmental Protection Agency
Division of Air Pollution Control - Regional Office
2009 Mall Street

Collinsville, Illinois 62234

If you have any questions on this, please call Don Hanko at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:DMH:jar

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard E. Fentem
321 East North Street
Danville, Illinois 61834

Application No.: 97100053 I.D. No.: 183020ABT
Applicant's Designation: S.O. 301-06 Date Received: October 17, 1997
Subject: General Aspiration for Transfer System
Date Issued: January 13, 1998
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of baghouse on soybean meal and corn transfer system as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours (Hr/Yr)</u>	<u>Particulate Matter Emissions</u>	
		<u>(Lb/Hr)</u>	<u>(Ton/Yr)</u>
Soybean Meal and Corn Transfer Baghouse	8,760	0.4	1.75

These limits are based on the information provided in the permit application. Compliance with annual limits shall be determined from a running total of 12 months of data.

If you have any questions on this, please call Bruce Rodely at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:BDR:jar

cc: Region 3

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Lauhoff Grain Co.
Attn: Richard E. Fentem
321 East North Street
Danville, Illinois 61834

Application No: 98090040 I.D. No.: 183020ABT
Applicant's Designation: S.O. F-108 Date Received: September 14, 1998
Subject: Cogen Coal Handling Dust Collector
Date Issued: December 1, 1998
Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of coal dust collection system on the existing coal transfer system as described in the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Emissions and operation of equipment shall not exceed the following limits:

<u>Item of Equipment</u>	<u>Operating Hours (Hour/Year)</u>	<u>Particulate Matter (Lb/Hour)</u>	<u>Emissions (Ton/Year)</u>
F-108 Coal Handling Dust Collector	8,760	1.0	4.38

These limits are based on the information provided in the permit application. Compliance with annual limits shall be determined from a running total of 12 months of data.

2. This permit is issued based upon adding the coal dust collection system on the existing coal transfer system, which results in a reduction of particulate matter emissions.

If you have any questions concerning this letter, please contact Bruce Rodely at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:BDR:jar

cc: Region 3

217/782-2113

REVISED
JOINT CONSTRUCTION AND OPERATING PERMIT

PERMITTEE

Bunge Grain Milling LLC
Attn: David McDermott
321 East North Street
Danville, Illinois 61832

Application No.: 98100070
Applicant's Designation: SO 115-05
Subject: Bldg. 115 Vacuum System
Date Issued: January 19, 1999

I.D. No.: 183020ABT
Date Received: October 22, 1998

Operating Permit Expiration
Date: December 31, 2002

Location: 321 East North Street, Danville

Permit is hereby granted to the above-designated Permittee to CONSTRUCT and OPERATE emission source(s) and/or air pollution control equipment consisting of the Building 115 vacuum system, including filter dust collector, as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. Operation of the emission source(s) included in this permit shall not begin until all associated air pollution control equipment has been constructed and is operational.
2. This permit is issued based on this new vacuum system having negligible emissions. For this purpose, emissions of particulate matter shall not exceed 0.1 lb/hour and 0.44 ton/year.

If you have any questions on this permit, please call Christopher Romaine at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:CPR:psj

cc: Region 2

- d. Upon written request from the Illinois EPA, PM emissions and opacity levels from the Truck Dump Pit #4 controlled by the Baghouse 301-04, shall be measured in accordance with 40 CFR 60.303.
- 2a.
 - i. The 24 soy meal storage bins are subject to 35 IAC 212.123, which provides that the Permittee shall not cause or allow the emission of smoke or other PM, with opacity greater than 30 percent.
 - ii. The 24 soy meal storage bins are subject to 35 IAC 212.321(a), which provides that particulate matter (PM) emissions shall not exceed the allowable emission rate specified in 35 IAC 212.321(c).
 - iii. Fugitive PM emission from the 24 soy meal storage bins are subject to 35 IAC 212.301, which provides that the Permittee shall not cause or allow PM fugitive emission from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.
- b. The only material stored in the 24 storage bins shall be soy meal. Grain as defined in 40 CFR 60.301(a) shall not be stored in these bins.
- c. This permit is issue based on no increase in emissions. The 24 soy meal storage bins increase storage capacity, without increase in meal throughput or transfer rate.
3. At all times, the Permittee shall, maintain and operate the Truck Dump Pit #4 and the 24 soy meal storage bins, conveyors and associated control equipments, in a manner consistent with good air pollution control practice for minimizing emissions.
4. All records and logs required by this permit shall be retained at a readily accessible location at the source for at least five years from the date of entry and shall be made available for inspection and copying by the Illinois EPA upon request. Any records retained in an electronic format (e.g., computer) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA request for records during the course of a source inspection.
5. If there is an exceedance of the requirements of this permit as determined by the records required by this permit, the Permittee shall submit a report to the Illinois EPA's Compliance Section in Springfield, Illinois within 30 days after the exceedance. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts to reduce emissions and future occurrences.
6. Two copies of required reports and notifications concerning equipment operation or repairs, performance testing or a continuous monitoring system shall be sent to:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Section (#40)
P.O. Box 19276

Springfield, Illinois 62794-9276
Telephone: 217/782-5811 Facsimile: 217/524-4710

and one copy shall be sent to the Illinois EPA's regional office at the following address unless otherwise indicated:

Illinois Environmental Protection Agency
Division of Air Pollution Control
2009 Mall Street
Collinsville, Illinois 62234
Telephone: 618/346-5120 Facsimile: 618/346-5155

7. This permit does not revise or relax any requirements contained in the Operating Permit 72120886 and 72121263, for the existing baghouses controlling the Truck Dump Pit #4 and the 24 soy meal storage bins, respectively, including any associated requirements for monitoring, recordkeeping or reporting.

The Permittee should update their CAAPP application to include this new equipment by submitting form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information to accomplish this.

This permit has been revised to clarify Condition 1(a)(iii) and 2(c).

If you have any questions on this, please call Ricardo Ng at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:RNG:jar

cc: Region 3

217/782-2113

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT - REVISED

PERMITTEE

Bunge Milling Inc.
Attn: Mickey Lay
321 East North Street
Danville, Illinois 61832

Application No.: 99100012 I.D. No.: 183020ABT
Applicant's Designation: S.O. 115-06 Date Received: May 6, 2003
Subject: Tail Stock Dryer
Date Issued: July 21, 2003 Expiration Date: October 1, 2007
Location: 321 East North Street, Danville

This permit is hereby granted to the above-designated Permittee to OPERATE emission unit(s) and/or air pollution control equipment consisting of an expansion of the dry corn mill, including a new tail stock dryer controlled by baghouse 115-04 and additional grain handling and process equipments controlled by baghouses and other control as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This federally enforceable state operating permit is issued to limit the increase in emissions from the expansion of the dry corn mill to less than major modification thresholds i.e., 25 tons/year of particulate matter (PM) and 15 tons/year of particulate matter less than 10 microns (PM₁₀). As a result the expansion of the corn mill process is not a major modification. The change in emissions, as limited by the conditions of this permit, is described in Attachments A and B.
- b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.
- 2a. The dry corn mill is subject to 35 IAC 212.321, which provides that the emission of particulate matter (PM) into the atmosphere in any one hour period from any process emission unit or group of similar emission units shall not exceed the allowable emission rates specified in subsection (c) of 35 IAC 212.321 [35 IAC 212.321 (a)]. For the purpose of applying this emission standard, all emission units controlled by a common control device shall be considered similar emission units.
- b. The dry corn mill is subject to 35 IAC 212.123(a), which provides that the Permittee shall not cause or allow the emission of smoke or other PM, with an opacity greater than 30 percent into the atmosphere from any emission unit.
- c. The dry corn mill is subject to 35 IAC 212.301, which provides that the emissions of fugitive particulate matter from any emission unit, including material handling or storage activity, shall not be visible by an observer looking general toward the zenith at a point beyond property line of the source.

3. The throughput of the dry corn mill shall not exceed 100,000 bushels/day, monthly average.
- 4a.
 - i. The tail stock dryer shall only be heated by steam and shall not be equipped with direct-fired fuel burners.
 - ii. Emissions of PM and PM₁₀ from the thru stock and tail stock dryer and other units controlled by baghouse 115-04 combined shall not exceed 1.24 lb/hr and 5.4 tons/year.
- b.
 - i. Emissions of PM and PM₁₀ from emission units other than the tail stock dryer shall be controlled with fabric filter to comply with the following emission rates based on the type of unit:

<u>Pollutant</u>	<u>Whole Corn (Elevators)</u>	<u>Whole Corn (Mill)</u>	<u>Bran</u>	<u>Milled Corn</u>
PM (gr/dscf)	0.002	0.001	0.00042	0.00047
PM ₁₀ (gr/dscf)	0.002	0.001	0.00073	0.00067

- ii. Emissions of PM and PM₁₀ from other emission units in the dry corn mill shall not exceed the applicable limits in Attachment A and B.
- c. These Conditions in this permit are intended to assure that the increase in emissions from expansion of the dry corn mill is not significant pursuant to the federal rules for Prevention of Significant Deterioration (PSD), 40 CFR 52.21.
5. At all times, the Permittee shall, maintain and operate emission units in the dry corn mill, including associated control devices, in a manner consistent with good air pollution control practice for minimizing emissions.
6. This permit does not revise or relax any other requirements contained in the Operating Permit 72121261 for the existing units in the Corn Processing Operations including any associated requirements for monitoring, recordkeeping or reporting.
- 7a. Upon written request from the Illinois EPA, the Permittee shall at his own expense, conduct test for PM and PM₁₀ emission and opacity in accordance with the applicable test methods and procedures as identified below.

Location of Sample Points	USEPA Method 1
Gas Flow and Velocity	USEPA Method 2
Flue Gas Weight	USEPA Method 3
Moisture	USEPA Method 4
Particulate Matter (PM)	USEPA Method 5
Particulate Matter (PM ₁₀)	USEPA Method 201A and 202
Opacity	USEPA Method 9

- b. The Illinois EPA shall be notified prior to these tests to enable the Illinois EPA to observe these tests. Notification of the expected date of testing shall be submitted a minimum of 30 days prior to the expected date. Notification of the actual date and expected time of testing shall be submitted a minimum of 5 working days prior to the

actual date of the test. The Illinois EPA may at its discretion accept notifications with shorter advance notice provided that the Illinois EPA will not accept such notifications if it interferes with the Illinois EPA's ability to observe testing.

- c. At least 60 days prior to the actual date of testing, a written test plan shall be submitted to the Illinois EPA for review. This plan shall describe the specific procedures for testing, including as a minimum:
 - i. The person(s) who will be performing sampling and analysis and their experience with similar tests.
 - ii. The specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of maximum emissions and the means by which the operating parameters for the emission unit and any control equipment will be determined.
 - iii. The specific determinations of emissions and operation, which are intended to be made, including sampling and monitoring locations.
 - iv. The test method(s) that will be used, with the specific analysis method, if the method can be used with different analysis methods.
 - v. Any minor changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification.
- d. Copies of the Final Reports(s) for these tests shall be submitted to the Illinois EPA within 14 days after the test results are compiled and finalized. The Final Report shall include as a minimum:
 - i. A summary of results.
 - ii. General information.
 - iii. Description of test method(s), including description of sample points sampling train, analysis equipment, and test schedule.
 - iv. Detailed description of test conditions, including:
 - A. Process information, e.g., equipment feed rate.
 - B. Control equipment information, i.e., equipment condition and operating parameters during testing.
 - v. Data and calculations, including copies of all raw data sheets and records of laboratory analyses, sample calculations, and data on equipment calibration.
- 8a. The Permittee shall keep the following operation records for the dry corn mill:
 - i. Throughput (bushels/day monthly average) based upon the daily corn mill production input.

- b. The Permittee shall keep an inspection and maintenance log for the tail stock dryer and associated control system;
- c. The Permittee shall keep the following records related to emissions:
 - i. The maximum emission of PM and PM₁₀ (pound/hour) from each emission unit or group of emission units controlled by a single control device, considering maximum exhaust flow and nominal exhaust loading, with supporting documentation.
 - ii. An estimate of excess PM and PM₁₀ emissions from each incident when a unit did not comply with the limits required in this permit;
 - ii. Annual PM and PM₁₀ emission based on the throughput and the applicable emission factors and formulas with supporting calculations.
- 9. All records and logs required by this permit shall be retained at a readily accessible location at the source for at least five years from the date of entry and shall be made available for inspection and copying by the Illinois EPA upon request. Any records retained in an electronic format (e.g., computer) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA request for records during the course of a source inspection.
- 10. If there is an exceedance of the requirements of this permit as determined by the records required by this permit or by other means, the Permittee shall submit a report to the Illinois EPA's within 30 days after the exceedance. The report shall include the emissions released in accordance with the recordkeeping requirements, a copy of the relevant records, and a description of the exceedance or violation and efforts to reduce emissions and future occurrences.
- 11. Two copies of required reports and notifications concerning emissions equipment operation or performance testing shall be sent to:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: 217/782-5811 Facsimile: 217/524-4710

and one copy shall be sent to the Illinois EPA's regional office at the following address unless otherwise indicated:

Illinois Environmental Protection Agency
Division of Air Pollution Control
2009 Mall Street
Collinsville, Illinois 62234
Telephone: 618/346-5120 Facsimile: 618/346-5155

Please note that this Federally Enforceable State Operating Permit has been revised to address the replacement of cyclones 115-06 with the baghouse 115-04, pursuant to Construction Permit 02080017, with an accompanying decrease in particulate matter emissions.

The Permittee should update their CAAPP application to include this change at the source by submitting form 505-CAAPP - "Supplement to CAAPP Application" along with all other appropriate information to accomplish this.

If you have any questions on this, please call Ricardo Ng at 217/782-2113.

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:RNG:jar

cc: Illinois EPA, FOS Region 3
Illinois EPA, Compliance Section
Lotus Notes

**ATTACHMENT A
CHANGE IN PM EMISSIONS LIMITATIONS**

<u>Emission Units¹</u>	<u>Hourly Limit</u> (Lb/Hr)	<u>Annual² Limit</u> (Tons/Yr)
<u>Elevator</u>		
West Headhouse Gallery Vacuum	0.009	0.038
Track six at Grade Vacuum	0.009	0.038
301-01	0.943	4.130
301-02	0.316	1.384
301-04	0.614	2.691
304-02	0.461	2.019
<u>Corn Mill House Vacuum</u>		
104-01	0.006	0.026
105-03	0.006	0.026
<u>Cleaning</u>		
110-08	0.016	0.071
110-09	0.351	1.539
115-02	0.492	2.154
<u>Corn Mill Preparation</u>		
101-01	0.145	0.635
101-02	0.121	0.529
103-04	0.040	0.176
103-05		(Discharge to 101-02)
105-04	0.280	1.226
105-06	0.121	0.529
115-03	0.162	0.710
115-04	1.24	5.4
115-05	0.003	0.015
115-06	Eliminated Pursuant to Construction Permit 02080017	
<u>Corn Milling</u>		
101-04	0.151	0.662
101-05	0.088	0.385
103-04		(See Corn Mill Preparation)
103-05		(See Corn Mill Preparation)
105-04		(See Corn Mill Preparation)
105-05	0.169	0.741
105-06		(See Corn Mill Preparation)
109-01	0.054	0.235
109-02	0.052	0.229

<u>Emission Units¹</u>	<u>Hourly Limit</u> (Tons/Yr)	<u>Annual² Limit</u> (Tons/Yr)
<u>Bran Milling</u>		
101-01		(See Corn Mill Preparation)
103-06	0.004	0.015
109-03	0.022	0.098
109-04	0.008	0.035
<u>Bins</u>		
104-02	0.145	0.635
105-06		(See Corn Mill Preparation)
<u>Packing and Loading</u>		
103-06		(See Bran Milling)
104-02		(See Bins)
105-10	0	0
110-04	0.007	0.029
110-05	0.014	0.060
110-07	0.018	0.078
111-34	0.005	0.022
115-01	0.181	0.794
<u>Reprocessing</u>		
112-31	<u>0.145</u>	<u>0.635</u>
	Totals	
	6.43	28.0

ATTACHMENT B
CHANGE IN PM₁₀ EMISSIONS

<u>Emission Units¹</u>	<u>Hourly Limit (Lb/Hr)</u>	<u>Annual² Limit (Tons/Yr)</u>
<u>Elevator</u>		
West Headhouse Gallery Vacuum	0.009	0.038
Track six at Grade Vacuum	0.009	0.038
301-01	0.943	4.130
301-02	0.316	1.384
301-04	0.614	2.691
304-02	0.461	2.019
<u>Corn Mill House Vacuum</u>		
104-01	0.009	0.038
105-03	0.009	0.038
<u>Cleaning</u>		
110-08	0.016	0.071
110-09	0.351	1.539
115-02	0.492	2.154
<u>Corn Mill Preparation</u>		
101-01	0.207	0.906
101-02	0.172	0.755
103-04	0.057	0.252
103-05	(Discharge to 101-02)	
105-04	0.399	1.748
105-06	0.172	0.755
115-03	0.282	1.234
115-04	1.24	5.4
115-05	0.005	0.021
115-06	Eliminated Pursuant to Construction Permit 02080017	
<u>Corn Milling</u>		
101-04	0.215	0.943
101-05	0.125	0.549
103-04	(See Corn Mil Preparation)	
103-05	(See Corn Mil Preparation)	
105-04	(See Corn Mil Preparation)	
105-05	0.241	1.056

105-06		
109-01	0.076	0.334
109-02	0.075	0.327

<u>Emission Units¹</u>	<u>Hourly Limit (Lb/Hr)</u>	<u>New Annual² Limit (Tons/Yr)</u>
<u>Bran Milling</u>		
101-01	(See Corn Mill Preparation)	
103-06	0.006	0.027
109-03	0.039	0.170
109-04	0.014	0.060
<u>Bins</u>		
104-02	0.207	0.906
105-06	(See Corn Mill Preparation)	
<u>Packing and Loading</u>		
103-06	(See Bran Milling)	
104-02	(See Bins)	
105-10	0	0
110-04	0.010	0.042
110-05	0.020	0.086
110-07	0.025	0.111
111-34	0.007	0.031
115-01	0.258	1.132
<u>Reprocessing</u>		
112-31	<u>0.207</u>	<u>0.906</u>
Totals	7.3	31.8

Notes: ¹Emission units are grouped by their associated control system. The identity of the emission units controlled by each control system is provided in the cross referenced table included in the application.

²New Annual limits are based on maximum hours of operation and nominal exhaust grain loading.

RNG:99010012:jar

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (217) 782-2113

PAT QUINN, GOVERNOR

LISA BONNETT, INTERIM DIRECTOR

217/782-2113

CONSTRUCTION PERMIT

PERMITTEE

Bunge North America, Inc.
Attn: Dean Hughes
321 East North Street
Danville, Illinois 61832

Application No.: 11050002

I.D. No.: 183020ABT

Applicant's Designation:

Date Received: May 2, 2011

Subject: Bran Flour Yield Improvement

Date Issued: August 1, 2011

Location: 321 East North Street, Danville, Vermillion County

Permit is hereby granted to the above-designated Permittee to CONSTRUCT emission source(s) and/or air pollution control equipment consisting of a bran flour improvement project, including new milling, sifting, and drying equipment venting to existing baghouses as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1. This permit authorizes a bran flour improvement project in the dry corn mill (the affected mill), with the installation of assorted equipment including Bran Dryer Process 4880-0042-0057, Bran Sifter Process 4880-0042-0062, Bran Bin 4880-0042-0054 and Camas/Bran 4880-0034-0077, each controlled by an existing baghouse. The Permittee plans to use this additional equipment to improve the quality and yield of the affected mill.
2. This permit does not revise or relax any requirements for the affected mill, including applicable emission standards and associated requirements for monitoring, recordkeeping and reporting, which shall continue to apply after these changes.
3. This permit does not authorize an increase in the capacity of the affected mill as a result of these changes.
- 4a. This permit is issued based on negligible emissions from the Bran Dryer Process 4880-0042-0057, Bran Sifter Process 4880-0042-0062, and Bran Bin 4880-0042-0054. For this purpose, PM/PM₁₀ emissions from each of these units shall not exceed 0.1 lbs/hour and 0.44 tons/year.
- b. This permit is issued based on minimal emissions from the Camas/Bran 4880-0034-0077. For this purpose, PM/PM₁₀ emissions shall not exceed 0.25 lbs/hour and 1.1 tons/year.
5. At all times, the Permittee shall maintain and operate the new additional equipment, including associated control devices, in a manner consistent with good air pollution control practice for minimizing emissions.

Page 2

6. The Permittee may operate the additional equipment authorized by this construction permit under this permit until its CAAPP permit is reissued to address this equipment.

If you have any questions on this, please call Kevin Hecht at 217/782-2113.



Edwin C. Bakowski, P.E.
Manager, Permit Section
Division of Air Pollution Control

Date Signed: August 1, 2011

ECB:KTH:psj

cc: Region 3



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

**STANDARD CONDITIONS FOR CONSTRUCTION/DEVELOPMENT PERMITS
ISSUED BY THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

July 1, 1985

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) authorizes the Environmental Protection Agency to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire one year from the date of issuance, unless a continuous program of construction or development on this project has started by such time.
2. The construction or development covered by this permit shall be done in compliance with applicable provisions of the Illinois Environmental Protection Act and Regulations adopted by the Illinois Pollution Control Board.
3. There shall be no deviations from the approved plans and specifications unless a written request for modification, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.
4. The permittee shall allow any duly authorized agent of the Agency upon the presentation of credentials, at reasonable times:
 - a. to enter the permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit,
 - b. to have access to and to copy any records required to be kept under the terms and conditions of this permit,
 - c. to inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit,
 - d. to obtain and remove samples of any discharge or emissions of pollutants, and
 - e. to enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring, or recording any activity, discharge, or emission authorized by this permit.
5. The issuance of this permit:
 - a. shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are to be located,
 - b. does not release the permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the proposed facilities,
 - c. does not release the permittee from compliance with other applicable statutes and regulations of the United States, of the State of Illinois, or with applicable local laws, ordinances and regulations,
 - d. does not take into consideration or attest to the structural stability of any units or parts of the project, and

For assistance in preparing a permit application contact the Permit Section.

Illinois Environmental Protection Agency
Division of Air Pollution Control
Permit Section
1021 N. Grand Ave E.
P.O. Box 19506
Springfield, Illinois 62794-9506

For a regional office of the Field Operations Section, the regional offices and their areas of responsibility are shown on the map. The addresses and telephone numbers of the regional offices are as follows:

Illinois EPA
Region 1
Bureau of Air, FOS
9511 West Harrison
Des. Plaines, Illinois 60016
847/294-4000

Illinois EPA
Region 2
5415 North University
Peoria, Illinois 61614
309/693-5463

Illinois EPA
Region 3
109 Main Street
Hinsdale, Illinois 62234
618/346-5120

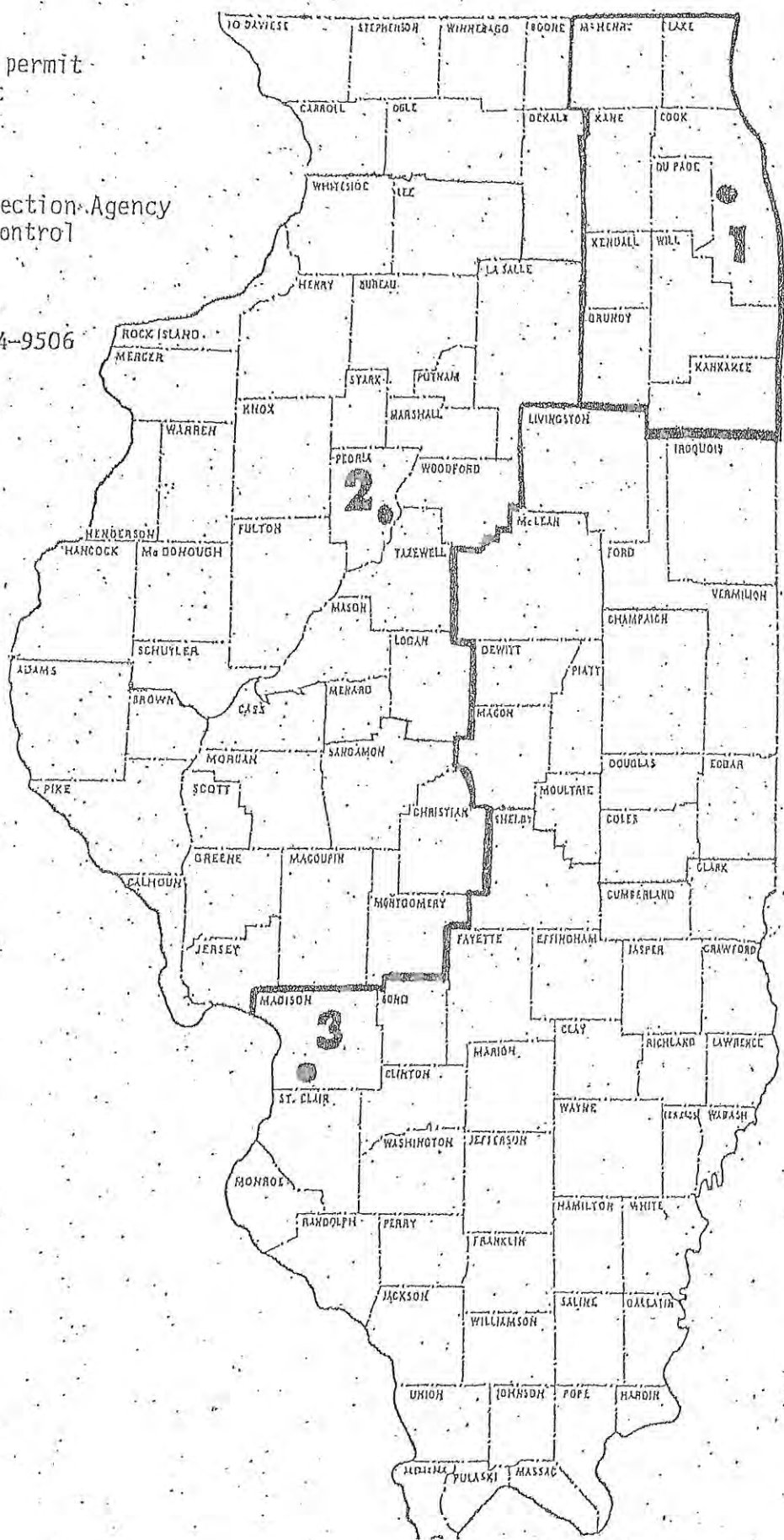


EXHIBIT F

July 28, 1998

Paul Dubenetzky, Branch Chief
Office of Air Management
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

Dear Mr. Dubenetzky:

The purpose of this letter is to inform you of the United States Environmental Protection Agency's (USEPA) concerns regarding the inclusion of supersession condition and credible evidence language in Title V permits. The topic of supersession has developed into a national issue with concerns over the legal consequences of incorporating such language into permits. The specific concerns with Indiana's permit program and possible steps for resolution are outlined immediately below. Credible evidence has also gained national significance because the language can be construed as allowing only specified testing and monitoring methods to be used to demonstrate violations of or compliance with permit terms and conditions. However, as underscored by the credible evidence rule, 62 Fed. Reg. 8314 (Feb. 24, 1997), the Clean Air Act provides that USEPA, the State, and citizens, including the source itself, may use any credible evidence for these purposes.

Supersession:

A Title V permit incorporates into one document and provides for the implementation of all applicable requirements of the Clean Air Act that apply to a permit holder. 40 C.F.R. § 70.2 defines "applicable requirement" as, among other things, "(2) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act...." By definition, "applicable requirements", such as preconstruction permit conditions, need to exist apart and independent of the Title V permit. Rescission of an underlying preconstruction permit by the terms of a Title V permit could result in the nullification of the terms of the preconstruction permit as "applicable requirements" which must be incorporated into future Title V permits. When a term or condition no longer exists in a preconstruction permit, the term or condition may no longer be an applicable requirement, as defined by the Part 70 regulations. Once a Title V permit superseded previous preconstruction permits, there may be no legal basis for incorporating any conditions which were inadvertently overlooked or for maintaining

conditions when the Title V permit was renewed. Therefore, preconstruction permits should not be superseded.

Indiana has been issuing Title V permits with a supersession condition in A.5 under Source Summary. The condition states that:

The terms and conditions of this permit incorporate all the current applicable requirements for all emission units located at this source, and supersede all terms and conditions in all registrations and permits, including construction permits, issued prior to the effective date of this permit. All terms and conditions in such registrations and permits are no longer in effect.

Pursuant to this condition, the Title V permit automatically supersedes any previously issued construction permit and/or operating permit. Furthermore, it is my understanding that the Indiana Department of Environmental Management (IDEM) would allow a source's state operating permit to expire once the source was issued a Title V permit. This would similarly cause concerns because the applicable requirements would no longer exist outside the Title V permit. As with permits to construct, once a state operating permit is superseded or expired, there may be no legal basis for incorporating or maintaining the conditions of the superseded permit into the Title V permit. Neither Title V (Subchapter V of the Clean Air Act as amended) nor its implementing regulations provide the permitting authority with the authority to create applicable requirements through the Title V permitting process.

Along with the supersession language found in Indiana's Title V permits, my staff have identified specific rule provisions which complicate the supersession issue. 326 IAC 2-1-4 contains the state operating permit rules. A non-SIP approved part of the rules states that sources subject to 2-7, 2-8, or 2-9 shall comply with those rules instead of the state operating permit rules, thereby eliminating the requirement for a state operating permit if a source is subject to Part 70. Also, 326 IAC 2-7-2(f), which was approved as part of the original Part 70 submittal, states that a Part 70 source is exempt from the requirement to have a state operating permit once the Title V permit is effective. Again, this language eliminates the need for the source to have a state operating permit. When the source's construction and operating permits disappear, only the Title V permit will exist. As a result, there may be no requirement to keep the construction and operating permit terms in the Title V permit, since they may no longer exist as applicable requirements.

It is my understanding that IDEM would like to include language in its Title V permits to alleviate the regulated community's concern about enforcement of multiple permits or requirements. Title V is designed to be the primary enforcement tool which incorporates all applicable requirements into one document. As we discussed, Indiana may incorporate the following language into the permit shield condition immediately before B.14(a)(1)&(2):

This permit shall be used as the primary document for determining compliance with applicable requirements established by previously issued permits. Compliance with the conditions of this permit shall be deemed in compliance with any applicable requirements as of the date of permit issuance.

Adding the language to the permit shield condition will ensure that supersession concerns are avoided by limiting the language to applicable requirements which have been specifically identified in the permit and to determinations in the permit which specifically identify other applicable requirements as not applicable, while addressing the regulated community's concerns with multiple permit requirements.

In the long term, national policy on supersession will require certain changes in the rules discussed above so that the State operating permit, which contains the applicable requirements, will not disappear. Possible solutions may involve making permanent the state operating permit. Also, the State may wish to consider developing a merged state operating/Title V permit program or even a merged state operating/construction/Title V program, such that the renewal of all permits can be done concurrently. In this case, the Title V permit would also be, in effect, the state operating and/or construction permit. My staff is available to assist you in exploring options to address these underlying concerns, and, again, we will be continuing to appraise you of national efforts. In the meantime, you should be aware that USEPA intends to object to any permits containing supersession language.

Credible Evidence:

With respect to credible evidence, IDEM has been drafting and proposing Title V permits which include several examples of language which may preclude the use as evidence testing or monitoring other than that specified in the Title V permit. Such examples can be found in various sections of the model Title V permit, including sections D.4.4. (Section D.4.4. provides that "[c]ompliance shall be determined utilizing one of the following options.;" "A determination of noncompliance pursuant to either of the methods specified in (a) or (b) above shall not be refuted by evidence of compliance pursuant to the other method.") and D.1.7, (Section D.1.7. provides that "[c]ompliance with the VOC content

and usage limitations contained in Conditions D.x.x and D.x.x shall be determined pursuant to 326 IAC 8-1-2(a)(7) using formulation data supplied by the coating manufacturer."). This language makes it possible for a permitted source to assert that the methods for demonstrating compliance specified in the permit are the only methods admissible to demonstrate violation of the permit terms. In order to make clear the authority to use other evidence to prove compliance or noncompliance, USEPA believes this language must be removed from permits.

For these reasons, USEPA will object to any Title V permit which IDEM proposes to issue, which contains such "credible evidence buster" language. The USEPA suggests that, in addition to removing the above-referenced language from permits, IDEM should include in each permit general language providing for the use of other credible evidence. This phrase would give the source notice that any person could rely upon any credible evidence to prove the source's compliance status. An example of such a phrase is:

"Notwithstanding the conditions of this permit that state specific methods that may be used to assess compliance or noncompliance with applicable requirements, other credible evidence may be used to demonstrate compliance or noncompliance."

If IDEM would like to use an alternate method or text, USEPA would be willing to explore options which will resolve this issue expeditiously.

If you have any questions or wish to discuss these issues further, please call Pallavi Reddy or Alvin Choi, of my staff, at (312)886-6204 or (312)886-3507.

Sincerely yours,

/s/

Stephen Rothblatt, Acting Director
Air and Radiation Division

EXHIBIT G

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 25 1995

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

SUBJECT: Guidance an Enforceability Requirements for
Limiting Potential to Emit through SIP and §112 Rules
and General Permits

FROM: Kathie A. Stein, Director
Air Enforcement. Division

TO: Director, Air and, Pesticides and Toxics
Management Division, Regions I and IV
Director, Air and Waste Management Division,
Region II
Director, Air, Radiation and Toxics Division,
Region III
Director, Air and Radiation Division,
Region V
Director, Air, Pesticides and Toxics Division,
Region VI
Director, Air and Toxics Division,
Regions VII, VIII, IX, and X

Attached is a guidance document developed over the past year by the former Stationary Source compliance Division in coordination with the Air Enforcement Division, Office of Air Quality Planning and Standards, OAR's Office of Policy Analysis and Review, and the Office of General Counsel, as well-as with significant input from several Regions.

A number of permitting authorities have begun discussions with or have submitted programs for review by EPA that would provide alternative mechanisms for limiting potential to emit. Several authorities have submitted SIP rules and at least one State has been developing a state general permit approach.; We believe that this guidance is important to assist the EPA Regions as well as States in approving and developing such approaches.

For additional information regarding this guidance, please contact me or Clara Poffenberger of my staff at (202) 564-8709.

cc: John Rasnic, Director
Manufacturing, Energy, and Transportation Division Office of Compliance

Air Branch Chiefs, Regions I -X

Enforceability Requirements for Limiting potential to Emit
Through SIP and §112 Rules and General Permits

Introduction

As several EPA guidance describe, there are several mechanisms available for sources to limit potential to emit. EPA guidance have also describe the importance of practical enforceability or the means used to limit the Potential to Emit. This guidance is intended to provide additional guidance on practical enforceability for such limits. We provide references for guidance an practical enforceability for permits and rules in general and provide guidance in this document for application of the same principles to "limitations established by rule or general permit," as described in the guidance document issued January 25, 1995, entitled "Options for Limiting Potential to Emit (PTE) of a Stationary Source under section 112 and Title V of the Clean Air Act (Act)." The description is as follows:

Limitations established by rules. For less complex plant sites, and for source categories involving relatively few operations that are similar in nature, case-by-case permitting may not be the most administratively efficient approach to establishing federally enforceable restrictions. One approach that has been used is to establish a general rule which creates federally enforceable restrictions at one time for many sources (these rules have been referred to as "prohibitory" or "exclusionary" rules). The concept of exclusionary rules is described in detail in the November 3, 1993 memorandum ["Approaches to Creating Federally Enforceable Emissions Limits," from John S. Seitz]. A specific suggested approach for VOC limits by rule was described in EPA's memorandum dated October 15, 1993 entitled "Guidance for State Rules for Optional Federally Enforceable Emissions Limits Base Upon Volatile Organic Compound (VOC) Use." An example of such an exclusionary rule is a model rule developed for use in California. (The California model rule is attached, along with a discussion of its applicability to other situations - see Attachment 2). Exclusionary rules are included in a State's SIP or 112 program and generally become effective upon approval by the EPA.

The EPA prefers the term "exclusionary rule" in that this phrase is a less ambiguous description of the overall purpose of these rules.

General permits -A concept similar to the exclusionary rule is the establishment of a general permit for a given source type. A general permit is a single permit that establishes terms and conditions that must be complied with by all sources subject to that permit. The establishment of a general permit could provide for emission limitations in a one-time permitting process, and thus avoid the need to issue separate permits for each source. Although this concept is generally thought of as an element of Title V permit programs there is no reason that a state or local agency could not submit a general permit program as a SIP submittal aimed at creating synthetic minor sources. Additionally FESOP [Federally Enforceable State Operating Permit usually referring to Title I State Operating Permit Programs approved under the criteria established by EPA in the June 28, 1989 Federal Register notice, 54 FR 27274] programs can include general permits as an element of the FESOP program being approved into the SIP. The advantage of a SIP general permit, when compared to an exclusionary rule, is that upon approval by the EPA of the state's general permit program, a general permit could be written for an additional source type without triggering the need for the formal SIP revision process. (January 25, 1995 Seitz and Van Heuvelen memorandum, page 4.)

SIP or §112 Rules

Source-category standards approved in the SIP or under 112, if enforceable as a practical matter, can be used as federally enforceable limits on potential to emit. Such provisions require public participation and EPA review. Once a specific source qualifies under the applicability requirements of the source category rule, additional public participation is not required to make the limits federally enforceable as a matter of legal sufficiency since the rule itself underwent public participation and EPA review. The rule must still be enforceable as a practical matter in order to be considered federally enforceable. A source that violates this type of rule limiting potential to emit below major source thresholds or is later determined not to qualify for coverage under the rule, could be subject to enforcement action for violation of the rule and for constructing or operating without a proper permit (a. part 70, a New Source Review permit, or operating without meeting §112 requirements, or any combination thereof).

General Permits

The title V regulations set out provisions for general permits covering numerous similar sources. The primary purpose of general permits is to provide a permitting alternative where

the normal permitting process would be overly burdensome, such as for area sources under section 112. General permits may be issued to cover any category of numerous similar sources, including major sources, provided that such sources meet certain criteria laid out in 40 CFR part 70. Sources may be issued general permits strictly for the purpose of avoiding classification as major source. In other words, general permits may be used to limit the potential to emit for numerous similar sources. However, general permits must also meet both legal and practical federal enforceable requirements.

With respect to legal sufficiency, the operating permit regulations provide that once the general permit has been issued, after opportunity for public participation and, EPA and affected State review, the permitting authority may grant or deny a source's request to be covered by a general permit without further public participation or EPA or affected State review. The action of granting or denying the source's request is not subject to judicial review. A general permit does not carry a permit shield. A source may be subject to enforcement action for operating without a part 70 permit if the source is later determined not to qualify for coverage under the general permit. Sources covered by general permits must comply with all part 70 requirements.

State SIP or 112(1) General Permits

Another mechanism available to limit potential to emit is a general permit program approved into the SIP or under section 112(1), the hazardous air pollutant program authority. This mechanism allows permitting authorities to issue and revise general permits consistent with SIP or 112(1) program requirements without going through the SIP or 112(1) approval process for each general permit or revision of a general permit. The program is also separate from title V, like Title I state operating permits, and issuance and revisions of the permits are to comply with title V procedures.

Once a program is approved, issuing and revising general permits should be significantly less burdensome and time-consuming for State legislative and rulemaking authorities. The EPA review should also be less burdensome and time-consuming. After a program is approved, permitting authorities have the flexibility to submit and issue general permits as needed rather than submitting them all at once as part of a SIP submittal. Given the reduced procedural burden, permitting authorities should be able to issue general permits to small groups or categories or sources rather than attempt to cover broad categories with a generic rule. We anticipate that specific permit requirements or general permits may be readily developed with the assistance of interested industry groups.

The state general permit approach may allow sources to meet the federal the federal enforceability requirements more easily than other approaches. However, to use this approach, states must have a federally enforceable program that provides the state the authority, to issue such permits; to accomplish this, EPA must approve the program into the SIP or pursuant to section. 112(1) of the Clean Air Act.

Enforceability Principles

In 1989, in response to challenges from the Chemical Manufacturers Association and other industry groups, EPA reiterated its position that controls and limitations used to limit a source's Potential to emit must be federally enforceable. See 54 FR 27274 (June 28, 1989). Federally enforceable limits can be established by Clean Air Act programs such as NSPS, NESHAPs, MACTs, and SIP requirements. However, source-specific limits are generally set forth in permits. Generally, to be considered federally enforceable, the permitting program must be approved by EPA into the SIP and include provisions for public participation. "In addition, permit terms and conditions must be practicably enforceable to be considered federally enforceable. EPA provided specific guidance on federally enforceable permit conditions in a June 13, 1989 policy memo "Limiting Potential to Emit in New Source Permitting" from John Seitz and in the June 28, 1989 Federal Register notice (54 FR 27274) Additional guidance Can also be found in United states v. Louisiana Pacific, 682 F. Supp 1122 (D. Colo. 1987) 682 F. Supp 1141 (D. Colo.1988), which led to these guidance statements and a number of other memoranda covering practicable enforceability as it relates to rolling averages, short-term averages, and emission caps. See "Use of Long Term Rolling Averages to Limit Potential to Emit," from John. B. Rasnic to David Kee, February 24, 1992; "Limiting Potential to Emit;" from Mamie Miller to George Czerniak, August, 1992; "Policy Determination an Limiting Potential to Emit for Koch Refining Company's Clean Fuels Project", from John B. Rasnic to David Kee, March 13, 1992; and "3M Tape Manufacturing Division Plant, St. Paul, Minnesota" from. John B. Rasnic to David Kee, July 14, 1992.

In 1987, EPA laid out enforceability criteria that SIP rules must meet. see "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency," from Michael Alushin, Alan Eckert, and John Seitz, September 3, 1987 (1997 SIP memo). The criteria include clear statements as to applicability, specificity as to the standard that must be met, explicit statements of the compliance time frames (e.g. hourly, daily, monthly, or 12-month averages, etc.), that the time frame and method of compliance employed must be sufficient to protect the standard involved, record keeping requirements must be specified, and equivalency provisions must meet certain requirements.

Based on these precedents this guidance describes six enforceability criteria which a rule or a general permit must meet to make limits enforceable as a practical matter. In general, practical enforceability for a source-specific permit term means that the provision must specify (1) a technically accurate limitation and the portions of the source subject to the limitation; (2) the time period for the limitation (hourly, daily, monthly, annually); and (3) the method to determine compliance including appropriate monitoring, record keeping and reporting. For rules and general permits that apply to categories of sources, practical enforceability additionally requires that the provision (4) identify the categories of sources that are covered by the rule; (5) where coverage is optional, provide for notice to the permitting authority of the source's election to be covered by the rule; and (6) recognize the enforcement consequences relevant to the rule.

This guidance will address requirements (4) and (5) first as they are concepts that are unique to rules and general permits.

A. Specific Applicability

Rules and general permits designed to limit potential to emit must be specific as to the emission units or sources covered by the rule or permit. In other words, the rule or permit must clearly identify the category(ies) of the sources that qualify for the rule's coverage. The rule must apply to categories of sources that are defined specifically or narrowly enough so that specific limits and compliance monitoring can be identified and achieved by all sources in the categories defined.

A rule or general permit that covers a homogeneous group of sources should allow standards to be set that limit potential to emit and provide the specific monitoring requirements. (Monitoring is more fully addressed in section D.) The State can allow for generic control efficiencies where technically sound and appropriate, depending on the extent of the application and ability to monitor compliance with resultant emission limits. Similarly, specific and narrow applicability may allow generic material usage or limits on hours of operation to be sufficient. For example, a rule or general permit that applies to fossil fuel fired boilers of a certain size may allow for limits on material usage, such as fuel-type and quantity. A rule or general permit that applies only to standby diesel generators or emergency generators may allow restrictions on hours of operation to limit potential to emit. The necessary compliance terms (i.e., monitoring or record keeping) associated with any of these limits, such as with hours of operation, can readily be specified in the rule or the general permit itself.

General permits under Title V are assumed to include this

enforceability principle because the Part 70 regulations set out specific criteria that states should consider in developing their general permit provisions (See 57 FR 32278). These factors include requirements that

"categories of sources covered by general permits should be generally homogenous in terms of operations, processes, and emissions. All sources in the category should have essentially similar operations or processes and emit pollutants with similar characteristics."

Another factor stated is "sources should be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, or record keeping." Examples of source categories appropriate for general permits include: degreasers, dry cleaners, small heating systems, sheet fed printers, and VOC storage tanks (see 57 FR 32278).

B. Reporting or Notice to Permitting Authority

The rule or general permit should provide specific reporting requirements as part of the compliance method. Although the compliance method for all sources must include record keeping requirements, the permitting authority may make a determination that reporting requirements for small sources would provide minimal additional compliance assurance. Where ongoing reporting requirements are determined not to be reasonable for a category of sources, the rule or general permit should still provide that the source notify the permitting authority of its coverage by the rule or the permit. In the limited situation where all the sources described in a source category are required to comply with the all of the provisions of a rule or general permit, notice is not needed. However, where there are no reporting requirement's and no opt-in provisions, the permitting authority must provide the public with the names and locations of sources subject to the rule or permit.

For Title V general permits, Part 70 requires sources to submit an application for a general permit which must be approved or disapproved by the permitting authority. For SIP or §112 rules and SIP or §112 general permits, in response to receiving the notice or application, the permitting authority may issue an individual permit, or alternatively, a letter or certification. The permitting authority may also determine initially whether it will issue a response for each individual application or notice, and may initially specify a reasonable time period after which a source that has submitted an application or notice will be deemed to be authorized, to operate under the general permit or SIP or §112 rule.

C. Specific Technically Accurate Limits

The rule or general permit issued pursuant to the SIP or §112 must specify technically accurate limits on the potential to emit. The rule or general permit must clearly specify the limits that apply, and include the specific associated compliance monitoring. (The compliance monitoring requirements are discussed further in the next section.) The standards or limits must be technically specific and accurate to limit potential to emit, identifying any allowed deviations.

The 1987 policy on SIP enforceability states that limitations "must be sufficiently specific so that a source is fairly on notice as to the standard it must meet." For example, "alternative equivalent technique" provisions should not be approved without clarification concerning the time period over which equivalency is measured as well as whether the equivalency applies on a per source or per line basis or is facility-wide.

Further, for potential to emit limitations, the standards set must be technically sufficient to provide assurance to EPA and the public that they actually represent a limitation on the potential to emit for the category of sources identified. Any presumption for control efficiency must be technically accurate and the rule must provide the specific parameters as enforceable limits to assure that the control efficiency will be met. For example, rules setting presumptive efficiencies for incineration controls applied to a specific or broad category must state the operating temperature limits or range, the air flow, or any other parameters that may affect the efficiency on which the presumptive efficiency is based. Similarly, material usage limits such as fuel limits, as stated above, require specifying the type of fuel and may require specifying other operating parameters.

A rule that allows sources to submit the specific parameters and associated limits to be monitored may not be enforceable because the rule itself does not set specific technical limits. The submission of these voluntarily accepted limits on parameters or monitoring requirements would need to be federally enforceable. Absent a source-specific permit and appropriate review and public participation of the limits, such a rule is not consistent with the EPA's enforceability principles.

D. Specific compliance Monitoring

The rule must specify the methods to determine compliance. Specifically, the rule must state the monitoring requirements, record keeping requirements, reporting requirements, and test methods as appropriate for each potential to emit limitation; and clarity which methods are used for making a direct determination of compliance with the potential to emit limitations.

"Monitoring" refers to many different types of data collection, including continuous emission or opacity monitoring, and measurements of various of Parameters of process or control devices (e.g. temperature, pressure drop, fuel usage) and record keeping of parameters that been limited ,such as hours of operation, production levels, or raw material usage. Without a verifiable plantwide, verifiable emission limits must assigned to each unit or group of units subject to the subject to he rule or general permit. Where monitoring cannot be used to determine emissions directly, limits on appropriate operating parameters must be established for the units or source, and must the monitoring must be sufficient to yield data form the relevant time period that is representative of the source's compliance with the standard or limit. Continuous emissions monitoring, especially in the case of smaller sources, is not required.

E. Practicably Enforceable Averaging Times

The averaging time for all limits must be practicably enforceable. In other words, the averaging time period must readily allow for determination of compliance. EPA policy expresses a preference toward short term limits, generally daily but not to exceed one month. However, EPA policy allows for rolling limits not to exceed 12 months or 365 days where the permitting authority finds that the limit provides an assurance that compliance can be readily determined and verified. See June 13, 1989 "Guidance on Limiting Potential to Emit," February 24, 1992 memorandum "Use of Long Term Rolling Averages to Limit Potential to Emit" from John Rasnic to David Kee and March 13 1992 "Policy Determination on Limiting Potential to Emit for Koch Refining Company Clean Fuels Project" from John B. Rasnic to David Kee, stating that determinations to allow an annual rolling average versus a shorter term limit must be made on a case by case basis. Various, factors weigh in favor of allowing a long term rolling average, such as historically unpredictable emissions. Other factors may weigh in favor of shorter term limit, such as the inability to set interim limits during the first year. The permitting agency must make a determination as to what monitoring and averaging period is warranted for the particular source-category in light of how close the allowable emissions would be to the applicability threshold.

F. Clearly Recognized Enforcement

Violations of limits imposed by the rule or general permit that limit potential to emit constitute violations of major source requirements. In other words the source would be violating a "synthetic minor" requirement which may result in the source being treated as a major source under Titles I and V. The 1989 Federal Register Notice provides for separate enforcement

and permitting treatment depending on whether the source subsequently chooses to become a major or remain minor. Thus violations of the rule or general permit or violation of the specific conditions of the rule or general permit subjects the source to potential enforcement under the Clean Air Act and state law. The operating permit rule states that notwithstanding the shield provisions of part 70, the source subject to a general permit may be subject to enforcement action for operating without a part 70 permit if the source is later determined not to qualify or the conditions and terms of the general permit. Moreover, violation of any of the conditions of the rule or general permit may result in a different determination of the source's potential to emit and thus may subject the source to major requirements and to enforcement action for failure to comply with major source requirements from the initial determination.

G. Rule Requirements for State General Permit Programs

As discussed above, general permit programs must be submitted to EPA for approval under SIP authority or under section 112(1), or both, depending on its particular pollutant application. SIP and §112(1) approval and rulemaking procedures must be met, including public notice and comment. The specific application of the enforceability principles for establishing State SIP or §112(1) general permit programs require that the rule establishing the program set out these principles as rule requirements. In other words, these principles must be specific rule requirements to be met by each general permit.

The rule establishing the program must require that (1) general permits apply to a specific and narrow category of sources; (2) sources electing coverage under general permits where coverage is not mandatory, provide notice or reporting to the permitting authority; (3) general permits provide specific and technically accurate (verifiable) limits that restrict the potential to emit; (4) general permits contain specific compliance requirements; (5) Limits in general permits are established based on practicably enforceable averaging times; and (6) violations of the permit are considered violations of the state and federal requirements and result in the source being subject to major source requirements.

In addition, since the rule establishing the program does not provide the specific standards to be met by the source, each general permit, but not each application under each general permit, must be issued pursuant to public and EPA notice and comment. The 1989 Federal Register notice covering enforceability of operating permits requires that SIP operating permit programs issue permits pursuant to public and EPA notice and comment. Title V requires that permits, including general permits, be issued subject to EPA objection.

Finally, sources remain liable or compliance with major source requirements if the specific application of a general permit to the source does not limit the source's potential to emit below major source or major modification thresholds. (The limits provided in these mechanisms may actually limit the potential to emit of sources but may not limit the potential to emit for some sources to below the threshold necessary to avoid major source requirements. For example, a general permit for industrial boilers may in fact provide limits that are sufficient to bring a source with only two or three boilers to below the subject thresholds but a source with more than three boilers may have a limited PTE but not limited below the major source threshold.) Also, where the source is required to use another mechanism to limit potential to emit, i.e., a construction permit, the general permit may not be relied upon by the source or the State, to limit potential to emit.

Permits issued pursuant to the approved program, meeting the above requirements, are adequate to provide federally enforceable limits on potential to emit for New Source Review, title V, and §112 programs as long as they are approved pursuant to SIP (section 110) and section 112(1) authorities.

EXHIBIT H



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 27 2009

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Issuance of the Clean Air Act National Stack Testing Guidance

FROM: Lisa C. Lund *Lisa Lund*
Director
Office of Compliance

TO: Regional Compliance/Enforcement Division Directors

Attached is a copy of the revised Clean Air Act National Stack Testing Guidance. Final guidance was initially issued on September 30, 2005. At the time of issuance, the Agency indicated that notice and comment rulemaking would be conducted regarding the appropriate circumstances in which an extension of performance test deadlines may be allowed by regulation. This document incorporates the ensuing regulatory revisions which allow source owners or operators to petition for an extension to the test deadlines as a result of a force majeure event. It also includes other minor clarifications and revisions based on feedback we have received since issuance of the 2005 guidance. This revised guidance supersedes the 2005 guidance.

We appreciate the feedback that we have received from each of your offices as well as from state/local agencies. If you or your staff has any questions concerning the guidance, please contact Mamie Miller at (202) 431-7011, or Robert Lischinsky at (202) 564-2628.

Attachment

cc: Regional Air Compliance/Enforcement Branch Chiefs
Pamela Mazakas, Acting Director, Air Enforcement Division,
Office of Civil Enforcement
Peter Tsigotis, Director, Sector Policies and Programs Division,
Office of Air Quality Planning and Standards (OAQPS)
Richard Wayland, Director, Air Quality Assessment Division, OAQPS
Compliance and Enforcement Committee Co-Chairs,
The National Association of Clean Air Agencies (NACAA)

CLEAN AIR ACT
NATIONAL STACK TESTING GUIDANCE
April 27, 2009

Any questions concerning this guidance may be directed to either Mamie Miller at (202) 564-2300 or Rob Lischinsky at (202) 564-2628.

**CLEAN AIR ACT
NATIONAL STACK TESTING GUIDANCE**

I INTRODUCTION

- A stack test, also referred to in EPA regulations as a performance or source test, measures the amount of a specific regulated pollutant, pollutants, or surrogates being emitted; demonstrates the capture efficiency of a capture system; or determines the destruction or removal efficiency of a control device used to reduce emissions at facilities subject to the requirements of the Clean Air Act (CAA or Act). Stack testing is an important tool used to determine a facility's compliance with emission limits, or capture or control efficiencies established pursuant to the CAA. This tool has not always been consistently applied or utilized across the country by the U.S. Environmental Protection Agency (EPA or Agency), or delegated state/local agencies. This guidance is intended to address stack tests performed to determine both initial and on-going compliance with the CAA requirements.

- A review by the EPA Office of the Inspector General (IG) ("**Report of EPA's Oversight of Stack Testing Programs**," 2000-P-00019, September 11, 2000) criticized EPA for not issuing comprehensive national guidance in this area, and not providing sufficient oversight of state/local stack testing programs. The IG concluded that this lack of guidance and oversight had an adverse effect on the use of stack testing as a tool in determining compliance. As a result of the findings, the IG recommended that EPA develop national guidance that addresses issues such as:

- recommended testing frequencies;
- discrepancies in test procedures; and
- inconsistent reporting of test results.

- In addition to national guidance, the IG recommended that EPA enhance its oversight program.

- In response to the IG report, the Office of Enforcement and Compliance Assurance (OECA) made a commitment to address the concerns raised in the report and provide clarification, as necessary, on the issues identified. The Office of Compliance (OC) was given the responsibility for satisfying this commitment.

- The concerns associated with testing frequencies, and the reporting of test results were addressed in the *CAA Stationary Source Compliance Monitoring Strategy* (CMS) issued by the Agency in April 2001. *The Timely And Appropriate Enforcement Response To High Priority Violations Policy* (HPV Policy) issued by the Agency in December 1998 provides supplementary guidance by specifying how violations identified through stack testing should be addressed. Each of these documents is summarized below for the reader's convenience; however, for a more thorough understanding of these policies, we suggest that the reader review

the documents in their entirety.

- An electronic version of CMS can be obtained at:
www.epa.gov/compliance/resources/policies/monitoring/cmsspolicy.pdf.
- The HPV Policy can be obtained at:
www.epa.gov/compliance/resources/policies/civil/caa/stationary/issue-ta-rpt.pdf.
- The website for the associated HPV Workbook is:
www.epa.gov/compliance/resources/policies/civil/caa/stationary/hpvmanualrevised.pdf.
- This stack testing guidance was developed to address the remaining issues raised by the IG, specifically those associated with the conduct of stack tests. A Workgroup with representatives from OECA, the Office of Air Quality Planning and Standards (OAQPS), and the EPA Regions was formed to develop the guidance. In formulating this guidance, the Workgroup reviewed all relevant Agency guidance and applicability determinations; evaluated all identified state regulations and guidance on stack testing; and solicited state/local input in various forums.
- The discussion in this document is intended solely as guidance. This guidance is not a regulation, nor is it intended to change any underlying regulatory requirements specified in individual New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), NESHAP for Source Categories (MACT), state or local regulations. This guidance merely documents and clarifies existing regulatory requirements and Agency guidance on stack testing.
- It is not our practice to distribute guidance such as this for formal public notice and comment as it does not supersede or alter existing regulatory requirements, nor impose any new legally binding requirements on EPA, state/local agencies, or the regulated community. The general description provided in this document may not apply to a particular situation based on the circumstances. Furthermore, interested parties remain free to raise questions or objections about the substance and application of the guidance as they arise in a particular situation. EPA retains the discretion to adopt approaches on a case-by-case basis that differ from those described in this guidance where appropriate. This document may be revised periodically without public notice.
- On February 2, 2004, EPA issued the stack testing guidance as interim to provide an opportunity to evaluate its usage and monitor any potential problems with its implementation. During the interim period, EPA received feedback from individual state/local agencies, state/local air associations, and industry associations and representatives.
- On September 30, 2005, after reviewing all comments received on the interim guidance and addressing such comments as appropriate, EPA issued final guidance. The final guidance superceded the February 2, 2004 interim guidance. At the time of issuance of the final guidance, EPA noted that the Agency would conduct notice and comment rulemaking regarding the appropriate circumstances in which an extension of performance test deadlines may be allowed by regulation.

- On August 9, 2006, EPA published in the Federal Register (FR) proposed amendments to the General Provisions for the NSPS, NESHAP, and MACT programs to allow source owners or operators, in the event of a force majeure, to petition the Administrator for an extension of the deadline(s) by which they are required to conduct an initial or subsequent performance test required by applicable regulations.
- The proposed revisions to the NSPS, NESHAP, and MACT General Provisions became effective on May 16, 2007. The revisions were extended to the Consolidated Federal Air Rule (CFAR) (40 CFR Part 65) on August 27, 2007.
- This guidance dated April 27, 2009, supersedes the September 30, 2005, guidance. It incorporates the amendments to the General Provisions and the CFAR which allow source owners or operators to petition for an extension to the test deadlines as a result of a force majeure event. It also includes other minor clarifications and revisions based on feedback EPA has received since issuance of the guidance in 2005.

II GOALS OF THE NATIONAL STACK TESTING GUIDANCE

- Expand upon CMS and the HPV Policy to fully address the concerns raised by the IG on this issue.
- Improve uniformity on how stack tests are conducted for determining and demonstrating compliance with the NSPS (40 CFR Part 60), NESHAP (40 CFR Part 61), and MACT (40 CFR Part 63).
- Improve coordination between EPA and state/local agencies.
- Enhance EPA oversight of state/local programs to ensure that the tool of stack testing is being sufficiently and properly utilized.

III DEFINITION OF STACK TESTING

- Stack testing may be conducted for varying purposes, such as relative accuracy test audits (RATAs), linearity checks, and routine calibration of continuous emission monitoring (CEM) equipment. However, for purposes of this guidance, stack testing is being more narrowly defined as:
 - Any performance testing conducted for the purposes of determining and demonstrating compliance with the applicable standards of 40 CFR Parts 60, 61, and 63 using promulgated test methods, other test methods or procedures cited in the applicable subpart(s), or alternative test methods approved by the Administrator under §§ 60.8, 61.13, or 63.7. It does not include visible emission observation testing.

IV SCOPE OF GUIDANCE

- The guidance applies to tests conducted for the purposes of determining and demonstrating compliance with NSPS, NESHAP, and MACT programs. The guidance does not apply to tests in situations such as the following:
 - tests requested by EPA to assist the Agency in the development of regulations or emissions factors;
 - tests to establish monitoring protocols for parametric monitoring under the Compliance Assurance Monitoring requirements of 40 CFR Part 64;
 - tests to develop and evaluate alternative test methods;
 - tests voluntarily conducted by facilities for their own purposes to optimize operations and improve energy efficiency;
 - tests conducted only to determine and demonstrate compliance with state Implementation Plan (SIP) requirements. (Tests conducted to simultaneously determine and demonstrate compliance with NSPS, NESHAP, and MACT programs are included within the scope of the guidance.)
- The data from tests conducted in situations such as those listed above may be subject to Title V reporting requirements and need to be considered by the source when submitting reports and certifying compliance pursuant to the Title V program.

V CAA STATIONARY SOURCE COMPLIANCE MONITORING STRATEGY

- The CMS provides guidance on stationary source air compliance monitoring programs with a focus on Title V major sources and synthetic minor sources that emit or have the potential to emit at or above 80 percent of the Title V major threshold. It addresses the IG issues of when a stack test should be conducted and what information should be reported nationally. It recognizes that consistent, complete and accurate stack test information is critical in managing a national air program. Hence, the CMS recommends:
 - States/locals should conduct a stack test where there is no other means for determining compliance with the emission limits. In determining whether a stack test is necessary, states/locals should consider factors such as: size of emission unit; time elapsed since last stack test; results of that test and margin of compliance; condition of control equipment; and availability and results of associated monitoring data.
 - States/locals should conduct a stack test whenever they deem appropriate regardless of

whether there are other means for determining compliance.

- The date and results (Pass/Fail/Pending) of all stack tests should be entered in the national air data system (AIRS/AFS, or its successor), and the High Priority Violations (HPV) status adjusted as appropriate.

VI HIGH PRIORITY VIOLATIONS POLICY

- The HPV Policy provides guidance on how to define significant violations under the CAA at major stationary sources, and the timely and appropriate enforcement response when such violations are identified. It addresses the IG concern with consistent treatment of stack test failures.
- Facilities are to be in compliance with applicable requirements at all times except during periods of startup, shutdown or malfunction, or under circumstances as defined in the underlying NSPS, NESHAP, or MACT standards or General Provisions to 40 CFR Parts 60 and 63.¹ All stack test failures should be reviewed by the delegated agency to determine whether a violation has occurred, and if so, the appropriate enforcement response. The enforcement response should be consistent with the HPV Policy which states:

"The following criteria trigger HPV status. . . Violations that involve testing, monitoring, recordkeeping or reporting that substantially interfere with enforcement or determining the source's compliance with applicable emission limits. . . A violation of an allowable emission limit detected during a reference method stack test." See HPV Policy, pp. 3-4. See also HPV Workbook, p. 3.5.

- Violations of emission limits for pollutants for which a facility is not designated as a "major " source may not rise to the level of HPV. The guidance addresses such circumstances by stating:

"EPA expects that all violations of air pollution regulations, whether meeting the HPV criteria or not, will be addressed by states, local agencies, or EPA." See HPV Policy, p. 2.

- The HPV Policy does not apply in situations where the delegated agency accepts a facility's claim that it was unable to conduct an initial performance test within the regulatory deadline due to a Force Majeure Event. A more detailed discussion of such an event is described below in the Section, "The Time Frame for Conducting Stack Tests."

¹ The Agency has issued separate guidance for SIPs on how to address excess emissions during start-up, shutdown or malfunctions.

VII MAJOR ISSUES

- The guidance addresses the following major issues:
 1. The Time Frame for Conducting Stack Tests
 2. Stack Test Waivers
 3. Stack Test Notifications
 4. Observation of Stack Tests
 5. Representative Testing Conditions
 6. Stoppages
 7. Postponements
 8. Test Reports

1. THE TIME FRAME FOR CONDUCTING STACK TESTS

- The primary issue is whether facilities can be granted an extension beyond the required time period to complete an initial stack test under the general provisions of the NSPS, NESHAP, and MACT programs. Individual standards may establish different time periods for testing, and some may be shorter than the general provisions. For example, in 40 CFR § 63.152(b), the Notice of Compliance Status must be submitted by sources subject to NSPS Subpart G within 150 calendar days after the specified compliance dates. In addition, individual standards may allow facilities to petition for an extension of an initial (or subsequent) stack test. See, e.g., 40 CFR §§ 63.1207(e)(3), 63.1207(i) (NSPS Subpart EEE).
- The time frame for conducting initial stack tests is established in 40 CFR § 60.8 for NSPS; and 40 CFR §§ 61.13 and 63.7 for NESHAP and MACT. Both the NSPS and MACT regulations regarding performance tests include provisions under which owners or operators of facilities shall notify appropriate authorities in the event that the scheduled test must be delayed, and further discuss rescheduling of the test. 40 CFR §§ 60.8(d), 63.7(b)(2). The MACT provision regarding rescheduling of performance tests further states: "This notification of delay in conducting the performance test shall not relieve the owner or operator of legal responsibility for compliance with any applicable provisions of this part or with any other applicable Federal, state, or local requirement, nor will it prevent the Administrator from implementing or enforcing this part or taking any other action under the Act." While these programs include provisions regarding notification of a test delay and rescheduling of the test, there are no regulatory provisions providing for extension of the testing deadlines in these programs, except in the event of a force majeure. 40 CFR §§ 60.8(a)(1-4), 61.13(a)(3-6), 63.7(a)(4).
- A force majeure is defined by the applicable regulations as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified time frame despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of

nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility. 40 CFR §§ 60.2, 61.02, 63.2.

- If a claim of force majeure is to be asserted, the facility shall provide written notification to the Administrator in accordance with the applicable regulations. The performance test shall be conducted as soon as practicable after the force majeure occurs. Whether to grant an extension to the performance test deadline is solely within the discretion of the Administrator. Until an extension has been approved by the Administrator, the facility remains strictly subject to the performance test requirements of the applicable regulations. 40 CFR §§ 60.8(a)(1-4), 61.13(a)(3-6), 63.7(a)(4).

- Because the applicable regulations governing initial stack tests do not provide for extensions of the performance test deadline except in the event of a force majeure, a facility that has not completed a stack test within the requisite time frame or has not received approval of an extension due to force majeure would not be in compliance with the regulatory provisions to stack test and demonstrate compliance with the underlying standard within the required time period.

- Except for the circumstance whereby a claim of force majeure has been asserted, the delegated agency is constrained by the fact that the General Provisions do not provide for an extension of the initial performance test deadline. However, the agency may provide, in the exercise of its enforcement discretion, additional time beyond the regulatory deadline within which the facility must perform the test.² This ensures that a stack test is conducted as expeditiously as possible in order for the facility to demonstrate that it is capable of complying with the underlying regulatory requirements. In providing for additional time, the delegated agency should review the circumstances that led to the test not being conducted by the regulatory deadline, including any explanation by the facility, before deciding the appropriate course of action for not testing by the deadline. The following are examples of how the delegated agency, using its enforcement discretion, may respond to facilities that do not meet performance test deadlines.

- (1) A facility contacts the delegated agency before the test deadline has passed and requests additional time to conduct an initial stack test because it is unable to reach its maximum production rate within the start-up period. Insisting that the facility conduct the test within the required time frame may not be appropriate because the information obtained during the test would not be meaningful in determining compliance with the underlying emissions requirements. Therefore, it may be appropriate for the facility to postpone the test. Such postponement under these circumstances would result in the facility not being in compliance with the regulatory provision to conduct a stack test by the regulatory deadline. Additional time may be added through an enforcement discretion letter or an

² Some EPA-approved SIPs may allow states authority to grant extensions of the deadline to conduct a stack test without the issuance of an enforcement order. Extensions of deadlines may be granted in such states where allowed by the EPA-approved SIP.

administrative order. Such a delay beyond the deadline should not be automatically considered a violation of the underlying emissions requirement. The delegated agency should take into consideration the facility's unique circumstances when choosing an appropriate response, and whether penalties should be assessed consistent with the HPV Policy and the *CAA Civil Penalty Policy* (Penalty Policy). The Penalty Policy can be obtained at:

<http://www.epa.gov/compliance/resources/policies/civil/caa/stationary/penpol.pdf>

- (2) A facility requests, either before or after the test deadline, additional time to conduct an initial stack test because it realizes that it is not meeting or cannot meet the underlying regulatory requirements and would fail the test. Additional time may be granted through an administrative order. However, the failure to test is a violation of the requirement to test within the required time frame, and the facility also is in violation of the underlying regulatory requirements. Penalties should be assessed consistent with the HPV Policy and the Penalty Policy.
 - (3) A facility fails to test within the regulatory deadline, and either fails to notify the agency, or notifies the agency after the regulatory deadline has passed. The full range of enforcement actions should be considered when deciding how to address the failure to test within the required time frame, and to establish a date certain for testing. Penalties should be assessed consistent with the HPV Policy and the Penalty Policy.
- The facility need not wait for the agency response before rescheduling the test provided it is in compliance with the notification and rescheduling provisions of 40 CFR §§ 60.8(d) and 63.7(b)(2) as appropriate. In those instances where the stack test is ultimately conducted before the agency formally responds to the facility's noncompliance with the initial test deadline, the agency response should acknowledge the test, but document the facility's non-compliance with the regulatory provision.

2. STACK TEST WAIVERS

- Stack tests to determine and demonstrate initial compliance may be, in some instances, the only test an emission unit will receive for an extended period of time. Therefore, all units should be tested for initial compliance unless a waiver has been granted by the delegated agency pursuant to 40 CFR §§ 60.8(b)(4), 61.13(h)(1)(iii), or 63.7(h). Waivers are granted only if the owner or operator of a source has demonstrated by other means that the source is in compliance with the applicable standard, or, under the MACT provisions, if the source is operating under an extension of compliance pursuant to § 63.6(i), or has requested such an extension and the request is under consideration by the delegated agency. The waiver regulations make clear that the burden of proof is on the affected facility to justify the need for a waiver. Although the NSPS and NESHAP programs do not specify what information is required as justification, the MACT program in 40 CFR § 63.7(h)(3)(iii) states that the waiver application should include information such as the "technical or economic infeasibility, or the impracticality, of the affected source

performing the required test."

- The primary issue of concern with respect to waiver requests is whether stack tests to determine and demonstrate on-going compliance with emission limits should be waived under the NSPS, NESHAP and MACT programs for units identical to a unit(s) that has been tested.

- Units, although identical in terms of design and control devices, may have process operations that significantly alter their performance and ability to comply with the underlying regulatory requirements on a continuing basis. Therefore, if the identical units have the ability to emit a pollutant in excess of the prescribed emission limit, a stack test should not be waived without adequate justification. However, a waiver may be appropriate on a case-by-case basis when criteria such as the following are met:

- (1) the units are located at the same facility;
- (2) the units are produced by the same manufacturer, have the same model number or other manufacturer's designation in common, and have the same rated capacity and operating specifications;
- (3) the units are operated and maintained in a similar manner; and
- (4) the delegated agency, based on documentation submitted by the facility,
 - (a) determines that the margin of compliance for the identical units tested is significant and can be maintained on an on-going basis; or
 - (b) determines based on a review of sufficient emissions data that, though the margin of compliance is not substantial, other factors allow for the determination that the variability of emissions for identical tested units is low enough for confidence that the untested unit will be in compliance.³ These factors may include, but are not limited to, the following:
 - (i) historical records at the tested unit showing consistent/invariant load;
 - (ii) fuel characteristics yielding low variability (e.g., oil) and therefore assurance that emissions will be constant and

³ As a general matter, the greater the quantity of available emissions data, the smaller the range of uncertainty about emissions and the more readily reviewing agencies can determine precise levels of emissions variability. Under such circumstances, delegated agencies may have greater assurance that compliance will be continuous even where the difference between actual and permitted emission rates is relatively small.

below allowable levels;

(iii) statistical analysis of a robust emissions data set demonstrate sufficiently low variability to convey assurance that the margin of compliance, though small, is reliable.

- If a facility does not have the ability to emit a pollutant in excess of the prescribed emission limit, waivers on a case-by-case basis may be issued for both initial and on-going compliance stack tests. For example, a stack test waiver for identical units at a facility operating multiple natural gas-fired boilers subject to a particulate matter standard generally would be appropriate.
- Waivers can be granted only by the appropriate delegated agency. See 40 CFR § 63.91(g). See also, "*How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring*," EPA 305-B-99-004, Section 4.2, pp.19-22 (February 1999). If the delegated state/local agency has the authority to grant a waiver, it still should consult promptly with EPA to promote national consistency.

3. STACK TEST NOTIFICATIONS

- The primary issue is what constitutes sufficient notification of a planned stack test under the regulatory requirements. Sufficiency is defined to include both the timing of the notification, as well as the content of the notification.
- Unless specified otherwise in the subpart, both the NSPS and NESHAP programs require at least thirty (30) calendar days advance notice of a stack test [40 CFR § 60.8(d) and 40 CFR § 61.13(a) and ©], while the MACT program requires at least sixty (60) calendar days [40 CFR § 63.7(b)(1)]. The test date(s) and approximate start/end time of the test should be acceptable to both the delegated agency and the facility to allow the delegated agency an opportunity to observe the test, if desired. If for some reason the stack test must be delayed, facilities also are required to provide notification of the delay. The time frame for such notifications differs under each program. Under 40 CFR § 60.8(d), the facility is required to provide notification "as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Administrator (or delegated state or local agency) by mutual agreement." Under 40 CFR § 63.7(b)(2), if the facility must delay the test due to "unforeseeable circumstances beyond [its] control", the facility must notify the "Administrator as soon as practicable and without delay prior to the scheduled performance test date and specify the date when the performance test is rescheduled." 40 CFR § 61.13 does not address this issue.
- Generally, facilities are required to notify EPA and the delegated agency of the delay. In some instances, however, facilities are only required to notify the delegated agency of the delay. Notification to EPA in addition to the delegated agency is dependent on individual Regional delegations of these requirements. Written notification should be sent to the appropriate

state/local agency and, if required, concurrently to EPA. The rescheduled test date should be acceptable to both the delegated agency and the facility. This affords the delegated agency an opportunity to observe the test, if desired. If timely notification is not provided, the test results may be deemed unacceptable, and the source may be required to test again.

- For stack tests that are being conducted pursuant to requirements in an operating permit or an enforcement order, the time frame for notification may differ and will be governed by the permit or order.

- Notification is not necessary if the stack test is not within the scope of this guidance as discussed in the Section, "Scope of Guidance." However, facilities should notify EPA and the delegated agency if there is a potential for applicable limits to be exceeded. Furthermore, as noted previously, the data from stack tests may be subject to Title V reporting requirements and need to be considered by the source when submitting reports and certifying compliance pursuant to the Title V program.

- 40 CFR Parts 60 and 61 do not require facilities to submit site-specific test plans prior to conducting a stack test. 40 CFR § 63.7(b)(1) requires submission of such plans "upon request." See also 40 CFR § 63.7(c)(2)(i) (owner or operator shall submit site-specific test plan if requested by the Administrator). However, many delegated agencies routinely request that the plans be submitted at the time of notification for review and approval. The submission of a plan prior to the stack test helps to ensure that the testing requirements are interpreted correctly and required test methods are followed; minimizes potential problems encountered during the test; and reduces the possibility of testing errors. Ultimately, having the plan reviewed and approved prior to the test reduces the number of retests.

- The format of site-specific test plans may vary. However, certain basic elements should be addressed in a site-specific test plan to assist in national consistency, and ensure that a complete and representative stack test is conducted. 40 CFR § 63.7(c)(2)(i) states that before conducting a required performance test, the owner or operator shall develop a site-specific test plan and, if required by the Administrator, submit it for approval. The test plan shall include "a test program summary, the test schedule, data quality objectives, and both an internal and external quality assurance (QA) program." Data quality objectives are "the pretest expectations of precision, accuracy, and completeness of data." 40 CFR § 63.7(c)(2)(i). The internal QA program shall include, "at a minimum, the activities planned by routine operators and analysts to provide an assessment of test data precision; an example of internal QA is the sampling and analysis of replicate samples." § 63.7(c)(2)(ii). The external QA program shall include, "at a minimum, application of plans for a test method performance audit (PA) during the performance test." § 63.7(c)(2)(iii). In addition, a site-specific test plan generally should include chain of custody documentation from sample collection through laboratory analysis including transport, and should recognize special sample transport, handling, and analysis instructions necessary for each set of field samples. For a prototype of a sufficiently detailed site-specific test plan, see *Emission Measurement Center Guideline Document* (GD-042), "**Preparation and Review of Site-Specific Emission Test Plans**," (March 1999) (www.epa.gov/ttn/emc/guidlnd.html).

- To assist in the preparation and transcription of test plans, the ***Electronic Reporting Tool*** (ERT) should be used when possible. (www.epa.gov/ttn/chief/ert/ert_tool.html). The ERT was designed to replace the time-intensive manual preparation and transcription of stationary source emissions test plans and reports currently performed by contractors for emissions sources, and the time-intensive manual quality assurance evaluations and documentation performed by the Regions or state/local agencies. The ERT provides a format that:
 - Highlights the need to document the key information and procedures required by the existing EPA Federal Test Methods.
 - Facilitates coordination among the source, the test contractor, and the regulatory agency in planning and preparing for the emissions test.
 - Provides for consistent criteria to quantitatively characterize the quality of the data collected during the emissions test.
 - Standardizes the reports.
 - Provides for future capabilities to electronically exchange information in the reports with facility, state or Federal data systems.
- Test plans should be maintained by the facility consistent with the statutory and regulatory requirements, and made available to EPA, and state/local agencies upon request.
- If a facility wishes to deviate from a required test method, the facility would need to gain approval from the delegated agency in advance of the test. See 40 CFR § 60.8(b) (NSPS); 40 CFR § 61.13(h)(1) (NESHAP); 40 CFR § 63.7(e)(2) (MACT). For purposes of the NSPS and NESHAP programs, changes are divided into two separate categories: "minor " changes; and "major " changes (described in the regulations as alternative or equivalent methods). Major changes must be approved by OAQPS, while minor changes can be delegated to state/local agencies. See Memoranda from Jack R. Farmer to Allyn M. Davis, "***Delegation of New Source Performance Standards Authority to States*** " (February 24, 1983); and from Jack R. Farmer to David P. Howekamp, "***Delegation of NESHAP Authority to State/Local Agencies*** " (December 17, 1984), both included in Attachment 2 to the guidance document entitled "***How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring,***" EPA 305-B-99-004, (February 1999). For examples of what constitutes major versus minor changes, see the above cited memoranda.
- For purposes of the MACT program, changes to test methods are divided into three categories: "major," "intermediate," and "minor ". Major changes must be approved by OAQPS, while intermediate and minor changes can be delegated to state/local agencies. See 40 CFR § 63.91(g). Definitions of the three categories are provided in 40 CFR § 63.90.
- The facility must receive prior written approval for deviations from a test method from the

appropriate delegated agency. If the deviation is to be approved by a state/local agency, it should be in consultation with EPA, or as otherwise required by the delegation. See also "How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring," EPA 305-B-99-004, Section 4.2, pp.19-22 (February 1999). If a deviation from a test method has not been approved, the test results may be deemed unacceptable, and the source may be required to test again.

- The request for a minor change or deviation from a required test method may be submitted as part of the site-specific test plan, while intermediate and major changes or deviations to test methods should be requested via written correspondence to the delegated agency or EPA as appropriate. Requests for all changes or deviations must document to the satisfaction of the delegated agency the requested change, and the rationale for the change. For a more detailed guideline regarding the content for requests for changes to test methods, see *Emission Measurement Center Guideline Document* (GD-022r3), "*Handling Requests for Approval of Minor/Major Modifications/Alternatives to Testing and Monitoring Methods or Procedures* " at <http://www.epa.gov/ttn/emc/guidlnd.html>.
- In addition to any deviations from the required test methods, the facility should document within the test plan any adjustments that will be made prior to the stack test such as tuning the burner or changing bags in a baghouse. It is not necessary, however, to describe normally scheduled periodic maintenance that may occur in the normal course of operation and maintenance of a unit. If an agency representative is present to observe the test, the facility also should notify the observer of such adjustments before the test begins.

4. OBSERVATION OF STACK TESTS

- The primary issue with respect to observing stack tests to determine and demonstrate compliance is whether a delegated agency should have an observer present for all stack tests, and if not, how often should the delegated agency be present to observe the tests.
- There is no requirement that delegated agencies be present to observe all stack tests. However, whenever possible, trained staff from delegated agencies should observe the tests to ensure that the regulatory testing requirements are being met; the site-specific test plan is being followed; and the results are being accurately and completely recorded and documented in the test report. The observer should have the access necessary to ensure that the test is being conducted properly and results reported accurately. Furthermore, the observer should be present for the duration of the test, including all test runs. The presence of an observer helps to reduce the likelihood of sample recovery and handling errors, as well as equipment errors, and to ensure that testing is conducted under the proper process conditions. Ultimately, the presence of a state/local observer reduces the number of retests. Therefore, the test date(s) and approximate start/end time of the test should be acceptable to both the delegated agency and the facility to allow the delegated agency an opportunity to observe the test, if desired.

- If the delegated agency chooses not to observe the test, prior review of the site-specific test plan is even more critical to ensure that the test is conducted in such a manner so as to satisfy the regulatory requirements.
- If the delegated agency was not provided timely notification and an opportunity to observe the stack test consistent with applicable regulatory requirements, the resulting test data may be rejected and a new stack test may be required. If this situation prevents the facility from completing a valid stack test within the requisite time frame, the facility is in violation of the requirement to conduct a stack test and demonstrate compliance. However, if the facility provided timely notice and the delegated agency did not respond or declined to observe the test, the test results should not be rejected solely because the test was not observed by agency personnel.

5. REPRESENTATIVE TESTING CONDITIONS

- The CAA requires that facilities comply with emissions limitations and emissions standards on a continuous basis. The Act defines the terms "emissions limitation " and "emission standard " in Section 302(k), 42 U.S.C. § 7602(k), as meaning "a requirement established by the state or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis" (emphasis added). The statute also authorizes penalties for multiple days of violations and establishes a presumption of continuing violations if certain conditions are met. CAA Section 113(e)(1) and (2), 42 U.S.C. §§ 7413(e)(1) and (2). EPA has consistently, in rulemaking and policy statements over many years, taken the position that the CAA requires continuous compliance with emissions limits except where compliance is explicitly excused. See, e.g., Guidance entitled "*Definition of 'Continuous Compliance' and Enforcement of O&M Violations*," (June 24, 1982) ("In the strict legal sense, sources are required to meet, without interruption, all applicable emissions limitations and other control requirements, unless such limitations specifically provide otherwise."); Credible Evidence Rulemaking, 62 FR 8314, 8323, 8324, 8326 8314 (Feb. 24, 1997) (emissions limits require continuous compliance (consistent with any averaging times) except during periods when compliance is specifically excused).
- Since the CAA requires continuous compliance with emissions limits except where explicitly excused, EPA interprets applicable regulations to require that any stack test that is conducted within the scope of this guidance must demonstrate that a facility is capable of complying with the applicable emissions standards at all times.⁴ The NSPS and MACT programs require that performance tests be conducted under such conditions as the Administrator specifies based upon the representative performance of the affected facility. See 40 CFR §§ 60.8© and 63.7(e). The MACT program further defines representative performance as normal operating conditions. 43 CFR § 63.7(e). Operations during periods of startup, shutdown and malfunction do not constitute representative conditions for the purposes of a performance test. 40 CFR §§ 60.8(c)

⁴ Complying with the applicable standards "at all times " does not include allowable periods of start-up, shutdown, and malfunction as provided in 40 CFR §§ 60.8 (c) and 63.7(e)(1).

and 63.7(e). The Part 61 NESHAP program requires that emission tests be conducted “under such conditions as the Administrator shall specify "based on design and operational characteristics of the source." 40 CFR § 61.13(e). Individual standards may more specifically define operating conditions under which performance tests should be conducted. In the absence of such specifications, the question often arises as to what operating conditions should be used when conducting a stack test. If operating conditions are not indicated by the applicable requirements in individual standards, they should be developed as part of the site-specific test plan.

- In light of the fact that: (a) the Act requires that facilities continuously comply with emission limits; (b) the NSPS, MACT, and NESHAP programs all require that performance tests be conducted under such conditions as the Administrator specifies; and (c) the NSPS and MACT programs further require that such tests be conducted under representative operating conditions; EPA recommends that performance tests be performed under those representative (normal) conditions that:

- represent the range of combined process and control measure conditions under which the facility expects to operate (regardless of the frequency of the conditions); and
- are likely to most challenge the emissions control measures of the facility with regard to meeting the applicable emission standards, but without creating an unsafe condition.

- The following are factors that should be considered in developing the plan for a performance test that challenges to the fullest extent possible a facility’s ability to meet emissions limits.

- For a facility operating under an emission rate standard (e.g., lb/hr) or concentration standard (e.g., $\mu\text{g}/\text{m}^3$), normal process operating conditions producing the highest emissions or loading to a control device would generally constitute the most challenging conditions with regard to the emissions standard. If operating at maximum capacity would result in the highest levels of emissions, operating at this level would not create an unsafe condition, and the facility expects to operate at that level at least some of the time, EPA recommends that the facility should conduct a stack test at maximum capacity or the allowable/permitted capacity.
- For a facility operating under a control or removal efficiency standard (e.g., 98 percent control or removal of a specified pollutant), lower emissions loading at the inlet of a control device within the range of expected process operating conditions may often be the most challenging emissions control scenario for purposes of achieving the applicable standard. For facilities required to achieve such control or removal efficiency standards,

EPA recommends that the performance test include operating the facility under such expected lower emissions loading conditions.

- The test plan should generally include use of fuel, raw materials, and other

process/control equipment that the facility expects to use during future operations that would present the greatest challenge in meeting applicable emissions standards. To demonstrate the facility's ability to meet concentration standards and emissions rate standards, for example, the facility generally should use the fuel or raw materials that it expects to use and that have the highest emissions potential for the regulated pollutant(s) being tested. In instances where alternative processing materials are expected to be used by the facility and those materials are known to adversely impact emissions quality or the functioning of control measures, the facility generally should use the material that is likely to cause the greatest challenge in meeting applicable emissions standards. For concentration and emissions rates standards, the facility generally should process the material that it expects to use during future operations that is likely to cause the highest emissions. For control or removal efficiency standards, other factors may apply such as using fuels or raw materials that contain or produce pollutants that are more difficult to combust or otherwise remove.

- A facility is not required automatically to retest if the initial test does not represent the range of combined process and control measure conditions under which the facility expects to operate, or if the test does not challenge to the fullest extent possible the facility's ability to meet applicable emission standards without creating an unsafe condition. Furthermore, the facility is not required automatically to retest if the facility's operating conditions subsequently vary from those in place during the performance test. The delegated agency must determine whether retesting is warranted; however, in both instances, the facility is responsible for demonstrating to the satisfaction of the delegated agency that the facility is able to continuously comply with the emissions limits when operating under expected operating conditions, taking into consideration the factors discussed above in this section.
- This guidance does not affect the ability of delegated agencies to prohibit a facility from operating at levels of capacity different from the level used during the stack test, or to restrict production to reflect conditions equivalent to those present during the stack test.

Soot-Blowing:

- Soot-blowing is the cleaning of heat exchanger surfaces by the use of steam or air to dislodge accumulated material such as ash. The Agency guidance on this issue states that soot-blowing is a routine operation constituting representative process conditions. Emissions from soot-blowing cannot be discarded as being the result of an upset condition, and it would be erroneous to stop soot-blowing for the purpose of conducting a stack test. Agency guidance outlines the procedures for including soot-blowing while stack testing. The frequency with which facilities perform soot-blowing can vary significantly and the agency guidance addresses this issue by allowing facilities to weight the soot-blowing data in the performance tests based on the frequency of the soot-blowing.⁵ See Memoranda from John S. Seitz to David Kee "*Inclusion of*

⁵ Under EPA-approved SIPs, some states may allow soot-blowing emissions to be excluded as an element of a comprehensive stack test. This approach, however, is not applicable

Soot-Blowing Emissions in Subpart D Compliance Testing" (August 31, 1987); from Kathleen M. Bennett to Directors, Air & Waste Management Divisions "*Restatement of Guidance on Emissions Associated with Soot-Blowing*" (May 7, 1982); from Edward E. Reich to Sandra S. Gardebring "*Representative Testing Requirements*" (November 21, 1980); Memoranda from Edward E. Reich to Leslie Carothers "*Integration of Soot-Blowing Emissions with Routine Operating Data for Existing Facilities*" (March 12, 1979); from Edward E. Reich to Enforcement Division Directors, Air and Hazardous Material Division Directors, and Surveillance and Analysis Division Directors "*NSPS Determination - Subpart D*" (March 6, 1979); and Memoranda from Edward E. Reich to Robert L. Markey "*Determination of Applicability to Subpart D*" (June 29, 1977).

6. STOPPAGES

- The primary issue is whether it is appropriate to stop a stack test being conducted to determine and demonstrate compliance once it has been started, and if so, under what circumstances.
- There are no regulatory provisions in the NSPS, NESHAP, or MACT programs that address whether a facility is allowed to stop a stack test once it has been started.⁶ Depending on the circumstances surrounding the stoppage, the facility may be found in violation of the requirement to conduct a stack test, the underlying regulatory requirement, or both. For example:
 - If a facility stopped the stack test because it was exceeding applicable emission standards and would have failed the test, it would be considered in violation of both the requirement to conduct a stack test (if it does not complete a performance test by the applicable deadline) and to comply with the underlying regulatory requirement or permit condition. Consistent with 40 CFR §§ 60.11 and 61.12, any credible evidence may be used to demonstrate non-compliance. For major sources, the test should be reported in the Title V quarterly or semi-annual deviation reports, and taken into consideration as part of the annual compliance certifications. In addition, the stoppage should be reported as a failure in the national air data system, and an enforcement action should be initiated and penalties assessed consistent with the HPV Policy and CAA Civil Penalty Policy.
 - If a facility is forced to stop a test due to a Force Majeure Event, the facility shall provide written notification to the Administrator in accordance with the applicable

to stack tests required by 40 CFR Parts 60, 61, and 63.

⁶ However, under 40 CFR § 63.7(e), the results of a test run may, upon approval from the Administrator, be replaced with the results of an additional test run in the event that a test run is discontinued because of forced shutdown or other circumstances discussed in the regulation. Under 40 CFR § 60.8(f), if a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued for certain types of circumstances beyond the owner or operator's control, the results of two runs may be used with the Administrator's approval.

regulations. The performance test shall be conducted as soon as practicable after the force majeure occurs. Whether to grant an extension to the performance test deadline is solely within the discretion of the Administrator. Until an extension has been approved by the Administrator, the facility remains strictly subject to the performance test requirements of the applicable regulations. 40 CFR §§ 60.8(a)(1-4), 61.13(a)(3-6), 63.7(a)(4).

7. POSTPONEMENTS

- The primary issue is whether it is appropriate to postpone a stack test to determine and demonstrate compliance once it has been scheduled, and if so, under what circumstances. See also the discussion of delays in conducting the performance test in the Section, "Stack Test Notifications."
- Postponements should be treated similar to stoppages. If a postponement results in the facility failing to complete the test within the required time frame, the facility is in violation of the requirement to test.
- Regardless of whether the postponement affects a facility's ability to test in a timely manner, the delegated agency should carefully scrutinize the circumstances surrounding the postponement to determine whether the facility was in violation of the underlying emission limitations, and therefore, postponed the test to avoid a documented violation. Consistent with 40 CFR §§ 60.11 and 61.12, any credible evidence may be used to demonstrate non-compliance or compliance.

8. TEST REPORTS

- The primary issue is what information is needed to adequately document the results of a stack test conducted to determine and demonstrate compliance.
- The written test report should be sufficient to assess compliance with the underlying regulatory requirements, permit conditions, or enforcement order, and adherence to the test requirements. When reviewing the site-specific test plan, the delegated agency should identify for the facility any information that should be included in the test report. During the actual test program, there are usually modifications to the procedures specified in the site-specific test plan, and these modifications should be documented in the test report.
- Similar to the site-specific test plan, certain basic elements should be addressed in a test report to document the testing conditions and results, and enable the delegated agency to determine whether a complete and representative stack test was performed. For a prototype of a sufficiently detailed test report, see *Emission Measurement Center Guideline Document* (GD-043), "*Preparation and Review of Emission Test Reports*," (December 1998) (www.epa.gov/ttn/emc/guidlnd.html). If the test report does not contain sufficient information with which to adequately review the testing process and data results, it is within the discretion of

the delegated agency to request additional information, or require another test if appropriate.

- The test report should include chain-of-custody information from sample collection through laboratory analysis including transport. It also should include sufficient raw data and cross correlations in the appendices such that a new set of calculations including statistics could be independently generated from the raw data if necessary (e.g., median versus geometric-mean).
- The test report should be submitted to the delegated agency as soon as possible after completion of the stack test and, at a minimum, in compliance with any underlying regulatory requirements. For stack tests being conducted pursuant to 40 CFR Part 60, the test report is to be submitted within 180 days after the initial startup date or within 60 days after reaching maximum production rate. § 60.8(a). For those tests being conducted pursuant to 40 CFR Part 61, the test report is to be submitted within 31 days after completion of the test. § 61.13(f). If the test is being conducted pursuant to 40 CFR Part 63, the test report must be submitted within 60 days after the test is completed unless another time frame is specified in the applicable subpart. § 63.9(h)(2)(i)(G). In addition, all test reports should be maintained consistent with the requirements of the CAA and its implementing regulations, and made available to EPA upon request. To assist in the preparation and transcription of test plans, the ERT should be used when possible.

Rounding of Significant Figures:

- For clarification on how the results of a stack test should be calculated and reported, this guidance defers to the current Agency guidance. See Memorandum from William G. Laxton and John S. Seitz to New Source Performance Standards/National Emission Standards for Hazardous Pollutants Compliance Contacts "*Performance Test Calculation Guidelines*" (June 6, 1990). After reiterating the established procedure concerning the use of the metric system in expressing compliance standards, the guidance states that all emission standards should have at least two significant figures and at least five significant digits are to be carried in intermediate calculations.
- When rounding off the calculated emission numbers, the guidance affirms the practices of the American Society for Testing and Materials:
 - If the first digit to be discarded is less than five, the last digit retained should not be changed. When the first digit discarded is greater than five, or if it is a five followed by at least one digit other than 0, the last figure retained should be increased by one unit. When the first digit discarded is exactly five, followed only by zeros, the last digit retained should be rounded upward if it is an odd number, but no adjustment made if it is an even number.
 - For example, if the emission standard is 90, 90.357 would be rounded to 90, 90.639 would be rounded to 91, 90.500 would be rounded to 90, and 91.500 would be rounded to 92.

92. See Laxton and Seitz, pp. 3-4.

VIII EPA ROLE

- As part of EPA's oversight responsibilities, EPA may observe stack tests whenever the Agency deems appropriate. The Agency also will review test reports as needed to verify that the tests are being conducted properly, and that the results are being accurately interpreted and reported by state/local agencies.
- Consistent with CMS and the State Review Framework, EPA will periodically conduct analyses to evaluate whether stack tests are being properly conducted and sufficiently and effectively utilized to determine compliance; and whether the results are being accurately reported in a timely manner.

EXHIBIT I

NATIONAL LIME ASSOCIATION,
Petitioner,

v.

**ENVIRONMENTAL PROTECTION
AGENCY and Douglas M. Costle, Ad-
ministrator of Environmental Protection
Agency.**

No. 78-1385.

United States Court of Appeals,
District of Columbia Circuit.

Argued Dec. 11, 1979.

Decided May 19, 1980.

Limestone industry's trade association filed petition for review of order of Environmental Protection Agency. The Court of Appeals, Wald, Circuit Judge, held that there was inadequate support in administrative record with respect to "achievability" of EPA's new source performance standards for lime-manufacturing plants, which limited mass of particulate that could be emitted in exhaust gas from all lime-hydrating and from certain lime-manufacturing facilities and limited permitted visibility of exhaust gas emissions from some facilities manufacturing lime, given EPA's failure to consider representativeness along various relevant perimeters of data relied upon, and thus case had to be remanded to EPA's Administrator for more adequate explanation or, if necessary, for supplementary data to justify standards in terms of "representativeness" of sources tested.

Remanded.

1. Health and Environment ⇌ 25.15(1)

There was inadequate support in administrative record with respect to "achievability" of Environmental Protection Agency's new source performance standards for lime-manufacturing plants, which limited mass of particulate that could be emitted in exhaust gas from all lime-hydrating and from certain lime-manufacturing facilities and limited permitted visibility of exhaust gas emissions from some facilities manufac-

turing lime, given EPA's failure to consider representativeness along various relevant perimeters of data relied upon, and thus case had to be remanded to EPA's Administrator for more adequate explanation or, if necessary, for supplementary data to justify standards in terms of "representativeness" of sources tested. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

2. Health and Environment ⇌ 25.5(9)

Scheduling of public meeting, which was to provide opportunity for oral presentation and comment on Environmental Protection Agency's proposed new source performance standards for lime-manufacturing plants, at which limestone industry's oral presentations merely repeated its written comments simultaneously submitted, and at which no significant interchange took place between industry and EPA which was not reflected in industry's written comments, was not what court had in mind in certain decision that was critical of agency practice holding ex parte, confidential meetings with individual industry representatives concerning proposed rule in which there was active, competing industry and public interest.

3. Federal Courts ⇌ 1134

The United States Court of Appeals for District of Columbia Circuit is the exclusive court of review of new source performance standards. Clean Air Act, § 307(b)(1) as amended 42 U.S.C.A. § 7607(b)(1).

4. Health and Environment ⇌ 25.5(2)

A "savings" clause did perpetuate rules, regulations, orders, determinations or other actions already duly issued, made or taken, but as Environmental Protection Agency's new source performance standards for lime-manufacturing plants were not "duly issued" until finally promulgated in March 1978, the substantive aspects of finally promulgated standards were governed by 1977 amendments to Clean Air Act's provisions for new source performance standards. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

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Cite as 627 F.2d 416 (1980)

5. Health and Environment ⇌ 25.6(5)

Environmental Protection Agency should not be required to withhold promulgation of proposed new source performance standards for lime-manufacturing plants while it considered development of newly authorized and severable aspects of those standards, and Court of Appeals considered requirement of "percentage reduction" for fossil fuel-fired sources one such severable aspect, but, with respect to aspects of 1977 amendments which may operate at cross-purposes or in fact inconsistently with prior law, EPA's standards should reflect new law, and new requirements that standards be achievable by emission reduction system which was "technological" and "continuous" were two such aspects to which EPA ought to have given some consideration before standard was finally promulgated. Clean Air Act, §§ 111, 111(a)(1) as amended 42 U.S.C.A. §§ 7411, 7411(a)(1).

6. Health and Environment ⇌ 25.15(6)

Search for reasoned decision making in world of technical expertise had to continue if judicial review was to have any meaning in statutory scheme governing new source performance standards issued by Environmental Protection Agency under applicable section of Clean Air Act. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

7. Health and Environment ⇌ 25.6(5)

Environmental Protection Agency's promulgation, under applicable section of Clean Air Act, of new source performance standards for lime-manufacturing plants that was based upon inadequate proof of achievability would defy Administrative Procedure Act's mandate against action that was arbitrary, capricious and abuse of discretion, or otherwise not in accordance with law. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411; 5 U.S.C.A. § 706.

8. Health and Environment ⇌ 25.6(3)

An achievable new source performance standard for industry need not be one already routinely achieved in industry, but, to be achievable, a uniform standard must be capable of being met under most adverse conditions which can reasonably be expect-

ed to recur and which are not or cannot be taken into account in determining "costs" of compliance. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

9. Health and Environment ⇌ 25.6(3)

The statutory standard for new source performance standards for industry is one of achievability, given costs, and some aspects of "achievability" cannot be divorced from consideration of "costs," and typically one associates "costs" with capital requirements of new technology but, certain "costs," e. g., frequent systematic shutdown to service emission control systems or use of feedstock of certain size or composition in order to meet new emission standards, are more intimately intertwined with "achievability" than are capital costs of new technology. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

10. Health and Environment ⇌ 25.6(5)

Environmental Protection Agency's new source performance standards for lime-manufacturing plants, which did not account for certain routine variations and conditions, was impermissibly "unachievable," where there was no evidence in record that "costs" of adjusting for such routine variations, assuming such adjustments be possible, were considered by EPA in promulgating its standards. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

11. Health and Environment ⇌ 25.6(5)

Environmental Protection Agency had expressly built some flexibility into enforcement end of its new source performance standards for lime-manufacturing plants, relating to startup, shutdown, and malfunction, and was vested with more general enforcement discretion, but flexibility appropriate to enforcement would not render "achievable" standards which could not be achieved on regular basis, either for reasons expressly taken into account in compliance determination regulations, here startup, shutdown and malfunction, or otherwise. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

12. Health and Environment ⇌ 25.6(5)

Danger of particulate emissions' effect on health had been sufficiently supported in Environmental Protection Agency's previous determination that significant production of particulate emissions itself contributed to air pollution, which determination had been made for purposes of establishing national air quality standards, and without regard to harmful or beneficial effect of material of which particulate was composed, to provide rational basis for EPA Administrator's finding in instant case that lime-manufacturing plants contributed to air pollution which contributed to endangerment of public health, because of sheer quantity of dust generated by lime plants, even though limestone industry argued innocuousness or even benign effect of lime emissions. Clean Air Act, §§ 109, 111(b)(1)(A) as amended 42 U.S.C.A. §§ 7408, 7411(b)(1)(A).

13. Health and Environment ⇌ 25.6(5)

Whatever its impact on public health, it could not be said that lime dust "nuisance" had no impact on public welfare, since Congress had provided with respect to Clean Air Act that all language referring to effects on welfare included, but was not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, climate, damage to and deterioration of property, hazards to transportation, and effects on economic values and on personal comfort and well-being, and thus Environmental Protection Agency Administrator's determination that lime-manufacturing plants contributed to air pollution which contributed to endangerment of public welfare, because of sheer quantity of dust generated by lime plants, was not arbitrary. Clean Air Act, § 302(h) as amended 42 U.S.C.A. § 7602(h).

14. Health and Environment ⇌ 25.6(3)

Environmental Protection Agency Administrator's assessment of pollutant's danger to public health or welfare involves questions which are peculiarly prone to uncertainty, and as result statute accords Administrator flexibility to assess those risks and make essentially legislative policy judg-

ments, and these policy choices are not susceptible to same type of verification by reference to record as are some factual questions, and consequently are not subject to review with substantive rigor proper for questions of fact, but, instead, court's paramount objective is to see whether agency has carried out legislative task in manner calculated to negate dangers of arbitrariness and irrationality in formulation of rules for general application in future.

15. Health and Environment ⇌ 25.6(8)

Locus of administrative burdens of going forward or of persuasion may shift in course of rule-making proceeding, but initial burden of promulgating and explaining a nonarbitrary, noncapricious rule rested with Environmental Protection Agency, and by failing to explain how its new source performance standards for lime-manufacturing plants were achievable under range of relevant conditions which may affect emissions to be regulated, EPA had not satisfied initial burden. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

16. Health and Environment ⇌ 25.6(8)

Regulated limestone industry, through its trade association, did not have to bear entire burden of demonstrating unreliability for industry as whole of conclusions drawn by Environmental Protection Agency with respect to its new source performance standards for lime-manufacturing plants, even though industry failed to respond, at crucial juncture in standards development process, to EPA's invitation to submit data supporting fundamental industry objection to achievability of standards, since, on balance, EPA had to affirmatively show that its standards reflected consideration of range of relevant variables that could affect emissions in different plants. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

17. Health and Environment ⇌ 25.15(1)

On remand of proceeding by limestone industry's trade association that challenged Environmental Protection Agency's new source performance standards for lime-

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manufacturing plants, EPA had to consider representativeness for limestone industry as whole of tested plants on which it relied in determining that standards were achievable, and although this did not mean that EPA had to perform repeated tests on every plant operating within its regulatory jurisdiction, it did mean that due consideration had to be given to possible impact on emissions of recognized variations in operations and some rationale offered for achievability of promulgated standards given tests conducted and relevant variables identified. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

18. Health and Environment ⇌ 25.6(8)

Fact that environmental impact statement for lime plants, which was prepared for Environmental Protection Agency as prelude to proposal of particulate emission standards for lime-manufacturing plants and which was important background document considered in developing proposed standards, stated that dusting in kiln with resulting generation of particulate emissions was reportedly function of limestone raw material, rate of rotation of kiln, and velocity of gases in kiln meant that EPA, in developing proposed standards, should have performed some analysis or conducted tests which took into account significant variations in limestone feed, or other variables relevant to dust generation. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

19. Health and Environment ⇌ 25.6(8)

Level of capacity at which tested lime-manufacturing plants were operating at time of sampling and gas velocity were relevant to representativeness of test data, which was used by Environmental Protection Agency in developing allegedly achievable new source performance standards for lime-manufacturing plants, and thus EPA erroneously failed to explain how range of test results fully took account of any significant differences in operating conditions in limestone industry, and support document was erroneously devoid of analysis of relevance or irrelevance of operating level or gas velocity to achievability of standards. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

20. Health and Environment ⇌ 25.6(5)

Environmental Protection Agency's incorrect assumption that any of three control methods identified as "best" could be designed to meet new source performance standards for lime-manufacturing plants would not necessarily taint proceeding, whose purpose was to state an "achievable" standard under any "adequately demonstrated" system, but incorrect assumption would probably have been reflected in EPA's cost analysis, viz., the EPA would have assumed that broader choice of control methods was available to limestone industry than in fact was available, and to extent that cost analysis depended on such incorrect assumption, rationale for standards may be flawed. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

21. Health and Environment ⇌ 25.6(5)

While in one breath Environmental Protection Agency appeared to acknowledge relevance of lime dust generation levels to new source performance standards for lime-manufacturing plants, in another breath relevance was denied, and conflict was not adequately explained, nor was required industrywide achievability of standards adequately shown, in light of acknowledged possibility that heavy dusting created more difficult control problem; from what appeared in record, both variations in dust volume produced and its contributing factors received inadequate attention from EPA in development and explanation of its standards. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

22. Health and Environment ⇌ 25.6(5)

Given high emphasis in 1977 Clean Air Act amendments on coal, especially high-sulphur coal, as fuel of choice, effect on emissions of this fuel's use should have been specifically examined and rationale offered to demonstrate "achievability" of Environmental Protection Agency's new source performance standards for lime-manufacturing plants, under any of best methods of emissions control, when high-sulphur coal was burned. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

23. Health and Environment ⇌ 25.6(5)

Where there was considerable evidence in record that efficiency of available control technology varied with emitted particle size and that lime dust particle size varied regionally, probably due to feedstock variation, Environmental Protection Agency should have undertaken an analysis of impact of particle size distribution on achievability of its new source performance standards for lime-manufacturing plants, but EPA failed to do so. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

24. Health and Environment ⇌ 25.5(1)

Environmental Protection Agency has statutory duty to promulgate achievable standards, and this requires that it approach that task in systematic manner that identifies relevant variables and ensures that they are taken account of in analyzing test data. Clean Air Act, §§ 111, 111(a) as amended 42 U.S.C.A. §§ 7411, 7411(a).

25. Health and Environment ⇌ 25.6(8)

Support document of Environmental Protection Agency, which issued new source performance standards for lime-manufacturing plants, recognized particle size as variable but enigmatically did not discuss it at any length or explain its importance in emissions control, and although fact that limestone industry did not assist EPA in any meaningful way by data or even by suggestions for additional testing was discouraging, that inaction did not lift burden from EPA of pursuing what appeared to be relevant variable or at least discussing in its document why it was not considered important. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

26. Health and Environment ⇌ 25.6(5)

When viewed in light of material contained in Environmental Protection Agency's own support statement that particle size was variable in emissions control, and in light of background documents on which EPA relied, limestone industry's comments concerning regional variations in particle size met "threshold requirement of materiality" that mandated that EPA consider such variable in determining new source

performance standards for lime-manufacturing plants, but EPA failed to do so. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

27. Health and Environment ⇌ 25.6(5)

It was incumbent upon Environmental Protection Agency, at least where it chose to propose new source performance standards for lime-manufacturing plants on limited data base, to offer some supportable reason for its conclusion that a tested plant, chosen as likely to be well controlled, did not represent best technology, and mere fact that its test results were unsatisfactory was not enough. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

28. Health and Environment ⇌ 25.15(1)

There was record evidence substantial enough to raise real question as to whether Environmental Protection Agency had taken adequate account of significant variables relevant to achievability of its new source performance standards for lime-manufacturing plants as they related to "atmospheric" hydrators, and because case was being remanded, EPA would have opportunity to consider hydrator standard more fully in light of additional material and more elaborate arguments relating to achievability of standard for hydrators that were first submitted by limestone industry when matter was brought to Court of Appeals. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

29. Health and Environment ⇌ 25.15(1)

Apparent failure of Environmental Protection Agency, which issued new source performance standards for lime-manufacturing plants, to consider some variables which were given more careful consideration in promulgation of earlier opacity standards and given inadequate consideration in companion mass emission standard required Court of Appeals to remand opacity standard to EPA Administrator for additional explanation or for revision. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

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30. Health and Environment ⇌ 25.6(5)

Failure of Environmental Protection Agency, which issued new source performance standards for lime-manufacturing plants, to abide by its own method in obtaining test results on which opacity standard was based did not support limestone industry's attack on opacity standard, where articles concerning opacity testing submitted by industry demonstrated that in most cases alleged failure to abide by standards would have had effect of overestimating rather than underestimating opacity; that is, EPA's mistakes would have laid basis for standard which was easier, not harder, to achieve by industry. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

31. Health and Environment ⇌ 25.5(1)

Different industries may be subject to different standards and Environmental Protection Agency Administrator need not bear burden of explaining those differences.

32. Health and Environment ⇌ 25.6(5)

Given limestone industry's concession that monitoring equipment gave indication of whether opacity was increasing or decreasing, Court of Appeals could not find continuous monitoring requirement arbitrary as adjunct to nonarbitrary, noncapricious opacity standard, and thus, if on remand an opacity standard was retained, Environmental Protection Agency, which issued new source performance standards for lime-manufacturing plants, could continue to require continuous monitoring. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

33. Health and Environment ⇌ 25.6(5)

There was no necessity of "ninety-five percent certainty" in all "facts" which entered into Environmental Protection Agency's new source performance standards for lime-manufacturing plants, as Court of Appeals required only that EPA provide sufficient data to demonstrate systematic approach to problems, not that it adduce vast quantities of factual data, but, where facts pertinent to standards' feasibility were available and easily discoverable by conventional technical means, there was somewhat

less reason for so limited a data base that was used by EPA in determining standards. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

34. Health and Environment ⇌ 25.5(1)

Environmental Protection Agency is permitted latitude to exercise its discretion in accordance with remedial purposes of controlling statute where relevant facts cannot be ascertained or are on frontiers of scientific inquiry.

35. Health and Environment ⇌ 25.6(3)

A systematic approach by Environmental Protection Agency in determining new source performance standards may not necessarily require conclusion grounded in actual test results, as Court of Appeals did not intend to bridle EPA's discretion to make well-founded assumptions even where assumptions could be replaced by valid test results, but assumptions should be stated and, where test data could have verified assumptions, a reason for not testing or relying on such data should be given. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

36. Health and Environment ⇌ 25.6(8)

Finding of facts by Environmental Protection Agency in determining new source performance standards is costly, especially when finding of facts is through elaborate testing, and cost of additional testing may be added by EPA to costs of delay in issuing proposed rule and sum of these costs weighed against benefit of proposing rule without additional data. Clean Air Act, § 111 as amended 42 U.S.C.A. § 7411.

Petition for Review of an Order of the Environmental Protection Agency.

Arthur A. March, Englewood, Colo., a member of the bar of the Supreme Court of Connecticut *pro hac vice* by special leave of court with whom Henry W. Leeds, Washington, D. C., was on the brief, for petitioner.

Earl Salo, Atty., EPA, Washington, D. C., with whom Joan Z. Bernstein, Gen. Counsel,

EPA, James W. Moorman, Asst. Atty. Gen., Angus MacBeth and Raymond W. Mushal, Attys., Dept. of Justice, Washington, D. C., were on the brief, for respondents.

Before TAMM and WALD, Circuit Judges, and GREENE *, United States District Judge for the District of Columbia.

Opinion for the Court filed by Circuit Judge WALD.

WALD, Circuit Judge:

[1] The National Lime Association (NLA), representing ninety percent of this country's commercial producers of lime and lime hydrate (the industry), challenges the new source performance standards (NSPS) for lime manufacturing plants issued by the Environmental Protection Agency (EPA, Administrator or Agency) under § 111 of the Clean Air Act (the Act), 42 U.S.C. § 7411 (Supp. I 1977). The standards limit the mass of particulate that may be emitted in the exhaust gas from all lime-hydrating and from certain lime-manufacturing facilities and limit the permitted visibility of exhaust gas emissions from some facilities manufacturing lime. We find inadequate support in the administrative record for the standards promulgated and therefore remand to the Administrator.

* Sitting by designation pursuant to 28 U.S.C. § 292(a).

1. The foregoing production figures describe the lime industry as of 1975. I EPA, Standards Support and Environmental Impact Statement: Proposed Standards of Performance for Lime Manufacturing Plants, Record Document No. (R.) 125, also R. 161, 3-1, 7-1—7-4 (1977) [hereinafter cited as SSEIS].
2. The basic oxygen furnace, in which lime is used as a steel flux, has gained widespread acceptance in the steel industry, Midwest Research Institute, Environmental Impact Statement for Lime Plants, R. 8, 36 (May 1976) [hereinafter cited as MRI Report]. In addition, "[l]ime is the world's leading reagent for use in the treatment of both water and air pollution." SSEIS 3-1. The MRI Report notes: "The potential stack-gas control market in utilities is larger than all other current lime markets in the United States. . . ." *Id.* at 37. Sulfur

I. RELEVANT PARTICULARS OF THE LIMESTONE INDUSTRY

A. *The Industry*

In sheer size and weight of production, the limestone industry ranks among the largest in this country. Limestone production in the United States ranks second only to sand and gravel in commodity tonnage and exceeds petroleum, coal and iron ore in volume produced. Limestone deposits can be found beneath an estimated fifteen to twenty percent of the surface of the United States and occur in every state. Total national production approximates twenty-two million tons annually and derives from plants in over forty states.¹

The recent development of two important industrial uses for lime² has ensured the continuing growth of production³ despite a decline in agricultural use.⁴ The industry is capital-intensive with declining employment, but because so many other industrial processes depend on the use of lime, any decline in production would have "a large multiplier effect on U.S. employment."⁵

B. *The Production of Lime From Limestone*

The process by which commercially valuable lime is produced is relatively simple. Limestone is quarried, crushed, sized and fed into a kiln where it is subjected to high temperatures (1100°C/2000°F). By a proc-

dioxide is a primary pollutant produced by the burning of oil and coal and, uncontrolled, is emitted in large quantities through the smokestacks of large consumers of oil and gas, *e. g.*, public utilities. It is an acidic substance whose acidity can be neutralized by interaction with lime, an alkaline substance. See [1974] EPA Ann.Rep., S.Doc. No. 122, 93rd Cong., 2d Sess. V-8—V-9 (describing flue gas desulfurization processes using alkaline substances such as lime). This interaction in fact occurs in the stack effluent from coal and oil-fired lime kilns. See note 27, *infra*.

3. EPA projected an annual growth rate of five percent over the next ten years. SSEIS 3-1—3-2; *id.* 8-1.
4. MRI Report 32.
5. SSEIS 3-2.

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ess known as "calcination," the heating ("burning") of limestone produces quicklime, a soft, porous, highly reactive material commonly used in industry. As might be expected, the process generates a substantial quantity of dust, or in the language of the Agency, particulate matter, sufficiently lightweight to be carried off in the hot exhaust gas and emitted from the kiln. The particulate matter thus released is composed of partially burned limestone, raw limestone feed, deadburned lime⁶ and quicklime. Typically, the process also releases sulfur dioxide (SO₂).⁷

Almost ninety percent of total United States lime production is processed in rota-

6. "Deadburned lime" is the product of over-burning quicklime.

7. Sulfur is found in most limestone and in all fuels used in calcination, except natural gas. SSEIS 3-9. However,

[t]he sulfur in the limestone feed does not normally contribute to a substantial portion of the total SO₂ emissions from a rotary kiln The major concern with respect to SO₂ emissions from rotary kilns is the sulfur content of the fuel.

Id.

Other exhaust emissions resulting from the processing of lime and limestone include carbon monoxide and nitrogen oxides. SSEIS 8-4.

8. Rotary kilns are cylindrical furnaces which rotate at a slight inclination from the horizontal. Limestone is fed into the elevated end of a rotating kiln and discharged at the lower end as quicklime. Stone sizes fed into the kiln range from 1/4" to 2 1/2". Depending on the feed size and the temperature and duration of calcination, a wide range of lime qualities can be achieved in the kiln: coarse or uniform, unreactive or highly active. (Internal mixers are used in some kilns to insure uniformity of product but the use of such mixers results in higher dust loads in the exit gas.) Short rotary kilns have more limited feed size requirements (3/8" to 1 3/4") than long rotary kilns. The generally larger feed size results in lower dusting in shorter kilns. SSEIS 3-14.

9. MRI Report 2. The MRI Report appears to refer only to particulate emissions. Taken as a description of average industry "dustiness" the figures were disputed by the NLA. EPA's response was to alter the model plant profile. The average dusting rate was ultimately assumed to be 17% of lime produced. SSEIS 3-10. See discussion *ante*, text at notes 71-72.

ry kilns.⁸ Uncontrolled emissions from rotary kilns have been reported to run from 150 to 200 pounds per ton of lime produced, roughly five percent of the feed poundage and nine percent of the produce.⁹ A typical lime plant¹⁰ producing 500 tons per day from a rotary kiln, conforming to typical state pollution-control standards,¹¹ emits about 150 megagrams (165 tons) of particulate matter per year. Rotary kilns produce a greater volume of particulate emissions than the formerly widely used vertical kilns but they are also the only kilns which can retain product quality while burning coal, a fuel on which the industry has become increasingly dependent.¹²

10. For purposes of determining the impact of various control options, EPA posited a "model plant" producing 500 tons per day from 1000 tons of feed stone. The model plant operates 330 days per year, uses 130 tons of coal a day and 32 kilowatt-hours of electric power per ton of lime, has an average dusting rate of 17% of lime produced, potentially produces 200 to 650 pounds per hour of SO₂, depending on the sulfur content of the coal, 60 pounds per hour of nitrogen oxides and 20 pounds per hour of carbon monoxide. SSEIS 3-10.

11. Typical state standards for lime plants require control of particulate emissions from lime kilns to 0.5 kilogram per megagram of feed (1.0 pound per ton) and control of sulfur dioxide to 1.0 kilogram per megagram (2.0 pounds per ton). SSEIS 8-1.

12. SSEIS 3-5. Low sulfur coal supplies are dwindling; EPA estimates that by 1986, 50% of new plant capacity will be using high sulfur coal. SSEIS 3-5.

The increased use of coal, particularly high sulfur coal, can be expected to affect emissions. Use of high sulfur coal can result in "significant" SO₂ emissions; EPA projects 84 pounds per hour of SO₂ when 3.5% sulfur coal is burned in a "model" kiln producing 500 tons of lime per day. SSEIS 3-9-3-11. This compares with approximately 22 pounds per hour of SO₂ when low sulfur coal (one percent or less) is burned. The chemical composition of the limestone feed, the kiln temperature, the amount of excess oxygen in the kiln, and the amount of dust and particle size will all affect SO₂ emissions, but the major factor will be the sulfur content of the fuel. SSEIS 3-9.

The standards at issue here, however, expressly limit only particulate emissions. No standard has been set for emissions of sulfur dioxide in the lime industry.

C. *The Production of Hydrated Lime*

A comparatively small amount (ten percent) of all lime produced is further processed into hydrated or slaked lime. This is done by adding water to lime and introducing the mixture into an agitated hydrator. An exothermic reaction occurs and a fluffy, dry, white powder, known as hydrated lime, is the result.¹³ Particulate matter is carried off in the steamy exhaust emitted from the hydration process.

D. *Emissions Control in the Production of Lime*

Rotary kilns here and abroad have employed several different methods of emissions controls including the fabric filter baghouse, the electrostatic precipitator (ESP), the high energy scrubber, and the gravel bed filter.¹⁴ One survey showed that of eighty-five domestic rotary kilns, twenty-four percent used a baghouse, thirty-one percent used a high energy scrubber and eight percent used an ESP.¹⁵ However, use of the baghouse method is increasing because this method requires less energy and does not itself create additional problems of pollution control.¹⁶

EPA has identified baghouses, ESPs and scrubbers as "best systems" of emissions control for rotary lime kilns.¹⁷

Baghouses

The operation of baghouses and electrostatic precipitators was briefly explained in our initial review of EPA's performance standards for portland cement plants, *Portland Cement Association v. Ruckelshaus*, 486 F.2d 375, 390-91 (D.C.Cir. 1973), cert. denied, 417 U.S. 921, 94 S.Ct. 2628, 41 L.Ed.2d 226 (1974) [hereinafter cited as *Portland Cement I*]. The baghouse method

employs fabric filters ("bags"), situated within an enclosed area (a "house"), to remove particulate from the kiln exhaust gas which is channeled through the house.

As the exhaust gas passes through, a dust cake forms on the filters. The cake itself improves filtration efficiency, but from time to time the filters must be cleaned. This is done by forcing a reverse gas flow through the fabric, thus releasing the cake for disposal.

EPA acknowledges that fabric filter effectiveness is primarily a function of kiln exhaust particle size distribution, fabric type, fabric age and maintenance history.¹⁸

Electrostatic Precipitators

Under this method, "dust particles are charged [by discharge electrodes] and pass through an electrical field [collector plates] of the opposite charge, thus causing the dust to be precipitated out of the exhaust gas" *Portland Cement I*, 486 F.2d at 390. Two basic criteria must be met before an ESP can be utilized: (1) the suspended particle must be able to accept an electric charge; and (2) the particle must then pass through an electric field of sufficient strength to ensure removal of the particulate from the gas stream at the desired efficiency.

Precipitability is a function of the chemical composition of the dust particles, and will vary with the different kinds of material that make up the kiln exhaust dust (limestone, quicklime, fly ash, calcium sulfate, etc.).¹⁹ Assuming precipitability, the two main factors influencing the efficiency of a precipitator are the gas velocity and treatment time. The ESP method experiences a relatively low collection efficiency on sub-micron particles.

13. The "model" hydrator processes 14 tons of lime per hour and produces 17 tons per hour of hydrate, operates 4700 hours per year and produces dust at the rate of 1200 pounds per hour. This model, like the model kiln, was developed for purposes of assessing the "impacts" of each control option considered. SSEIS 3-15.

14. The gravel bed filter was not considered by the EPA as one of the "best systems . . . adequately demonstrated." Apparently it is little used in this country. SSEIS 4-11.

15. MRI Report 8-9.

16. See SSEIS 7-27; 8-12.

17. 42 Fed.Reg. 22507 (1977).

18. SSEIS 4-2.

19. SSEIS 4-6.

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Although most particles collected by an ESP fall by gravity into waiting hoppers, programmed rapping of the electrodes is also required to keep the collector plates and discharge electrodes clean. As with the baghouse method, the dust collected is dry and may be disposed of in a variety of ways. A high level of maintenance skill is needed to keep an ESP in operation at design conditions.

Scrubbers

Scrubbers operate on the principle that wet particles are easier to control than dry. High pressure (or high energy) scrubbers of the type EPA considers capable of meeting the promulgated standards are those which because of their design increase the likelihood of contact between particle and water.

The most common high pressure drop scrubber used for controlling emissions from rotary lime kilns is the venturi scrubber. This scrubber operates by accelerating the velocity of the exhaust gas through a narrow venturi-shaped throat, where it is then brought into contact at great force with a spray of water. The particles thus dampened coalesce to form a slurry that can then be collected by a comparatively simple water-gas separation device. The separated gas is then released into the atmosphere.

The efficiency of particulate removal is a direct function of energy input, measured by pressure drop across the venturi throat.²⁰ Gas-water contact in the venturi scrubber is so thorough that even submicron particles are removed. Although low pressure drop scrubbers use less energy than high pressure drop scrubbers, even a low efficiency scrubber requires more energy than either the baghouse or the ESP. The slurry which is the by-product of scrubber use is deposited in ponds, where the collected particulate

settles out from the scrubbing water. The "clean" scrubbing water is then reused. Under present law settling ponds must be located so that they do not receive excessive rainwater run-off, causing overflow into local navigable waters.

E. *Emissions Control in the Production of Hydrated Lime*

Hydration emissions have been shown to be most effectively controlled by wet scrubbers and they are the *only* system of emission reduction considered by EPA for lime hydrators.²¹

The most common type of scrubber used on lime hydrators is the wetted fan type with centrifugal separation. In this scrubber water is sprayed into the center of a draft fan where it is forced to mix with the exhaust gas. More water is sprayed just after the fan into the duct carrying this gas-water mixture. The dust laden slurry water is then removed from the cleaned gas stream by centrifugal separation and the "scrubbed" gas is then vented to the atmosphere.

Slurry water is returned immediately to the hydrator for reuse; the hydration process requires the addition of water and the captured dust seems to contribute to, rather than interfere with, the production of hydrate. Recycling the slurry water eliminates the settling ponds and waste sludge disposal problems usually associated with particulate scrubbers.

II. PROCEDURAL HISTORY

Section 111 of the Clean Air Act, formerly 42 U.S.C. § 1857c-6 (1976) (repealed 1977), now 42 U.S.C. § 7411 (Supp. I 1977), authorizes the Administrator to limit the air pollutants that can lawfully be emitted from newly constructed²² or modified²³

proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

42 U.S.C. § 7411(a)(2) (Supp. I 1977); 42 U.S.C. § 1857c-6(a)(2) (1976) (repealed 1977) (same).

20. SSEIS 4-9.

21. SSEIS 4-12.

22. A "new source" is defined by the Act to mean:

any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier,

23. "Modification" of a source is defined to mean:

plants. This the Administrator can do by promulgating new source performance standards requiring new or modified plants to meet standards which can be met through application of the best system of emission reduction (considering costs) which has been "adequately demonstrated." The purpose is to assure that new or modified plants will not create significant new air pollution problems.²⁴

On May 3, 1977, EPA added lime manufacturing plants to the list of sources that "may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare" pursuant to section 111(b) of the Clean Air

any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

42 U.S.C. § 7411(a)(4) (Supp. I 1977); 42 U.S.C. § 1857c-6(a)(4) (1976) (repealed 1977) (same). See 40 C.F.R. § 60.14 (1979) (governing "modification" of stationary sources).

Conversion of a kiln from natural gas or fuel oil to coal firing may constitute a "modification," triggering application of the NSPS here promulgated. See SSEIS 5-3.

24. H.R.Rep.No.1146, 91st Cong., 2d Sess. 3 (1970), U.S.Code Cong. & Admin.News 1970, p. 5356.

25. As noted, this section was amended in 1977, NSPS may now be promulgated for a given source if "in [the Administrator's] judgment, it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." 42 U.S.C. § 7411(b)(1)(A) (Supp. I 1977).

26. See note 1, *supra*.

27. In its notice of proposed rulemaking, 42 Fed. Reg. 22507 (1977), EPA explained its decision not to propose standards for nitrogen oxides (NO_x), carbon monoxide (CO) and sulfur dioxide (SO₂):

NO_x emissions from lime kilns are generally emitted in low concentrations of about 200 ppm. NO_x emission reductions achievable through combustion modification or other control techniques have not been clearly identified for lime kilns. Standards of performance to reduce these emissions are therefore not being proposed.

CO emissions from lime plants are normally in concentrations of about 100 ppm. Emissions of this magnitude would result in

Act, 42 U.S.C. § 1857c-6(b)(1)(A) (1976) (repealed 1977).²⁵ 42 Fed.Reg. 22510 (1977). At the same time, EPA proposed NSPS for lime plants. 42 Fed.Reg. 22506 (1977). The information underlying both actions was contained in the SSEIS.²⁶

Although lime plants were determined to be sources of nitrogen oxides, carbon monoxide and sulfur dioxide as well as particulates, standards of performance were proposed and ultimately promulgated only with respect to particulate matter.²⁷ Furthermore, of the various types of kilns that may be used in the calcination of limestone, only rotary kilns are regulated by the standards.²⁸

an ambient air concentration of less than one percent of the primary ambient air quality standard under adverse meteorological conditions. The most effective control method for CO, incineration of the off-gases, would create a severe fuel penalty, while producing very little environmental benefit. Consequently, standards of performance for control of CO emissions from lime kilns are not being proposed.

SO₂ emissions from lime kilns are due primarily to the presence of sulfur in the fuel used to fire the kiln. Potential emissions of SO₂ from a 907 Mg (1000 ton) per day lime kiln firing a coal of about 3 percent sulfur would amount to about 295 kg (650 pounds) per hour. Due to the reaction between the lime dust and the SO₂, however, a significant reduction in SO₂ emissions results. When dry particulate control, such as a baghouse or an ESP, is used, SO₂ emissions are reduced by about 85-90 percent. This SO₂ reduction can be increased to about 95 percent if a venturi scrubber is used for particulate control.

28. The SSEIS identifies three other types of kilns in current use by the industry: the vertical kiln; the rotary hearth kiln; and the fluidized bed kiln. SSEIS 3-11-3-13. The focus on rotary kilns was attributed to the widespread use of such kilns in recent years and to the Agency's expectation that the suitability of these kilns to the burning of coal (see text at note 12, *supra*) would secure their preeminent place among the kilns used in the industry.

It is expected that as supplies of natural gas and oil become more expensive or unavailable, all new kilns would be rotary lime kilns designed to burn coal. SSEIS 8-9 (footnote omitted).

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The kiln standards limit emissions²⁹ to 0.15 kilogram of particulate matter per megagram of limestone feed (0.3 pound per ton) and ten percent "opacity."³⁰ The owner or operator of an affected facility is required by the regulations to monitor continuously the opacity of emissions. Where the scrubber method³¹ is used for control, both the opacity standard³² and the opacity monitoring requirement are waived, and the pressure drop and liquid supply pressure of the scrubber must be monitored instead.³³

The standard proposed and promulgated for lime hydrators limits emissions to 0.075 kilogram of particulate matter per megagram of lime feed (0.15 pound per ton). No opacity standard was set.³⁴ The hydrator standard requires that the electric current and the liquid supply pressure of the scrubbers³⁵ used to control emissions be monitored continuously.

29. The standards regulate only kiln exhaust effluent. Particulate emissions from "fugitive" sources (e. g., transfer points, screens or loading operations) are not regulated. "Fugitive" sources can account for up to 10% of all particulate emissions. SSEIS 3-16.

30. "'Opacity' means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background." 40 C.F.R. § 60.2(j) (1979). See discussion *infra*, text preceding note 100.

31. As more fully described *supra*, text preceding note 20, the scrubber method uses a pressurized spray of water to dampen the dust which then, as slurry, can easily be separated in a centrifuge or cyclonic separator from the remaining effluent.

32. The regulations do not expressly exempt scrubber-controlled rotary kilns from the opacity standard. However, the preamble to the proposed rules states:

When a scrubber is used for control of the particulate emissions, it is very difficult to accurately read visible emissions because of the steam plume that is present. Due to enforcement difficulties, an opacity standard would not be effective in this case, and EPA is therefore excluding rotary lime kilns controlled with scrubbers from the proposed opacity standard.

42 Fed.Reg. 22508 (1977). See also SSEIS 8-22 ("EPA . . . is excluding rotary lime kilns controlled with scrubbers from the proposed opacity standard.")

The standards promulgated for particulate emissions are considerably stricter than the average applicable state regulations already in effect. Plants conforming to the NSPS here would—in the case of rotary kilns—be required to emit less than one-third the particulate permitted under average state regulations and—in the case of hydrators—less than one-sixth the particulate permitted by these regulations. See SSEIS 4-15.

[2] Evidently, EPA had engaged in a dialogue with the NLA concerning the anticipated NSPS for at least a year before the standards were proposed.³⁶ After publication of the proposed standards on May 3, 1977,³⁷ EPA received additional written comments both from the NLA and from others and on June 16, 1977 held a public meeting to "provide[] an opportunity for oral presentations and comments on the standards."³⁸

33. Water supply pressure and pressure drop across the venturi throat were both found by EPA relevant to the efficiency of the scrubber method of emissions control. See text at note 20, *supra*.

34. The production of water vapor in the hydration process, as by the use of the scrubber to control calcination emissions, interferes with opacity measurement. SSEIS 3-14; 42 Fed. Reg. 22508 (1977).

35. EPA found that scrubbers are the only method of emissions control customarily used in the hydration process. The SSEIS states: "Hydration emissions have been shown to be most effectively controlled by wet scrubbers, but a baghouse has been used in at least one case." SSEIS 4-12.

36. R. 103, Appendix (App.) 60 (letter dated May 26, 1976 from Ziegler of NLA to Goodwin of EPA setting forth "[p]age-by-page technical analysis with comments of the [draft] standards Support Document"). See also R. 129, 3 (EPA response to Congressperson's inquiry, showing twelve communications between NLA and EPA between March 1976 and the date of proposal).

37. 42 Fed.Reg. 22506 (1977).

38. 43 Fed.Reg. 9452 (1978). The meeting, a transcript of which is contained in the record, R. 140, App. 246 *et seq.*, consisted of (a) a formal presentation by the NLA in which dif-

[3] Final responses to some of the comments received were issued in a final support statement document in October 1977.³⁹ The final notice of rulemaking was published March 7, 1978.⁴⁰ Except for two minor changes the final standards did not differ from those proposed ten months earlier.⁴¹ A petition for review was timely filed in this court, the exclusive court of review of new source performance standards.⁴²

III. PREVIOUS REVIEW UNDER SECTION 111

[4, 5] As amended in 1977, section 111 of the Clean Air Act requires the Administra-

tor to prescribe standards of performance for new statutory sources that reflect the degree of emission limitation and the percentage reduction achievable through the application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements), the Administrator determines has been adequately demonstrated. . . .

ferent speakers addressed different aspects of the proposed standards; (b) brief comments by representatives of three manufacturers of equipment used in the lime industry; and (c) an acknowledgment by the Agency of the comments and assurance that they would be considered. The meeting was apparently convened and transcribed because an unspecified "court decision in Washington" had noted "that there are some problems with meetings between industry groups or those being regulated and those regulating [. . . Consequently] we have been instructed to hold this as a sort of open meeting, so that anybody who wants to can participate and listen to the comments, and also to make a complete record of the meeting." R. 140, 3, App. 248. The purpose of a public meeting puzzled the EPA administrator in charge. *Id.* at 78-79, App. 323-24. The oral presentations for the most part merely repeated written comments simultaneously submitted by the industry. Apart from the EPA's acknowledgment and assurance at the close of the meeting that the comments would be considered, no significant interchange took place between the industry and the Agency which was not reflected in the industry's written comments. As conducted, the meeting's purpose does not seem clear. We do not think that the scheduling of a public presentation of this sort was what this court had in mind in *Home Box Office, Inc. v. FCC*, 567 F.2d 9 (D.C.Cir.1977). That decision was critical of Agency practice holding *ex parte*, confidential meetings with individual industry representatives concerning a rule already proposed—a rule in which there was active, competing industry and public interest. *Id.* at 51-59. That decision did not require a *pro forma* public meeting, which would not otherwise have been held, merely to reiterate (or preview) publicly available written comments. *But cf.* 42 U.S.C. § 7607(d)(5) (Supp. I 1977) (requiring the Administrator to "give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions" and requiring that a transcript of

tor to prescribe standards of performance for new statutory sources that reflect

the degree of emission limitation and the percentage reduction achievable through the application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements), the Administrator determines has been adequately demonstrated. . . .

42 U.S.C. § 7411(a) (Supp. I 1977).⁴³ As the court of exclusive review for NSPS, we

any such oral presentation be kept). (For reasons discussed below, note 43, § 7607 does not apply to the standards here promulgated.)

39. *II EPA, Final Standards Support and Environmental Impact Statement R. 162 (1978) [hereinafter cited as SSEIS II].*

40. 43 Fed.Reg. 9452 (1978).

41. *Id.* The two minor changes were:

- (1) the exclusion from the standard of lime production units at kraft pulp mills (subject to a separate standard);
- (2) the addition of a testing technique which EPA considered "would more accurately test exhaust gases where high moisture content is a problem."

42. See 42 U.S.C. § 7607(b)(1) (Supp. I 1977); 42 U.S.C. § 1857h-5(b)(1) (1976) (repealed 1977).

43. Before amendment in 1977 the Act's provisions for new source performance standards were somewhat differently worded. Insofar as they are relevant here the 1977 changes were these:

- (1) The Amendments require a standard achievable under the best *technological* system of emission reduction where the pre-Amendment Act required only the best system.
- (2) The Amendments require that the technological system be one of *continuous* emission reduction where the pre-Amendment Act contained no such requirement.
- (3) The Amendments expressly require the Administrator to take into account the nonair quality health and environmental impact and energy requirements where previously the Act did not expressly so require.

Compare 42 U.S.C. § 7411(a)(1) (Supp. I 1977) with 42 U.S.C. § 1857c-6(a)(1) (1976) (repealed 1977). In addition, the 1977 Amendments re-

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have examined section 111 standards on several prior occasions. *Portland Cement Association v. Ruckelshaus*, 486 F.2d 375 (D.C.Cir.1973), cert. denied, 417 U.S. 921, 94 S.Ct. 2628, 41 L.Ed.2d 226 (1974) (*Portland Cement I*) (Portland cement plants); *Essex Chemical Corp. v. Ruckelshaus*, 486 F.2d 427 (D.C.Cir.1973), cert. denied, 416 U.S. 969, 94 S.Ct. 1991, 40 L.Ed.2d 558 (1974) [hereinafter cited as *Essex Chemical*] (sulfuric acid plants and coal-fired steam generators); *National Asphalt Paving Association v. Train*, 539 F.2d 775 (D.C.Cir.1976) (asphalt concrete plants) [hereinafter cited as *Nat'l Asphalt*]; *Portland Cement Association v. Train*, 513 F.2d 506 (D.C.Cir.), cert. denied, 423 U.S. 1025, 96 S.Ct. 469, 46 L.Ed.2d 399 (1975) [hereinafter cited as *Portland Cement II*].

quire the promulgation of NSPS with respect to "fossil fuel fired sources" which reflect not only the degree of emission limitation achievable, but also the "percentage reduction" achievable under the best systems. 42 U.S.C. § 7411(a)(1) (Supp. I 1977). H.R.Conf.Rep.No. 564, 95th Cong., 1st Sess. 130 (1977), reprinted in 3 Senate Comm. on Environment and Public Works, 95th Cong.2d Sess., A Legislative History of the Clean Air Act Amendments of 1977, at 510 (1978) [hereinafter cited as *Legislative History*], U.S.Code Cong. & Admin.News 1977, p. 1077.

Except as otherwise expressly provided, the Clean Air Act Amendments of 1977 (the "Amendments") became effective August 7, 1977, the date of enactment. Pub.L.No.95-95, § 406(d), 91 Stat. 797 (1977). The effective date of a new subsection concerning Agency rulemaking procedures, 42 U.S.C. § 7607 (Supp. I 1977), was expressly delayed by the Amendments. *Id.* § 7607(d)(11). See also text following note 126, *infra*. But no such delay was provided for the substantive amendments to the NSPS provisions.

A "savings" clause did perpetuate "rules, regulations, orders, determinations . . . or other actions [already] duly issued, made or taken," Pub.L.No.95-95, § 406(b), 91 Stat. 796 (1977); but as the standards challenged here were not "duly issued" until finally promulgated in March 1978, 43 Fed.Reg. 9452 (1978), the substantive aspects of the finally promulgated standards are governed by the 1977 provisions. See *Alabama Power Co. v. Costle*, No. 78-1006, slip op. at 34 n.79, (D.C.Cir. Dec. 14, 1979).

There is no suggestion in the record that the Agency gave any consideration to the substantive impact of the 1977 Amendments on the

These decisions, viewed independently, have established a rigorous standard of review under section 111. We have not deviated from the approach applied to the first NSPS to reach this court. In that case, *Portland Cement I*, we acknowledged that [w]hile we remain diffident in approaching problems of this technical complexity, . . . the necessity to review agency decisions, if it is to be more than a meaningless exercise, requires enough steeping in technical matters to determine whether the agency "has exercised a reasoned discretion." . . . We cannot substitute our judgment for that of the agency, but it is our duty to consider whether "the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment." . . . Ultimately, we believe,

standard it had proposed. We think that the Agency should not be required to withhold the promulgation of a proposed standard while it considers the development of newly authorized and severable aspects of that standard; and we consider the requirement of "percentage reduction" for fossil-fuel fired sources one such severable aspect.

However, with respect to aspects of the 1977 Amendments which may operate at cross-purposes or in fact inconsistently with prior law, we think the Agency's standard should reflect the new law. The new requirements that the standard be achievable by an emission reduction system which is both "technological" and "continuous" are two such aspects to which the Agency ought to have given some consideration before the standard here was finally promulgated. Our concerns in this regard are set forth below, note 54 (systems of continuous emission reduction) and text at note 77 and note 77 (technological systems).

The last new requirement, that the Administrator take into account the nonair quality health and environmental impact and energy requirements, was already a part of the case law developed under section 111. *Portland Cement I*, 486 F.2d at 385. The Administrator did, in fact, take these factors into account in proposing the NSPS for lime plants. SSEIS 6-1-6-30.

This is the first challenge to a new source performance standard since passage of the 1977 Amendments. Consequently, we are surprised that neither party in discussing the applicable standard of law so much as mentioned the fact of this major legislative effort.

that the cause of a clean environment is best served by reasoned decision-making. 486 F.2d at 402 (citations omitted).

[6] In *Essex Chemical* we reiterated this concept of the court's role in examining the basis for section 111 standards:

The judgment of the Administrator is to be weighted against his statutory function and limitations, the record searched to determine if indeed his decisions and reasons therefor are themselves reasoned, and at that point our function terminates. Our expertise is not in setting standards for emission control but in determining if the standards as set are the result of reasoned decisionmaking. Yet even this limited function requires that we foray into the technical world to the extent necessary to ascertain if the Administrator's decision is reasoned. While we must bow to the acknowledged expertise of the Administrator in matters technical we should not automatically succumb thereto, overwhelmed as it were by the utter "scientificity" of the expedition.

486 F.2d at 434. The search for reasoned decisionmaking in a world of technical expertise must continue if judicial review is to have any meaning in the statutory scheme.

Section 111 requires that the emissions control system considered able to meet the standard be "adequately demonstrated" and the standard itself "achievable." 42 U.S.C. § 7411(a) (Supp. I 1977). We have in the past remanded section 111 standards for the "seeming refusal of the agency to respond to what seem to be legitimate problems with the methodology of the [] tests," *Portland Cement I*, 486 F.2d at 392; and the limited relevance and reliability of the tests relied upon in support of the standard. *Id.* at 396, 401. In *Essex Chemical* as well as *Portland Cement I* we expressed concern that the standards set might not have been achievable in periods of abnormal operation,

44. *E. g.*, *Bunker Hill Co. v. EPA*, 572 F.2d 1286 (9th Cir. 1977) (Clean Air Act); *Hooker Chemicals & Plastics Corp. v. Train*, 537 F.2d 620 (2d Cir. 1976) (Federal Water Pollution Control Act Amendments of 1972); *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d 615 (D.C.Cir.1973) (Clean Air Act).

e. g., during the "startup, shutdown and [equipment] malfunction" periods that occur in plant operation; and we remanded for further consideration of this issue. *Portland Cement I* at 398-99; *Essex Chemical*, 486 F.2d at 433. We have also questioned the significance of tests conducted for purposes of standard development under conditions different from those specified by the regulations for enforcement. *Essex Chemical* at 436. In analogous review proceedings under other sections of the Clean Air Act and under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (1976), this court and other courts have evinced a similarly rigorous approach.⁴⁴

However, we think it serves little purpose to elaborate on the standard of review as applied before we explain how, under the general approach required by statute and our earlier decisions, we have evaluated petitioner's and respondents' contentions.

[7] The issue presented here is primarily one of the adequacy of EPA's test data on which the industry standards are based. NLA disagrees with EPA's conclusion that the standards are achievable under the "best technological system of continuous emission reduction which . . . the Administrator determines has been adequately demonstrated." Specifically, NLA claims that the test data underlying the development of the standards do not support the Administrator's conclusion that the promulgated emission levels are in fact "achievable" on a continuous basis. Promulgation of standards based upon inadequate proof of achievability would defy the Administrative Procedure Act's mandate against action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706 (1976).⁴⁵

45. The "arbitrary and capricious" standard was expressly adopted as the standard of judicial review of, *inter alia*, NSPS under the 1977 Amendments to the Clean Air Act. 42 U.S.C. § 7607 (Supp. I 1977). For reasons noted *supra*, note 43, we do not apply § 7607 as amended in 1977 to the proceedings here.

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IV. ASSESSMENT OF THE
OBJECTIONS RAISED BY
THE INDUSTRY

[8-15] Our review has led us to conclude that the record does not support the "achievability" of the promulgated stan-

46. An achievable standard need not be one already routinely achieved in the industry. *Essex Chemical*, 486 F.2d at 433-34, citing *Portland Cement I*. But, to be achievable, we think a uniform standard must be capable of being met under most adverse conditions which can reasonably be expected to recur and which are not or cannot be taken into account in determining the "costs" of compliance.

The statutory standard is one of achievability, given costs. Some aspects of "achievability" cannot be divorced from consideration of "costs." Typically one associates "costs" with the capital requirements of new technology. See e. g., *AFL-CIO v. Marshall*, 617 F.2d 636, 659 (D.C.Cir.1979). However, certain "costs" (e. g., frequent systemic shutdown to service emissions control systems or use of feedstock of a certain size or composition in order to meet the new emissions standards) are more intimately intertwined with "achievability" than are the capital costs of new technology. In this case the lime industry attacks the standards as "unachievable." When questioned at oral argument, counsel for petitioner disclaimed any attack upon the expense of implementation, stating that he attacked the achievability of the standard "on any reliably repetitive basis," "because of the very variables in the production of lime." This necessarily asserts that a standard which does not account for certain routine variations in conditions is "unachievable." We agree, where, as here, there is no evidence in the record that the "costs" of adjusting for such routine variations (assuming such adjustments be possible) were considered by the Agency in promulgating its standard.

The EPA has expressly built some flexibility into the enforcement end of the new source performance standards, 40 C.F.R. § 60.8(c) (1979) (relating to startup, shutdown and malfunction) and is vested with a more general enforcement discretion, but the flexibility appropriate to enforcement will not render "achievable" a standard which cannot be achieved on a regular basis, either for the reasons expressly taken into account in compliance determination regulations (here startup, shutdown and malfunction), or otherwise. Cf. *Portland Cement I*, 486 F.2d at 398 n.91 and see discussion *infra* text at notes 111-15. In this connection the Congress' new concern that emissions control systems operate continuously, see 42 U.S.C. § 7411(a)(1) (Supp. I 1977) and discussion *infra*, note 54, is pertinent.

dards for the industry as a whole.⁴⁶ This conclusion is a cumulative one, resulting from our assessment of the many points raised by the industry at the administrative level and in this court;⁴⁷ no one point made is so cogent that remand would necessarily have followed on that basis alone.⁴⁸ In the

Because we remand for the development of a more adequate rationale for the promulgated standards we do not now specify the kinds of variations in conditions—not accounted for in the Agency's cost analysis—which might render a uniform standard "unachievable" or so "unachievable" as to represent an arbitrary or capricious exercise of the Administrator's discretion under the Act.

47. A myriad of objections were raised by the industry to the Agency's test methodology, analysis of data and conclusions. Our scrutiny of the record has revealed that some of these objections have merit. Those objections we consider meritorious are incorporated in the analysis that follows. The remainder are not discussed.

48. In addition to the points made in connection with the achievability of the standard, NLA disputes EPA's determination that lime manufacturing plants "may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare." 42 U.S.C. § 1857c-6(b)(1)(A) (1976) (repealed 1977). (See text at note 25, *supra*.)

EPA considers the significant production of particulate emissions itself to cause or contribute to air pollution (which may reasonably be anticipated to endanger public health or welfare). The Agency has made this determination for purposes of establishing national primary and secondary ambient air quality standards under § 109 of the Clean Air Act, now codified at 42 U.S.C. § 7408 (Supp. I 1977), and without regard to the harmful or beneficial effect of the material of which the particulate is composed. 36 Fed.Reg. 1502, 8137, 8138 (1971). When ambient air quality standards for particulate were first proposed, the Agency described some of the health effects of particulate matter:

Particulate matter of technological origin is pervasive in its distribution and is associated with a variety of adverse effects on public health and welfare. Particulate matter in the respiratory tract may produce injury by itself, or it may act in conjunction with gases, altering their sites or their mode of action. Particles cleared from the respiratory tract by transfer to the lymph, blood, or gastrointestinal tract may produce effects elsewhere in the body.

Detailed information on particulate matter is presented in the document "Air Quality

analysis that follows, common threads will be discerned in our discussions of individual points. Chief among these common threads is a concern that the Agency consider the

Criteria for Particulate Matter" (NAPCA Publication No. AP-49), which provided a basis for the development of the standards set forth below.

36 Fed.Reg. 1502 (1971). See generally II Midwest Research Institute, Particulate Pollutant System Study—Fine Particulate Emissions (Aug. 1, 1971) (on file in EPA library) (health hazards of fine particulate); U.S. Dep't of Health, Education and Welfare, National Air Pollution Control Admin., Air Quality Criteria for Particulate Matter, AP-49 (1969) (health hazards of particulate).

The MRI Report, considered by EPA in developing the proposed standard, observes that lime dust can raise the pH of water bodies. MRI Report 22. However, EPA does not appear to have relied on this effect of the lime emissions in support of its standard. It focused instead on the sheer quantity of dust generated by lime plants. 42 Fed.Reg. 22507 ("A study performed for EPA in 1975 by the Research Corporation of New England ranked the lime industry twenty-fifth on a list of 112 stationary sources categories which are emitters of particulate matter"); SSEIS 8-2 ("In a study performed for EPA by Argonne National Laboratory in 1975, the lime industry ranked seventh on a list of the 56 largest particulate source categories in the U.S.").

The industry's argument rests on the asserted nontoxicity of lime dust.

In spite of a few expressed opinions, maybe more than a few, that lime dust under certain unspecified conditions might be suspect or might be harmful to the respiratory system, there is overwhelming counter evidence that lime is not toxic or unhealthy, except under extremely concentrated conditions. It is simply a nuisance dust.

R. 139, 18, App. 200. See also R. 140, 56, App. 301. NLA argues the innocuousness or even benign effect of lime emissions and concludes that "the statement that lime endangers health should be stricken from this EPA document." R. 139, 19, App. 201. The fact that lime dust reacts with and traps SO₂ emissions (see notes 2 and 27, *supra*) leads NLA to continue, "A more plausible case could be made that the presence of a low concentration of lime particles in the air could actually be beneficial in minimizing so-called acid rains, neutralizing molecules of airborne acid gases, like SO_x and NO_x into harmless compounds." R. 139, 19, App. 201.

We think the danger of particulate emissions' effect on health has been sufficiently supported in the Agency's (and its predecessor's) previous determinations to provide a rational basis for the Administrator's finding in this case. See

representativeness for the industry as a whole of the tested plants on which it relies, at least where its central argument is that the standard *is* achievable because it *has*

Air Quality Criteria for Particulate Matter, *supra*. Moreover, whatever its impact on public health, we cannot say that a dust "nuisance" has no impact on public welfare. Congress has provided that with respect to the Clean Air Act:

All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.

42 U.S.C. § 7602(h) (Supp. 1 1977); 42 U.S.C. § 1857h(h) (1976) (repealed 1977) (same). Thus, we could not say that the Administrator's determination is arbitrary, even if the dust were shown innocuous to public health.

The Administrator's assessment of a pollutant's danger to public health or welfare

involves questions which are "particularly prone to uncertainty," and as a result "the statute accords the [Administrator] flexibility to assess [those] risks and make essentially legislative policy judgments" *Ethyl Corp. v. EPA*, 176 U.S.App.D.C. 373, 541 F.2d 1, 24, 26 (1976), *cert. denied*, 426 U.S. 941, 96 S.Ct. 2663, 49 L.Ed.2d 394 (1976). These policy choices "are not susceptible to the same type of verification or refutation by reference to the record as are some factual questions," *Industrial Union Department, AFL-CIO v. Hodgson*, 162 U.S.App.D.C. 331, 499 F.2d 467, 475 (1974), and consequently are not subject to review with the "substantive rigor proper for questions of fact," *Ethyl Corp. v. EPA*, *supra*, 541 F.2d 1 at 24. Instead, our "paramount objective is to see whether the agency, given an essentially legislative task to perform, has carried it out in a manner calculated to negate the dangers of arbitrariness and irrationality in the formulation of rules for general application in the future." *Automotive Parts & Accessories Ass'n, Inc. v. Boyd*, 132 U.S.App.D.C. 200, 407 F.2d 330, 338 (1968).

Nat'l Asphalt, 539 F.2d at 783-84. Our conclusion in *Nat'l Asphalt* is equally applicable here:

Particulate matter poses enough of a threat to public health to warrant the promulgation of air quality standards—which are aimed at reducing existing levels of particulate matter—and we have no basis on this record to dispute the Administrator's decision that there is a need to prevent further deterioration of "clean air" by establishing additional national standards of performance for particulate matter.

Id. at 784.

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been achieved (at the tested plants). The Agency's failure to consider the representativeness—along various relevant parameters—of the data relied upon is the primary reason for our remand. The locus of administrative burdens of going forward or of persuasion may shift in the course of a rulemaking proceeding,⁴⁹ but we think an initial burden of promulgating and explaining a non-arbitrary, non-capricious rule rests with the Agency and we think that by failing to explain how the standard proposed is achievable under the range of relevant conditions which may affect the emissions to be regulated, the Agency has not satisfied this initial burden.

Bearing this initial burden will involve first, identifying and verifying as relevant or irrelevant specific variable conditions that may contribute substantially to the amount of emissions, or otherwise affect the efficiency of the emissions control systems considered. And second, where test results are relied upon, it should involve the selection or use of test results in a manner which provides some assurance of the achievability of the standard for the industry as a whole, given the range of variable factors found relevant to the standards' achievability.

EPA itself acknowledged in this case that "standards of performance . . . must . . . meet these conditions for *all variations of operating conditions being considered* anywhere in the country." SSEIS 2-6 (emphasis supplied). As set forth in the standards support statement, EPA's guidelines require data to be assessed with consideration of the "representativeness" of the source tested, including the "feedstock, operation, size and age" of the source. SSEIS at 2-7. Furthermore, the record

49. See generally *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 642-43; DeLong, *Informal Rulemaking and the Integration of Law and Policy*, 65 Va.L.Rev. 257, 298-301 (1979) (discussing shifting burdens of proof in informal rulemaking). See also *Environmental Defense Fund v. EPA*, 548 F.2d 998, 1013-15 (D.C.Cir. 1976), cert. denied, 431 U.S. 925, 97 S.Ct. 2199, 53 L.Ed.2d 239 (1977) (Leventhal, J.) (discussing burdens of proof in administrative proceedings).

strongly suggests other factors that may affect the particulate emissions from lime plants. Yet at no point does EPA evaluate the relevance or irrelevance of such factors to regulable emissions; nor does the Agency explain how such factors might have been taken into account in choosing test plant sites or in analyzing the data from the sites it chose.

[16] The critical question presented here is whether the regulated industry, through its trade association, should have borne the entire burden of demonstrating the unreliability for the industry as a whole of the conclusions drawn by the EPA. In this connection we are candidly troubled by the industry's failure to respond, at a crucial juncture in the standards development process, to the Agency's invitation to submit data supporting a fundamental industry objection to the achievability of the standard.⁵⁰ We would have expected the industry to have been eager to supply supporting data for its position, assuming the "cost" of obtaining such data were less than the "cost" of compliance with a standard that was argued to be unachievable on any reliably repetitive basis for the industry as a whole.⁵¹ We cannot help but wonder if the industry's failure to supply such data means that the data available or obtained would not be favorable to the industry's position. Nevertheless we remand because we think, on balance, EPA must affirmatively show that its standard reflects consideration of the range of relevant variables that may affect emissions in different plants.

[17] The showing we require does not mean that EPA must perform repeated

50. The Agency's invitation and the industry's lack of response are discussed *infra*, text following note 87.

51. We recognize, of course, that the costs of compliance may be unequally distributed or distributed differently than the costs of obtaining data.

tests on every plant operating within its regulatory jurisdiction.⁵² It does, however, mean that due consideration must be given to the possible impact on emissions of recognized variations in operations and some rationale offered for the achievability of the promulgated standard given the tests conducted and the relevant variables identified. To facilitate public comment,⁵³ we think this rationale should have appeared in

52. It is one thing to generalize from a sample of one when one is the only available sample, or when that one is shown to be representative of the regulated industry along relevant parameters. See, e. g., *Essex Chemical*, 486 F.2d at 438. It is another thing altogether to generalize from an extremely limited sample when a broader sample (both different conditions at the same plant and conditions at different plants) can be readily obtained and when no showing of the representativeness of the sample is made. See, e. g., *Ethyl Corp. v. EPA*, 541 F.2d 1, 38 (D.C.Cir.) (*en banc*), cert. denied, 426 U.S. 941, 96 S.Ct. 2663, 49 L.Ed.2d 394 (1976); *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 625, 642.

53. See *Portland Cement I*, 486 F.2d at 394: "In order that rule-making proceedings to determine standards be conducted in orderly fashion, information should generally be disclosed as to the basis of a proposed rule at the time of its issuance."

54. Our review of the 1977 Clean Air Act Amendments has generated additional doubts. For example, in the development of these NSPS, EPA appears to have given no consideration to the new requirement that NSPS be achievable under systems of *continuous* emission control. 42 U.S.C. § 7411 (Supp. I 1977). See note 43, *supra*. Addition of the word "continuous" in 1977 was meant to ban the use of "intermittent" controls. H.R.Rep. No. 294, 95th Cong., 1st Sess. 190 (1977), reprinted in 4 Legislative History at 2657. (House intent to ban intermittent control measures for new stationary sources under § 111); H.R.Conf.Rep. No. 564, 95th Cong., 1st Sess. 129 (1977), reprinted in 3 Legislative History at 509 (same); *Id.* at 130, 3 Legislative History at 510 (Senate concurrence in House intent). The "intermittent" controls that concerned Congress were any of those which entailed temporary reductions in emissions when weather conditions were poor. H.R.Rep. No. 294, 95th Cong., 1st Sess. 81 (1977), reprinted in 4 Legislative History at 2548 (speaking of intermittent controls as those which temporarily reduce or defer emissions when meteorological conditions adversely affect emissions dispersion); *Id.* at 86, 4 Legislative History at 2553 (describing an intermittent control system which reduced the load of a

the Agency's initial standards support statement.

We must remand to the Agency for a more adequate explanation or, if necessary, for supplementary data to justify the standard in terms of the "representativeness" of the sources tested. The specific doubts generated by our review of the record in light of the lime industry's attack on the standard are more fully explained below.⁵⁴

generator during peak pollution periods); *Kenecott Copper Corp. v. Train*, 526 F.2d 1149, 1155 (9th Cir. 1975), cited in H.R.Rep. No. 294, 95th Cong., 1st Sess. 82 (1977), reprinted in 4 Legislative History at 2549 (characterizing temporary use of low sulfur fuel during adverse conditions as "intermittent"). But it is not clear that in requiring systems of "continuous" emission reduction the Congress banned only deliberate reductions in emissions when weather conditions were poor.

There are some indications that the 1977 Amendments were intended to prohibit *all* averaging to determine compliance where continuous emission reduction systems were specified. See H.R.Rep. No. 294, 95th Cong., 1st Sess. 92, reprinted in 4 Legislative History at 2559, U.S.Code Cong. & Admin.News 1977, p. 1170 ("Any emission limitation under the Clean Air Act, therefore must be met on a constant basis, not on an 'averaging' basis The 'averaging' method is not allowable, precisely because it cannot provide assurances that the emission limitation will be met at all times."); 123 Cong.Rec. H8662, H8664 (daily ed. Aug. 4, 1977) (statement of intent with respect to Conference Committee substitute, referring to NSPS for fossil-fuel fired boilers) ("No averaging in fuel content or in emissions content or levels [will be] allowed in determining whether the prescribed performance standard will be met by a source.").

Whether the 1977 Amendments have effectively repealed the regulations permitting flexibility to account for startups, shutdowns and malfunctions—regulations applauded by this court in *Portland Cement I*, 486 F.2d at 398-99—is certainly unclear. Such variations, unlike the kinds of "intermittent" reductions which concerned Congress, are less within the industry's control. The impact of the 1977 Amendments on EPA's compliance-testing methodology, which relies on *average* readings both for mass emission and opacity standards, 40 C.F.R. § 60.8(f) (1979); 40 C.F.R. Part 60, App. A, § 2.5 (1979), is equally unclear. It may be that a reasonable construction of the statutory language would leave these regulations intact.

However, we think the perplexing implications of Congress' new requirement of systems of continuous emission reduction should first be addressed by the Administrator and there is

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A. *The Particulate Emission Standards*1. *Rotary Kilns*

EPA tested emissions at six plants⁵⁵ before it proposed its mass emission standard for rotary lime kilns. These six plants were selected for testing on the basis of visits to thirty-nine plants, during which the visibility of emissions was observed and information obtained on the emissions control systems employed.⁵⁶ The thirty-nine plants were themselves selected because they had been identified as effectively controlled after a review of the literature and contact with industry representatives. SSEIS A-1. The results of the tests of one plant (Plant A) which could not meet the proposed standard were excluded from consideration because the plant was thought not to represent best technology.⁵⁷ From what we can gather from the record, three plants were able to meet the standard consistently.⁵⁸

Our doubts about the representativeness of the data relied upon are grouped under three subheadings below: *Variations in Quantity of Particulate Generated in the*

no evidence in the record that the Agency considered or reconsidered its proposed standard in light of this or other aspects of Congressional intent in the 1977 Clean Air Act Amendments.

55. The plants are identified in the support statement only by letter. The plants (and the methods of emissions control they employ) are as follows: Plant A (baghouse); Plant B (baghouse); Plant C (ESP); Plant D (ESP); Plant E (baghouse); Plant F (scrubber).

The tests were conducted under EPA's "Method 5" for the measurement of particulate emissions. Method 5 consists of withdrawal of sample emissions by means of a probe inserted into the wall of a smokestack, through which sample emissions are withdrawn by means of a pump set to correspond to the velocity of the air within the stack. 40 C.F.R. Part 60, App. A (1979).

56. The six rotary kiln plants selected for testing were those "deemed to employ best systems of emission reduction." SSEIS A-1. This determination was based both on information obtained during the initial visit "on the process and the equipment used to control emissions," *id.*, and on an evaluation of the visibility of emissions. *Id.* That emission visibility factored into the selection of plants for more thorough testing seems clear from EPA's explana-

Kiln; Variations in Controllability of Particulate Generated; and Explanation of Discarded Data from Plants A and F. Under the subheading *Variations in Quantity of Particulate Generated in the Kiln*, we discuss the possible impact on the standard's achievability of composite dust levels generated by the tested plants and two factors (feedstock variations and gas velocity) that may contribute to composite dust levels. Under the subheading *Variations in Controllability of Particulate Generated*, we discuss two factors—apart from sheer quantity of dust—that may affect emissions control: coal usage and particulate size. Finally under the subheading *Explanation of Discarded Data from Plants A and F*, we discuss the EPA's handling of the results of two tested plants that were unable to meet the standards proposed.

a. *Variations in Quantity of Particulate Generated in the Kiln*

That the quantity of dust produced in the kilns would affect the controllability of emissions and the achievability of the stan-

tion at oral argument of the reasons why Plant A was selected for testing. Counsel for the Agency explained: "I believe . . . that it was reported to the Agency that A was a well-controlled plant and that persons had observed no visible emissions at all from the Plant A stacks, which seemed to be an indication it was well controlled."

57. SSEIS 8-17. The Plant A test results and the rationale for their exclusion from consideration are discussed below, text at note 91. One of the five considered (Plant F) was, like Plant A, thought not to represent best technology, 42 Fed.Reg. 22507 (1977), but the results of these tests were presented, if not treated, differently in the Standards Support Statement. See SSEIS C-12 (Table C-1 including Plant F data but excluding data from Plant A).

58. Plant D did not consistently meet the standard. The Plant F test results did not meet the standard at all. EPA concluded that Plant F, controlled by a low-pressure scrubber, did not represent best technology but that a higher pressure scrubber would be able to meet the proposed standard. 42 Fed.Reg. 22507 (1977). Plant A, excluded from consideration in standard development, was also unable to meet the standard. SSEIS 8-17.

dards does not seem an unreasonable expectation. The Agency, however, appears to have taken conflicting positions on the reasonableness of this expectation and perhaps as a consequence has devoted inadequate attention to several variables which EPA's own documents and the industry suggest may affect the volume of dust produced in different kilns.

(1) *Feedstock Variations*

For example, the record suggests that the size and chemical composition of the limestone feedstock used will affect the amount of dust produced.

[18] The MRI Report, prepared for EPA as a prelude to proposal of the particulate emission standards and an important background document considered in developing the proposed standards,⁵⁹ stated that "[d]usting in the kiln with the resulting generation of particulate emissions is reportedly a function of the limestone raw material, the rate of rotation of the kiln, and the velocity of the gases in the kiln." R. 8, 2 (emphasis supplied). This suggests to us that some analysis should have been performed or tests conducted which took into account significant variations in limestone feed, or other variables relevant to dust generation.

The same theme was struck by NLA's comments on the proposed standard: "No consideration has been given by EPA to

variations produced in stone size or preparation, or to the physical characteristics of the stone feed and lime produced, with the resultant variations in the quantity of flue dust to be handled." R. 103, 10.

The EPA did note in its SSEIS that "[r]otary kilns can handle a range of stone feed sizes between ¼ inch and 2½ inches," SSEIS 3-6, and that larger feed size generally results in lower dusting in the kiln. See SSEIS 3-14.⁶⁰ The Agency also acknowledged that the grade and composition of limestone varies widely across the country. SSEIS 3-1.⁶¹ However, no data on stone size are included by the EPA in the summary data on plants tested (SSEIS App. C) and little information concerning the chemical composition of the feed used at the tested plants is provided. The feedstock at two of the plants tested is characterized as "high calcium lime" (Plants E and F, SSEIS C-6-C-7, and at two other plants as "dolomitic limestone"⁶² (Plant C, SSEIS C-3) or "dolomitic stone" (Plant D, SSEIS C-4). The feedstock at one plant (Plant B) is not described at all. We are, more importantly, left in the dark about which kinds of limestone can be expected to produce the greatest volume of emission dust and what, if any, processing adjustments can be expected of producers using particular kinds of feed in order to achieve the standard proposed.⁶³ For all we know,

59. The certified index to the record lists eight "EPA Studies or Contract Reports" as "Items Considered in Developing Proposal." Four of these relate primarily to the economics of emissions control. Among these studies and reports, only the MRI Report, the Vulcan Report, *infra* note 60, and to some extent a document prepared by the National Air Pollution Control Administration, titled Study of Technical and Cost Information for Gas Cleaning Equipment in the Lime and Secondary Non-Ferrous Metallurgical Industries, R. 1 (Dec. 31, 1970) [hereinafter cited as Study of Technical and Cost Information] provided the kind of information from which the EPA might have postulated potentially relevant factors in the emission of particulates under various systems of control. Available literature, of course, is another source for such information. See, e. g., R. Boynton, Chemistry and Technology of Lime and Limestone (1966).

60. Small feed size is associated with high volume dust generation in another background study on which EPA relies in support of this standard. Vulcan-Cincinnati, Inc., Screening Study for Emissions Characterization From Lime Manufacture, R. 5, 145 (Aug. 30, 1974) [hereinafter cited as Vulcan Report] (commenting on emissions from fluidized bed kilns using small feed size).

61. See also Vulcan Report at 19.

62. "Dolomitic" limestone contains a high proportion of magnesium. R. Boynton, Chemistry and Technology of Lime and Limestone 10 (1966).

63. Our purpose in noting the criticisms of the standard made by the NLA is to illustrate the difficulties created by EPA's failure expressly to consider at least in its support statement and possibly at the pre-proposal level both geo-

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the six plants tested could be using kinds and sizes of feed which are representative of only a small segment of the industry spectrum.⁶⁴ If that were true the plants may not be "representative" and the regulation might not be "achievable" by the industry as a whole.

(2) Gas Velocity and Operation Levels

[19] According to the MRI Report, quoted above, dust generation is in part a function of *gas velocity* in the kiln. Gas velocity appears in turn to depend on several factors, including the percentage of capacity at which the kiln is operating. The MRI Report stated that kiln gas velocity has "the most [apparent] effect [on dust generation] when the kiln is operated close to 100 percent of design capacity," and noted that in one plant studied an increase in production—from 100% to 135% of design capacity—resulted in double the rate of emissions where a reduction from 100% to 75% resulted in only an eight percent reduction. R. 8, 2-3.⁶⁵ This seems to mean that at levels close to or exceeding capacity, gas velocity and consequently dust generation increases at a faster rate than at lower levels of production. Thus the level of capacity at which the plant was operating at the time of sampling and the gas velocity would

graphic and temporal variations in conditions which might bear on emissions levels. By mentioning feed size, for example, as one variable which might have been considered we do not imply that this factor necessarily bears on the "achievability" of the standard rather than on the costs of its implementation. See note 46, *supra*.

64. See text at note 71, *infra* (EPA assertion that three of six plants tested generated higher levels of dust than average dust generation in 11 plants for which data were submitted by NLA).

65. See also Study of Technical and Cost Information 34.

66. *E. g.*, letter dated April 22, 1977 from chief chemist at Woodville Lime and Chemical Company to EPA, R. 316, App. 174.

Unfortunately, the industry did not make clear whether it was more concerned with the validity of the test results—which because of the difficulties in accurate measurement under such conditions may be questionable—or with EPA's reliance on less than capacity results,

appear relevant to the representativeness of the test data.

Both in this court and at the administrative level the industry has addressed the possible atypicality of the production level of some of the test plants, which it alleges were not tested at full capacity⁶⁶ and in doing so, it has echoed a concern expressed by this court in an earlier case.⁶⁷

Data on the production level and air flow rate (velocity) at the tested plants were included in the support document filed in this case.⁶⁸ These data indicate that the two baghouse-controlled kilns relied upon (Plants B and E) were operating at 111% and 91% of rated capacity, respectively. Plant A, also baghouse-controlled, but whose test results were rejected as unsatisfactory, operated at 92% capacity during the tests. One of the two ESP-controlled kilns (Plant C) was operating at 97% of design capacity and the other (Plant D) was tested at capacity, slightly over capacity, and 86% capacity, but achieved the standard consistently only when operated at less than capacity. The scrubber-controlled kiln, whose test results were discounted in the formulation of the standards, was operated at 95% of design capacity during the tests. Stack effluent flow rate (gas velocity) for the tested plants ranged from a high of

even if valid, to project an "achievable" standard for capacity operations.

67. *Essex Chemical*, 486 F.2d at 436. (The regulations there in question, however, unlike those here, expressly required performance tests while the affected facility operated at the maximum pollutant-production rate.) The regulations governing performance tests now specify testing "under such conditions as the Administrator shall specify to the plant operator based on representative performance of the affected facility." 40 C.F.R. § 60.8(c) (1979).

Like "feedstock," "operation" was listed by the EPA as one criterion of "representativeness" for which data on emissions are assessed before standards are proposed. SSEIS 207. We take consideration of the "representativeness" of operation to include consideration of the percentage of capacity of operation.

68. Figures for percentage of rated capacity and air flow rate measurements were provided for each rotary kiln tested for particulate emissions. SSEIS App. C.

180,000 ACFM for Plant C to a low of 48,100 ACFM for Plant E.⁶⁹

Having stated that much, however, the Agency did not explain how the range of test results fully takes account of any significant differences in operating conditions in the industry. The support document is totally devoid of analysis of the relevance or irrelevance of operating level or gas velocity to the achievability of the standard, notwithstanding assertions in the EPA's own contracted-for report⁷⁰ that gas velocity bears upon dust generation rates.

(3) *Dust Levels at the Tested Plants*

The SSEIS asserts, without explaining how the conclusion was reached, that Kilns A, B and E each generated dust at a rate of twenty-two to twenty-five percent (pounds of dust collected per pound of lime produced),⁷¹ higher rates than the average rate of dust generation at the eleven plants for which data were submitted by the NLA. The NLA data, however, indicate a much greater range in dust generation levels than that suggested by the EPA's test plant figures. R. 103, 13, App. 72 (figures ranging from low of six percent to high of thirty-five percent of lime produced).⁷²

As laypersons it seems entirely logical to us to suppose that dust generation levels would directly affect emissions controllability, viz., the higher the dust generation, the more difficult the achievability of the standard by the technological control device.

69. The flow rate appears to bear a direct relationship to the capacity of the plants, Plant E having a 264 ton per day capacity and Plant C having a much greater capacity, though customarily operated with only two of its three kilns burning.

70. MRI Report, *supra*, note 2.

71. As already noted and discussed below, test results for Plant A were excluded from consideration in proposing the standard.

72. Moreover, we cannot ascertain from the test data contained in the SSEIS how EPA measured uncontrolled dust emissions at its test kilns. In addition, dust generation rates are stated only for the baghouse-controlled kilns for which test results are reported. No dust generation levels are stated for the other three kilns tested for particulate emissions.

But the exact relationship between volume of dust generated and the efficiency of the emissions control systems is never clearly stated or explained by the Agency. Instead, the Agency sends us several mixed signals.

On the one hand, the Agency suggests both directly and indirectly that more dust means a more difficult control problem. The direct suggestion is made in the Agency's rationale for the standard, which states that the two baghouse-controlled test kilns generated "higher [dust levels] than the industry reported average and therefore represent difficult control situations" SSEIS 8-17 (emphasis supplied). The indirect suggestion is made by the standard itself, which permits higher levels of emissions when larger quantities of feed are being burned, a circumstance under which the production of more dust would be expected.

[20] On the other hand, the Agency asserts that the amount of dust generated is irrelevant to the efficiency of at least one control method and therefore to the achievability of the standard. In correspondence with the NLA antedating the standard's proposal, EPA stated,⁷³ "It is generally accepted that outlet dust concentrations from baghouses vary only slightly with changing inlet dust concentrations." R. 71, 2, App. 57.⁷⁴ This statement finds some support in the MRI Report which notes at one point:

73. The SSEIS contains no statement to this effect or data which would suggest this conclusion.

74. The statement relates only to the baghouse method. If the ESP and scrubber do not share with the baghouse this toleration of higher dust concentrations, then it is possible that kilns experiencing higher dust loading than the average would effectively be required to install a baghouse in order to achieve the standard. EPA's operating assumptions, however, were quite different: the Agency assumed that any of the three control methods identified as "best" could be designed to meet the standard.

An incorrect assumption of this sort would not necessarily taint the proceeding, whose purpose is to state an "achievable" standard under any "adequately demonstrated" system. However, the incorrect assumption would probably have been reflected in the Agency's

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The general opinion among the manufacturers of emissions control equipment was that all four types of control systems would be equally tolerant of process upsets leading to *short-term* heavy dust loadings. In fact, as the dust loadings increase, *within a certain limit*, the emissions removal efficiency of some of the systems will reportedly increase.

R. 8, 10 (emphasis supplied). However, the MRI Report does not indicate whether long term heavy dust loading or extremely heavy short term dust loading would impair the efficiency of the control system; nor does the report indicate what manufacturers consider to be a heavy or short term dust loading; nor does it indicate on what basis the manufacturers' opinion is predicated.⁷⁵

[21] Our examination of the record thus yields a conflict: while in one breath EPA appears to acknowledge the relevance of dust generation levels to the proposed standard, in another breath the relevance is denied. In our view, the conflict is not adequately explained, nor is the industry-wide achievability of the standard adequately justified, in light of the acknowledged possibility that heavy dusting creates a more difficult control problem. From what appears in the record, both variations in dust volume produced and its contributing factors received inadequate attention from the Agency in the development and explanation of this standard.⁷⁶

cost analysis, *viz.*, the Agency would have assumed that a broader choice of control methods was available to the industry than in fact was available. To the extent that the cost analysis depends on an incorrect assumption like this one, the rationale for the standard may be flawed. *Cf. Portland Cement I*, 486 F.2d at 396 (noting no substantiation of achievability of standard for kilns employing alternate mode of processing feed) ("We are not here considering a regulation that was issued in the contemplation that all new cement plants will be dry-process . . .").

75. In a section of the SSEIS dealing with the conversion of plants from the burning of oil or gas to the burning of coal, EPA states, relying on tests conducted at a coal-converted baghouse-controlled rotary cement kiln, that "[a] baghouse has proven to be rather insensitive to small changes in the inlet loading." SSEIS 5-3.

b. *Variations in Controllability of Particulate Generated*

The record points to other variables which were also given short shrift in the stated rationale: the use of coal to fuel the kiln (as it relates to controllability of emissions); and variations in size of emitted particles. The record strongly supports the relevance of coal usage to the efficiency of at least the ESP control method and it also suggests a relationship between particle size and the efficiency of both the ESP and the baghouse control method. Nothing indicates how—if at all—variations in these factors were considered in proposing an "achievable" standard.

(1) *Coal Usage*

It is clear that the trend in the industry is not only toward coal, but toward high sulfur coal, as other energy sources become scarcer. EPA estimates that by 1986, fifty percent of the lime plant new capacity will have high sulfur coal as the only fuel available. SSEIS 3-5. One-half of all coal used will be between one and four percent sulfur content; the average, as high as three percent. SSEIS 6-6. Moreover, conversion to coal is expected to be a major "modification" that will bring old plants into the regulatory orbit under section 111. SSEIS 5-2-5-3, 8-23. Finally, Congress was especially concerned in passing the 1977 Clean Air Act Amendments that the increased use

No details are supplied and what is meant by "small changes" is unclear.

76. Commenting on the proposed standards, the Department of the Interior noted:

The maximum variations in the dusting rates of some limestones during calcination indicate that some lime plants may find it very difficult to conform to the particulate emission requirements of 0.15 Kg/Mg of limestone feed. We suggest that if it can be demonstrated by the plant operator that a particularly high-dusting limestone is in use, some decrease in the particulate recovery efficiency could be considered.

R. 153, 3 (letter dated July 5, 1977 from Deputy Assistant Secretary of Interior to Goodwin of EPA).

of coal enter into the Agency's regulatory approach.⁷⁷

However, the impact of high sulfur coal usage on the controllability of particulate emissions under any of the three "best" emissions control systems was not clearly or closely examined by EPA in the development of this standard.

With respect to the ESP system, for example, EPA acknowledged that "precipitability [or efficiency of the ESP method] is a function of the chemical composition of the dust particles and will vary with the different kinds of material that make up the kiln exhaust dust (limestone, quicklime, flyash, calcium sulfate, etc.)." SSEIS 4-6. However, neither of the two ESP plants burned coal, the burning of which will affect the chemical composition of the dust and hence the "precipitability" of emissions.⁷⁸

The support document acknowledged:

The tests that were performed on the ESP-controlled kilns are not indicative of normal operation since the current trend in the lime manufacturing industry is toward the use of coal as fuel and the kilns that were tested were fired by oil and natural gas. It is expected that this use of coal would produce a more difficult control problem. However, with proper design of the ESP, it is EPA's judgment that the system could easily meet the level of the proposed standard.

77. See H.R.Rep. No. 294, 95th Cong., 1st Sess. 187, 192 (1977), reprinted in 4 Legislative History at 2654, 2659.

78. Coal burning adds significant amounts of sulfur dioxide (SO₂) to the effluent mix. Much of the SO₂ released in lime kilns reacts with the kiln dust, altering the chemical composition of the particulate to be controlled. 42 Fed.Reg. 22507 (1977) (reduction in SO₂ emissions due to reaction with lime dust); SSEIS 3-9. Use of high sulfur coal produces more SO₂ and might be expected to aggravate the control problems attributable to an alteration in the chemical mix of emissions.

79. In fact, elsewhere in the SSEIS EPA states, "The effect of fuel conversion on collection efficiency when an ESP is used to control particulate emissions is not known." *Id.* at 5-3.

SSEIS 8-12. EPA does not, however, explain the basis for its optimistic judgment that an ESP could meet the standard on a coal burning kiln.⁷⁹ Although other factors may affect the chemical composition and hence the precipitability of emissions,⁸⁰ EPA's failure adequately to consider the impact of coal usage is a particularly obvious omission.

In still other ways the critical influence of coal, particularly high sulfur coal, was not adequately taken into account. For example, EPA acknowledges that conversion to coal will "cause an increase in particulate emissions in the kiln." SSEIS 5-3.⁸¹ Indeed, three (baghouse-controlled) coal burning kilns were characterized by EPA as "most representative" because they burned coal. SSEIS 8-17. However, of these three "most representative" plants, only two could meet the standard. The insensitivity of the baghouse control method "to small changes in the inlet [dust] loading," SSEIS 5-3,⁸² was thought by EPA sufficient to compensate for increased emissions caused by conversion to coal when this method is used, *id.*,⁸³ but little attention was devoted to this topic.

In addition, the record reflects little consideration of the impact of variations in the sulfur content of coal used. For example, the sulfur content at the coal burning plants tested was considerably smaller than the average projected sulfur content (3 percent) for all new lime plants in the near

80. Insofar as appears from the record, no chemical analysis was undertaken of the dust particles generated at any of the test plants—ESP-controlled or otherwise.

81. EPA's acknowledgment gives support to an NLA assertion that "coal ash contributes 15 percent to 20 percent to the flue dust generated in a rotary kiln." R. 139, 6, App. 188.

82. See discussion, *supra*, text at notes 71-76 (concerning relevance of dust quantity generated to achievability of standard).

83. EPA pointed to a study of a baghouse-controlled rotary cement kiln, where conversion to coal resulted in no increase in controlled emissions. SSEIS 5-3. No details of the study are supplied.

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future. Plant B used 0.6 percent sulfur coal and Plant E used 0.92 percent sulfur coal. Plant F (which failed) used 1.86 percent sulfur coal and Plant A (which also failed) used 1.3 percent.

It is certainly plausible that the use of high sulfur coal will result in a greater increase in uncontrolled or difficult-to-control particulate emissions. (The standards support statement suggests that sulfur content may affect particulate weight. SSEIS D-7.) Yet EPA did not state whether the one coal-converted plant which showed no increase in controlled emissions used high or low sulfur coal.

These little bits of information about the impact of coal usage on the controllability of particulate emissions are left for us to piece together. This obvious and important trend at least deserves to be discussed in a coherent fashion.

[22] Given the high emphasis in the 1977 Clean Air Act Amendments on coal—especially high sulfur coal—as the fuel of choice,⁸⁴ we think the effect on emissions of this fuel's use should have been specifically examined and a rationale offered to demonstrate the standard's "achievability"—under any of the best methods of emissions control—when high sulfur coal is burned.

(2) Particle Size

[23] Although there is (a) considerable evidence in the record that the efficiency of available control technology varies with emitted particle size and (b) that lime dust particle size varies regionally (probably due to feedstock variation), the EPA (c) undertook no analysis of the impact of particle size distribution on the achievability of its standard. Each of these points is discussed under separate subheadings below.

84. In requiring that the standards promulgated reflect only "technological" systems of emission reduction, Congress was in part concerned with withdrawing the regulatory incentive to use naturally "clean" fuels (e. g., gas) to meet emission standards. See H.R.Rep. No. 294, 95th Cong., 1st Sess. 188 (1977), reprinted in 4 Legislative History at 2655.

85. In addition, shortly after the proposed standards were published the NLA remarked that

(a) *The relationship of particle size to efficiency of control methods*

That particle size affects the efficiency of at least two of the three "best" technological control systems seems clear.

With respect to the baghouse method of emissions control, the support statement itself states that "[f]abric filter effectiveness is primarily a function of kiln exhaust *particle size distribution*, fabric type, fabric age and maintenance history." SSEIS 4-2 (emphasis supplied).⁸⁵ Indeed, in response to comments submitted in another case (the asphalt concrete NSPS), EPA recognized that "[p]articulate matter which is spherical in shape, has an average fineness below 5 microns, and is slippery and smooth will decrease the performance of a baghouse" EPA, Background Information for New Source Performance Standards, EPA 450/2-74-003, 122 (1974).⁸⁶

With respect to the ESP method, EPA acknowledges that ESPs experience a "relatively low collecting efficiency on submicron particles." SSEIS 4-7. Furthermore, EPA has made a similar acknowledgment with respect to both the ESP and the baghouse method on remand from this court's decision in *Portland Cement I*. In a document prepared in response to the remand, EPA stated: "These collectors, fabric filters or electrostatic precipitators, are more effective in removing coarse particles than fine particles." EPA, Response to Remand Ordered by U.S. Court of Appeals for the District of Columbia in *Portland Cement Association v. Ruckelshaus* (486 F.2d 375, [D.C.Cir.] June 29, 1973), EPA 450/2-74-023, 113 (1945) [hereinafter cited as EPA, Response to Remand].

baghouses "require . . . coarse particles in order to develop the filter cake [on the interior of the filter screen] necessary for removal of the fine [particles]." R. 103, 11, App. 70.

86. However, the decreased performance on smaller particles may not be very great. The Vulcan Report includes a table showing fabric filter efficiency at 99.8% for five micron particles, declining to 99% for particles measuring one micron. *Id.* at 33.

Thus, it seems likely that both dry-collection methods, the ESP and the baghouse, operate more efficiently when the proportion of large to small particles in the emissions is relatively high. It is therefore possible that a kiln which produces a high proportion of fine particulate may not be able to meet the standard, at least using energy-conserving dry collection methods.⁸⁷

(b) *Regional variations in particle size*

Two early studies on which EPA relies in support of its standard strongly suggest regional or temporal variations in lime particle size. First, the Study of Technical and Cost Information noted: "The size analysis of the [lime] dust being discharged from the kiln may contain as much as 30 percent below 5 microns and 10 percent below 2 microns." R. 1, 35. Second, the Vulcan Report included a table showing that in a typical rotary kiln in Ohio, 12.7% of particulate did not exceed 4.4 microns and 23.8% was smaller than 7.7 microns. *Id.* 20. The report also cautioned that there was "a significant percentage of 'large' particles (larger than thirty-two microns) in this distribution," *id.* 19, and that "the various percentages associated with [] particle size distribution . . . may change from state to state depending on the characteristics of the respective limestone deposit." Finally, at an April 30, 1976 meeting between industry and Agency representatives, an industry spokesman made the challenge directly. According to EPA's file memorandum summarizing the meeting, the industry representative

pointed out that there are significant differences between the crystal structures of different limestones. These differences are dependent upon the limestone source and the type of limestone. He stated further that, because of the resulting variations in crystal sizes, particulate emissions could vary greatly from one facility to another (for both the kiln and hydrator). Much discussion of this point followed. Most of the industry repre-

⁸⁷ In discussing the lime hydrator standard, *infra*, we question whether wet scrubbers

sentatives echoed this argument. They felt that in plants where the lime product had a large crystal structure, meeting the standard would be much easier than in those plants where the lime product had a small crystal structure.

R. 118, 1. The EPA's response at the meeting was noteworthy:

Mr. Goodwin [of EPA] and ISB members stated that they were not aware of these differences and that if the industry would provide EPA with data to back their claim, [the] standard would be reconsidered.

Id. At the same meeting another industry representative suggested:

[r]elative to the particle size problem, . . . that some type of subcategorization of facilities might be needed. Mr. Goodwin stated that EPA would consider subcategorization if [it] receive[d] adequate evidence to show this need. He also indicated EPA's willingness to do further source testing if the lime industry representatives would suggest places they think [EPA] should test and [sic] [EPA] feel[s] additional testing would be productive.

Id.

This promising but aborted exchange dramatically illustrates our dilemma in this case. When particle size was identified as a potentially important variable, both the Agency and the industry failed to pick up the ball.

(c) *EPA's lack of analysis*

As far as we can tell the Agency gathered no data on particle size distribution at the tested plants or in the industry generally, either before or after the industry meeting which focused on this factor. Whether the EPA took particle size into account in developing and promulgating its proposed standard cannot be determined from this record.

might not be subject to a similar disability.

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[24, 25] Understandably, the Agency's main defense in court centers on the industry's total failure to respond⁸⁸ positively to EPA's suggestion that the industry either suggest additional test sites or submit data on the basis of which EPA might reconsider or subcategorize the standard to conform to local variations.⁸⁹ EPA's point is a sympathetic one, but not, we think, dispositive. EPA has a statutory duty to promulgate achievable standards. This requires that they approach that task in a systematic manner that identifies relevant variables and ensures that they are taken account of in analyzing test data. EPA's own support document recognizes particle size as a variable but enigmatically does not discuss it at any length or explain its importance in emissions control. That the industry did not assist the Agency in any meaningful way by data or even by suggestions for additional testing is certainly discouraging. But we do not think that inaction—lamentable though it may be—lifted the burden from the Agency of pursuing what appears to be a relevant variable or at the least discussing in its document why it was not considered important.

[26] In this respect, we believe that the industry's comments, concerning particle size distribution, when viewed in light of the material contained in EPA's own support statement and in light of the background documents on which it relied, met a

88. EPA also argues that a variety of kilns were able to meet the standard and that therefore no adjustment for particulate size is necessary. Brief for Respondent at 18. We find this argument puzzling and not persuasive; the industry's position had not been that particle size varies with the type of kiln but that it varies with the type of feed.

89. In response to the proposed standards NLA stated:

We have been unable to develop or obtain information that would substantiate the influence particulate size has on collection efficiency, but feel certain that a glass filter bag is more efficient with coarser particulates. R. 139, 8, App. 190. See also R. 140, 38, App. 283 (NLA spokesman orally reiterating this concession).

90. In *Portland Cement I*, we said:

"threshold requirement of materiality,"⁹⁰ mandating an Agency response which was not forthcoming here.

c. *Explanation of discarded Data From Plants A and F*

Finally (with respect to the rotary kiln particulate emission standard), a few words should be devoted to the mysterious Plant A and the plant controlled by a low-pressure venturi scrubber (Plant F.). Test results obtained at Plant A were excluded from consideration and those obtained at Plant F were discounted (if not excluded entirely from consideration) in the rationale for the proposed standard. This was because after testing it was concluded these plants did not represent best technology. SSEIS 8-17, 8-18. At both plants the measured particulate emissions had significantly exceeded the proposed standard.⁹¹ The only reason—apart from the poor test result—given for the conclusion that Plant A did not represent best technology was as follows:

The Plant A baghouse is not typical of those in use in the lime industry. Large quantities of dilution air infiltrate through the corrugated asbestos siding and doors into the clean air side of the baghouse. It is unknown how this affects the performance of the baghouse, but this baghouse did not perform as well as the two other baghouses (Plants B and

Manufacturers' comments must be significant enough to step over a threshold requirement of materiality before any lack of agency response or consideration becomes of concern. The comment cannot merely state that a particular mistake was made in a sampling operation; it must show why the mistake was a possible significance in the results of the test.

486 F.2d at 394. See 42 U.S.C. § 7607(d)(6)(B) (Supp. I 1977) (response required to "significant comments"). See also *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 553-55, 98 S.Ct. 1197, 1216-17, 55 L.Ed.2d 460 (1978).

91. Plant A averaged 0.23 kilogram per megagram (SSEIS 8-17); Plant F averaged 0.216 kilogram per megagram (*id.*); the standard proposed was (and the promulgated standard is) 0.15 kilogram per megagram.

E) that were source tested in conjunction with this study.

SSEIS C-69.

[27] It would appear that EPA's observation of "large quantities of dilution air" at this plant is related to its measurement of high oxygen levels in the effluent.⁹² Yet when the oxygen determination at the plant was questioned as "thermodynamically impossible" (R. 139, 7, App. 189), EPA conceded error⁹³ but offered no other reason to support its conclusion that Plant A did not represent best technology. We think it incumbent upon the Agency, at least where it chooses to propose a standard on a data base as apparently limited as this one, to offer some supportable reason for its conclusion that a tested plant, chosen as likely to be well-controlled, does not represent best technology.⁹⁴ The mere fact that its test results were unsatisfactory is not enough.

If, for unexplained reasons, one-third of the test plants initially chosen by EPA for their well-controlled systems fail to meet the standard, the conclusion is just as plausible that the standard is not achievable as that the plants chosen did not have well-controlled systems. It is up to EPA to dispel such doubts, and they have not done so here.

Of course, the fact that Plant A did not meet the proposed standard does not itself prove the standard is unachievable. However, ignoring the Plant A results merely because they were not satisfactory would suggest that the process by which the standard was promulgated was an arbitrary

92. "Plant A had the highest emission rate of the six that were tested. The measured oxygen concentration was also highest for this plant." SSEIS 8-17; *Id.* C-71. In a subsequent test of Plant A conducted by the industry, an effort to reduce air leakage resulted in an O₂ measurement of 10%, substantially below the 19.5% figure registered by the EPA and within the range of O₂ measurements (7.7% to 14.4%) obtained at the other two baghouse controlled kilns. Controlling for air leakage did not produce a significant reduction in measured emissions. R. 139, 7-8, App. 189-90.

93. "[T]he oxygen data appear to be incorrect." R. 162, 11, App. 351.

one. This is especially true where the results excluded are those obtained from one of only three plants tested which utilized the existing technology (baghouse) "that approximately 80 percent of the new and modified facilities subject to the proposed standards would use" SSEIS 8-13.

EPA's handling of the Plant F (scrubber) results does not seem as troubling, primarily because neither the trend in the industry nor this standard favor the use of scrubbers for rotary kilns. It was, however, the only scrubber-controlled plant tested and it did not meet the standard. EPA attributed the poor results to the low pressure employed by the Plant F scrubber and hypothesized that a higher pressure scrubber could meet the standard proposed. In support of this hypothesis EPA relied upon a non-EPA-conducted test reported in the literature, although the conditions under which that test was conducted were not mentioned. SSEIS 8-12. Were the venturi scrubber projected to be in use for any sizable number of new or modified lime plants, we would be considerably less comfortable with the Agency's conclusion that "EPA[s] . . . source test . . . show that all [three control devices] are capable of meeting the particulate emission level of 0.15 kilogram per megagram" SSEIS 8-12.

2. Hydrators

Since EPA has already agreed to a remand of the standard for "pressure" hydrators, we consider the standard only as it relates to "atmospheric" hydrators.⁹⁵

94. *But cf. Nat'l Asphalt*, 539 F.2d at 787 (standard approved where EPA excluded from consideration two out of four industry-conducted tests because Agency concluded plants not well-controlled).

95. The process described above, text at note 13, for the production of slaked lime, is that of atmospheric hydrators. Pressure hydrators, as the name implies, differ in that they apply pressure to speed the slaking of dolomitic stone. See generally R. Boynton, *Chemistry and Technology of Lime and Limestone*, 333-37 (1966).

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EPA conducted particulate emission tests on two hydrators,⁹⁶ both controlled by wet scrubbers. Each was tested three times.⁹⁷ Average emissions at both plants fell below the standard.

[28] However, in reviewing the record in light of the industry's attack, we have encountered the same problem with the hydrator standard as with the rotary kiln standard. There is record evidence substantial enough to raise a real question in our minds whether adequate account was taken of significant variables relevant to the standard's achievability.

Material submitted by the NLA at its June 1977 meeting with EPA suggests that lime hydrators (like rotary kilns) produce particles of different size and surface area.⁹⁸

Since the efficiency of the wet scrubber method of emissions control apparently depends on the probability that dust particles will collide with and be captured by small water droplets which are sprayed into an area through which the effluent must

pass,⁹⁹ the size and surface area of the particulates to be captured would certainly seem important. Yet the relevance of particulate size and surface area is nowhere addressed by EPA, insofar as this record reveals.

All the record reflects is that both hydrators utilized calcitic (rather than dolomitic) lime, again with no explanation of the relevance of that item of information to the achievability of the proposed standard on an industry-wide basis. Since the comments submitted by NLA in connection with the rotary kiln standard suggest that particle size in calcination is affected by the chemical composition of the material used, a similar effect might therefore be anticipated in the hydration process; but the EPA does not address this possibility either through assumptions, tests performed, data collected and reported, or analysis of results. We are asked to conclude that the projection of an achievable standard for the industry as a whole based on tests conducted at two hydrator plants using calcitic

⁹⁶. An additional source was industry-tested and the results, which appear to meet the proposed standard, are summarized in the SSEIS at C-65. The Agency, however, does not rely heavily (if at all) on the results of this test in the promulgation of its standard. Both the SSEIS at 8-18 and the notice of proposed rule-making, 42 Fed.Reg. 22508 (1977), refer only to the two EPA-conducted tests. It appears that EPA began testing on a third plant but abandoned it when the test conditions (*i. e.*, high gas moisture content) prevented the generation of valid test results. SSEIS D-2.

⁹⁷. The first plant (H-A) was tested once on each of three consecutive days in April 1974. SSEIS C-66. The second plant (H-B) was tested once on one day in September 1975 and twice again five days later. *Id.* C-68. The last test on H-B produced the highest emission levels of the six EPA tests, a level in excess of the proposed standard. Tests conducted at a third hydrator facility are included in the summary data for hydrators contained in the SSEIS, *id.* at C-65, but were apparently excluded from consideration in developing the standard because the tests, as noted above, were thought unreliable. *Id.* at D-2.

⁹⁸. The following appears on a page headed "Lime Hydrators" contained in the NLA's formal presentation to the EPA, June 1977:

There is no discussion presented [by the EPA] concerning the type of material being processed [in lime hydrators]. In this regard, we have observed that different types of limestone yield vastly different types of hydrated lime. Also, the type of calcination equipment used to produce the quicklime and the degree to which the quicklime is ground prior to hydration all contribute significantly to the fineness of the resulting hydrated lime. Investigators have observed specific surface of hydrated limes to vary from 5,000 to 110,000 cm²/g with a geometric weight mean diameter variation between 2.9 and 7.8 microns. These variations do not necessarily correspond to each other. In addition, data from ASTM² further substantiates this wide variation of hydrated limes. In a research program nine (9) participating laboratories tested hydrated lime from nineteen (19) sources and found surface area to range from 5,419 to 24,366 cm²/g. It was also found that sieve fineness as determined by percent passing a No. 325 sieve varied from 75.7 to 99.04%.

R. 139, 13, App. 195 (footnotes omitted).

⁹⁹. SSEIS 4-8-4-9, 4-13-4-14.

stone represents a reasoned decision, without knowing why.¹⁰⁰

Because we remand, the Agency will have the opportunity to consider the hydrator standard more fully in light of the additional material and more elaborate arguments relating to the achievability of the standard for hydrators that were first submitted by the industry when the matter was brought to this court.

B. *The Opacity Standard and Continuous Monitoring Requirement*

1. *The Opacity Standard*

"Opacity" is defined by regulation to mean "the degree to which emissions reduce the transmission of light and obscure the view of an object in the background." 40 C.F.R. § 60.2(j) (1979). EPA explains that "[t]he opacity level of visible emissions is an indication of the mass concentration of a particular pollutant" and that "[v]arious studies have shown that opacity varies directly with mass concentrations of particulate matter." SSEIS 8-19. EPA considers opacity standards to be "a necessary supplement to particulate mass emission standards" basically because "[o]pacity test methods are quicker, easier to apply, and less costly than concentration/mass tests for particulate matter." SSEIS 8-19.

The performance standards prescribed by EPA for rotary lime kilns consist of both a

mass emission standard (grams of particulate emission per gram of feed) and an opacity standard (ten percent). 43 Fed.Reg. 9453 (1978). Only those kilns using dry methods of emissions control are subject to the ten percent opacity standard. As previously noted,¹⁰¹ no opacity standard was promulgated for lime hydrators (which almost never employ dry control methods) and rotary kilns using wet scrubbers have been exempted¹⁰² from compliance with the opacity standard.

[29, 30] We have considered the various arguments made by the NLA and conclude that EPA's apparent failure to consider in this case some variables which were (1) given more careful consideration in the promulgation of earlier opacity standards and (2) given inadequate consideration in the companion mass emission standard requires us to remand the opacity standard to the Administrator for additional explanation or for revision.¹⁰³

a. *Variables Considered in the Promulgation of Earlier Opacity Standards*

On remand from *Portland Cement I*, 486 F.2d 375, the Administrator undertook extensive reconsideration of both the opacity standard proposed for portland cement plants and the methodology (EPA's "Method 9," 40 C.F.R. Part 60, App. A (1979)) of

Our conclusion to remand the standard derives in part from our examination of the materials drawn to our attention by the industry in connection with the first two prongs of the industry's attack and in part from our conclusion with respect to the mass emission standard above.

We reject the third prong of the industry's attack—EPA's failure to abide by its own "Method 9" in obtaining the test results on which the standard is based. The articles concerning opacity testing submitted by the NLA themselves demonstrate that in most cases the alleged failure to abide by the standards would have had the effect of overestimating rather than underestimating opacity. That is, EPA's mistakes would have laid the basis for a standard which was easier, not harder, to achieve by the industry.

100. Furthermore, the Agency expressly predicated its standard on an average emissions level which included at least one test where emissions exceeded the proposed standard, Fed.Reg. 22508 (1977); SSEIS 8-18, a possibly questionable basis in light of the 1977 Clean Air Act Amendments' emphasis on systems of continuous emission control. See discussion *supra*, note 54.

101. See note 34, *supra*.

102. See note 32, *supra*.

103. NLA makes a three-pronged attack on the opacity standard. First, it argues the inherent inaccuracy of opacity testing. Second, it points to the discrepancies between the 10% standard promulgated here and the 20% standard promulgated for portland cement and asphalt concrete plants. Third, it notes EPA's failure to abide by its stated methodology in standard-development testing.

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opacity measurement.¹⁰⁴ In the year and a half that followed, the methodology was revised and the standard set for portland cement plants was raised from ten to twenty percent.¹⁰⁵ EPA has explained its relaxation of the portland cement standard as an effort to accommodate the complete range of available data obtained in that case, having adjusted the data for stack diameter. SSEIS II, 13. Stack diameter was thus a variable for which EPA made adjustments in the portland cement case but it was not the only variable considered in formulating

104. EPA, Response to Remand, 85-125.

105. See 38 Fed.Reg. 28564 (1973) (opacity standards will not apply to emissions during periods of startup, shutdown and malfunction); 39 Fed.Reg. 39872 (1974) (raising opacity standard from 10% to 20% for portland cement plants, providing some weight may be given in enforcement to discrepant transmissometer readings, adding sort of variance procedure for plants that meet performance but not opacity standards, providing that accuracy of method must be taken into account in enforcement, specifying average of 24 readings at 15 second intervals for enforcement purposes and specifying observer position with respect to both sun and plume).

106. In responding to the contentions of the Portland cement industry on remand from *Portland Cement I*, EPA stated a general principle that plume opacity varies with the size of the particles emitted. The industry there argued that opacity varies with particle size and shape, so that a given mass concentration of particles—which could be composed of various combinations of different size and shape particles—could result in differing opacities. EPA agrees that this correctly states the theory of plume transmittance (opacity) as it relates to particle dimensions.

Id. (emphasis supplied). Having conceded this principle, EPA supported its standard as follows:

In typical high efficiency collector exhaust gases there are generally few particulates larger than 40 microns diameter. The predominant number of particles are between 0.5 and 10 microns with the average size being about 2-4 microns. Maximum light scattering is generally acknowledged to be caused by particles in the size range of 0.2 to 2.0 micron. Available data indicate that the size distribution of particulates released from well controlled cement kilns are similar within a narrow range (approximately 2 to 6 microns) from one kiln to another, and therefore from one plant to another.

that standard. It is clear that the possible impact of other variables were also taken into account on remand, including: particle size and shape, EPA Response to Remand 112;¹⁰⁶ and stack gas exit velocities, *id.* 116.

[31] The impact of variations in particle size and shape were also considered by EPA in evaluating an opacity standard for asphalt concrete plants.¹⁰⁷ It is this difference in Agency methodology underlying the various new source opacity standards and not the difference in the standards themselves that gives us most pause.¹⁰⁸ No at-

What the above data and studies indicate, in short, is that the size of particles emitted by plants with such control equipment varies only within a very narrow range. This variability in average size is theoretically not sufficient to cause more than a ± 5 percent variation in opacity for typical cement kilns. *Id.* at 113 (footnotes omitted).

Variations in particle size were thus considered and found not to warrant a change in the opacity standard. Whether such variations were attributable to different *feed composition* is not clear.

107. See EPA, Reevaluation of Standards of Performance for Asphalt Concrete Plants 4 (Nov. 1974):

The opacity standard applicable to asphalt concrete plants has been established at a level (less than 20 percent) such that, taking into account all of the variations in particle size, shape and stack size encountered by asphalt concrete plants, violation of the opacity standard is indicative of a violation of the mass standard.

(The opacity standard for asphalt concrete plants, originally promulgated in March 1974, 39 Fed.Reg. 9307 (1974), was affirmed by this court in *Nat'l Asphalt*, 539 F.2d 775 (1976).)

108. That different industries may be subject to different standards and that the Administrator need not bear the burden of explaining those differences is clear.

[T]he Administrator is not required to present affirmative justifications for different standards in different industries. Inter-industry comparisons of this kind are not generally required, or even productive; and they were not contemplated by Congress in this Act. The essential question is whether the mandated standards can be met by a particular industry for which they are set, and this can typically be decided on the basis of information concerning that industry alone. This is not to say that evidence collected about the functioning of emission devices in one industry may not have implications for another.

tention to particle size and shape appears to have been given by EPA in the preparation of opacity standards for lime plants.¹⁰⁹

b. *Variables Inadequately Considered in Mass Emission Standard*

Opacity standards are intended to operate in tandem with mass emission standards, notwithstanding their independent enforceability. Ideally, a violation of an opacity standard should indicate a violation of a mass emission standard. See SSEIS 8–19. For this reason the Agency relies on data from the same test plants to support both the opacity and the mass emission standard; but for this reason when the representativeness of data relied upon for one standard is inadequately shown, the representativeness of data relied upon for the other standard is drawn in question.

As discussed above, the Agency failed to consider the representativeness of the particle size produced at its tested plants. This failure is particularly striking in connection with the opacity standard because varia-

Certainly such information may bear on technological capability. But there is no requirement of uniformity of specific standards for all industries. The Administrator applied the same general approach, of ascertaining for each industry what was feasible in that industry. It would be unmanageable if, in reviewing the cement standards, the court should have to consider whether or not there was a mistake in the incinerator standard, with all the differences in parties, practice, industry procedures, and record for decision. Of course, the standard for another industry can be attacked, as too generous, and hence arbitrary or unsupported on the record, by those concerned with excessive pollution by that industry. There is, therefore, an avenue of judicial review and correction if the agency does not proceed in good faith to implement its general approach. But this is different from the supposition that a claim to the same specific treatment can be advanced by one who is in neither the same nor a competitive industry.

Portland Cement I, 486 F.2d at 389–90.

109. EPA contends that NLA did not make such an objection at the administrative level. Brief for Respondent at 28. EPA's contention is refuted by the record. EPA's failure to consider particle size and shape was raised both in connection with the opacity standard, R. 139, 14, App. 196, and in connection with the mass

tions in particle size have been given careful consideration in the development of earlier opacity standards.

We have already noted that the emissions control systems favored by the standards and by prevailing economic and technological trends may operate more efficiently when the predominant size of particulate emissions is large. As it happens, large particulate is also likely to appear less opaque. Thus, it is possible that a plant would meet both standards only because the particles emitted are uniformly large and we cannot ascertain how the plants tested here “measure up.”¹¹⁰

c. *EPA's Arguments*

Both in this court and at the administrative level EPA emphasizes the overwhelming extent to which the plants tested were able to meet the ten percent opacity standard.¹¹¹ But without knowing the representativeness of the plants tested or of test conditions, we cannot say that the standard is neither arbitrary nor capricious. Certain-

emission standard. See text following note 87, *supra*.

110. It is possible that the plants tested here were in effect selected for their large particle size. Thirty-nine plants thought to be “well controlled” were visited by EPA and six were selected from among these for testing because of their low level of visible emissions. As already noted, larger particles produce less visible emissions.

111. Of six-minute average readings “normalized” for stack diameter, “[o]ver 67 percent of the six-minute averages were equal to zero and over 82 percent of the averages were less than or equal to five percent opacity. Only 0.4 percent of the normalized averages exceeded 10 percent opacity. The highest single average read was 10.6 percent opacity.” SSEIS 8–20; Brief for Respondent at 27. Like EPA, we are puzzled by the NLA's assertion (Brief for Petitioner at 36) that the opacity standard is based on the test results of only one plant. We presume NLA seeks by this assertion to pin the Agency to its final support statement, SSEIS II at 13, where it examines the test results from Plant D (from which the worst readings were obtained). But it is clear that the Agency does not rely on the results obtained from this one plant in support of its standard. SSEIS 8–19—8–20.

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ly the fact that virtually all plants tested were able to meet the standard is an important consideration, but our doubts are sufficient, when coupled with our doubts concerning the mass emissions standard (discussed above), to remand to the Agency for amplification of the record.

EPA has committed itself to take the possibility of inaccurate opacity measurement into account in the enforcement of the standard.¹¹² It has also provided a type of "variance" mechanism under which new sources which meet the mass emission standard but which cannot meet the opacity standard may petition the Administrator to establish a separate opacity standard for that facility. 40 C.F.R. § 60.11(e) (1979), 39 Fed.Reg. 39872 (1974). The variance mechanism, however, seems clearly to have been intended to be narrowly construed.¹¹³

The Agency relies upon the flexibility built into the regulatory scheme to support the rationality of its standards.¹¹⁴ The wis-

dom of such flexibility has been applauded on earlier occasions by this court,¹¹⁵ but the statutory scheme prescribes "achievable" standards and there is a limit to the flexibility with which the Agency is or should be endowed.¹¹⁶

We recognize the usefulness of opacity standards as an enforcement tool.¹¹⁷ Opacity can be monitored by the Agency with little advance warning or costly preparation.¹¹⁸ We also realize that "[o]pacity standards are not novel . . . opacity standards have been upheld previously by this court^[119] under closely analogous circumstances . . . [and that] Congress . . . has expressed concern for opacity values in measuring air pollution under the Clean Air Act. . . . *Alabama Power Co. v. Costle*, No. 78-1006, slip op. at 32, (D.C.Cir. Dec. 17, 1979) (Wilkey, J.), and we do not wish to imply that the Agency cannot justify their use. We remand to the Agency because on this record the reason-

112. Brief for Respondent at 27 n.18; 40 C.F.R. Part 60, App. A (Method 9) (1979): "The accuracy of the method must be taken into account when determining possible violations of applicable opacity standards." The regulations also allow for "excursion" from the standards during periods of startup, shutdown or malfunction. 40 C.F.R. § 60.8(c) (1979).

113. As described when the mechanism was first announced in connection with the portland cement remand:

This provision is intended primarily to apply to cases where a source installs a very large diameter stack which causes the opacity of the emissions to be greater than if a stack of the diameter ordinarily used in the industry were installed. Although this situation is considered to be very unlikely to occur, this provision will accommodate such a situation. The provision could also apply to other situations where for any reason an affected facility could fail to meet opacity standards while meeting mass emission standards, although no such situations are expected to occur. 39 Fed.Reg. 39872-73 (1974).

114. SSEIS 8-19 (referring to the "variance" mechanism); SSEIS II, 13 (referring to enforcement discretion to accommodate method inaccuracy); Brief for Respondent at 27 n.18 (same).

115. *Portland Cement I*, 486 F.2d at 399; *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 641.

116. *Portland Cement I*, 486 F.2d at 399 n.91: "Companies must be on notice as to what will constitute a violation. Moreover, an excessively broad theory of enforcement discretion might endanger securing compliance with promulgated standards." Cf. *E. I. duPont de Nemours & Co. v. Train*, 430 U.S. 112, 137-39, 97 S.Ct. 965, 51 L.Ed.2d 204 (1977) (variance authority will not be implied in statutory provision for new source effluent discharge standards under Federal Water Pollution Control Act). But cf. *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1056-58 (D.C.Cir. 1978) (Agency may handle "upset" conditions for effluent limitations for existing sources under Federal Water Pollution Control Act by exercising enforcement discretion rather than through "excursion" regulations).

117. *Portland Cement I*, 486 F.2d at 400.

118. See 39 Fed.Reg. 9309 (1974).

119. E.g., *Portland Cement II*, 513 F.2d at 507, 508-09 (upholding 20% opacity standard against petitioner's arguments that "pollution and plume opacity cannot be reliably correlated and evaluations of the same plume by several qualified observers will vary substantially"); *Nat'l Asphalt*, 539 F.2d at 787 (upholding against challenge to reliability 20% opacity standard for asphalt concrete plants in light of *Portland Cement II*'s decision with respect to similar standards).

ableness of the standard has not been demonstrated.

2. Continuous Monitoring

On the opacity monitoring requirement, the petitioner's argument is simple: there is no adequately demonstrated technology for monitoring opacity.¹²⁰ One company operating affected facilities (Dow Chemical) commented, "We have tried several continuous monitoring systems in the past and have been unable to find an instrument that will suitably do the job and can be maintained in operation." R. 148, App. 327-28. The company cited high opacity readings attributable to instrument malfunctioning "as frequently as twice a day" and also remarked that "[t]he opacity readings [of the monitor] do not relate to the actual stack conditions as measured by visual observers."

EPA answers that the continuous monitoring data would not be used to determine compliance with the opacity standard but "to keep a check on the operation and maintenance of the control equipment," and to trigger performance checks by trained observers. Brief for Respondents at 12-13, citing SSEIS 8-24 and standard as proposed (42 Fed.Reg. 22506, 22509 (1977)). The Agency argues that if the equipment gives any "indication" of changed opacity it is

120. NLA does not take issue with the quite different continuous monitoring requirements for scrubber-controlled systems. Scrubber-controlled systems are monitored not for opacity but for liquid supply pressure and pressure drop in the scrubber. See text at note 33, *supra*.

121. Forty C.F.R. § 60.13 (1979) governs continuous monitoring requirements. Performance specifications for continuous monitoring equipment are set forth in Appendix B to 40 C.F.R. Part 60 (1979). EPA explained that in this case:

The visible emissions monitoring systems that are adequate for other stationary sources, such as steam generators, covered by performance specifications contained in Appendix B of 40 C.F.R. [Part] 60 (Federal Register, October 6, 1975) should also be applicable to lime plants, except where condensed moisture is present in the exhaust stream.

enough to justify a continuous monitoring requirement. Brief for Respondents at 29. It dismisses the industry's contention that reliable monitoring equipment is not available to perform this limited a function and shifts the burden to the industry to show "by supporting data," SSEIS II, 13, that it is not.

EPA states that it now routinely requires continuous monitoring of opacity in new source performance standards.¹²¹ Brief for Respondents at 14-15. Opacity monitoring was first required and performance specifications for monitoring systems prescribed in connection with the NSPS for fossil-fuel fired steam generators and petroleum refineries.¹²² As of the date the lime standard was proposed, five other promulgated NSPS included a requirement for the continuous monitoring of opacity.¹²³ Since the lime standard's proposal, at least one other standard has been promulgated that contains such a requirement.¹²⁴ In answer to NLA's observation that no continuous opacity monitoring is required of portland cement plants, R. 139, 14 App. 196, EPA informs the court that the Agency is now reviewing the portland cement standards pursuant to § 111(b)(1)(B), 42 U.S.C. § 7411(b)(1)(B) (Supp. I 1977) to see if the same requirement should be imposed there. Brief for Respondents at 15.¹²⁵

SSEIS D-8. Equipment and installation costs for visible emissions monitoring were estimated at \$18,000 to \$20,000 per site. *Id.* Annual operating costs, including recording of data, were estimated at \$8,000 to \$9,000 per site. *Id.*

122. 40 Fed.Reg. 46250, 46255, 46256, 46257 (1975).

123. See 40 C.F.R. § 60.165(b)(1) (1979) (primary copper smelters); 40 C.F.R. § 60.175(a)(1) (1979) (primary zinc smelters); 40 C.F.R. § 60.185(a)(1) (1979) (primary lead smelters); 40 C.F.R. § 60.264(a) (1979) (ferroalloy production facilities); 40 C.F.R. § 60.273(a) (1979) (electric arc furnaces in steel mills).

124. See 40 C.F.R. § 60.284(a)(1) (1979) (kraft pulp mills). None of these monitoring requirements has been the subject of judicial review.

125. On October 22, 1979, EPA announced an intention to require continuous opacity monitoring at portland cement plants. 44 Fed.Reg.

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EPA maintains that it has had considerable experience with the use of continuous monitoring devices and that in its experience a monitor will show if an emissions control device is being properly operated and maintained and the opacity standards met. SSEIS II, 14; SSEIS 8-24. Thus monitoring will act as a needed warning alarm when the control system is out of kilter. SSEIS 8-24.

[32] The industry itself admits there is some value to a continuous monitoring requirement. Dow Chemical took a critical stance (adopted by NLA, Brief for Petitioner at 52) but also acknowledged that monitoring equipment "gives an indication of whether the opacity is increasing or decreasing." R. 148, 2, App. 328. Given this concession, we cannot find the continuous monitoring requirement arbitrary as an ad-

60761 (1979), but the requirement was not then formally proposed.

126. *E. g.*, Rodgers, *A Hard Look at Vermont Yankee: Environmental Law Under Close Scrutiny*, 67 *Geo.L.J.* 699, 704 (1979) [hereinafter cited as *A Hard Look at Vermont Yankee*]; Breyer, *Vermont Yankee and the Courts' Role in the Nuclear Energy Controversy*, 91 *Harv.L.Rev.* 1833, 1834 (1978); W. Rodgers, *Environmental Law* 19 (1977).

The phrase "hard look" derives from Judge Leventhal's opinions in *Greater Boston Television Corp. v. FCC*, 444 F.2d 841 (D.C.Cir. 1970), *cert. denied*, 403 U.S. 923, 91 S.Ct. 2229, 29 L.Ed.2d 701 (1971), and *Pike's Peak Broadcasting Co. v. FCC*, 422 F.2d 671 (D.C.Cir.), *cert. denied*, 395 U.S. 979, 89 S.Ct. 2134, 23 L.Ed.2d 767 (1969). As originally articulated the words "hard look" described the agency's responsibility and not the court's. However, the phrase subsequently evolved to connote the rigorous standard of judicial review applied to increasingly utilized informal rulemaking proceedings or to other decisions made upon less than a full trial-type record. Judge Leventhal himself used the phrase in this sense in *Maryland-Nat'l Capital Park and Planning Comm'n v. United States Postal Serv.*, 487 F.2d 1029, 1037-38 and n.4 (D.C.Cir. 1973).

The etymological evolution of the phrase "hard look" and of other capsule descriptions of standards stated on judicial review of administrative decisions is in no small part attributable to the shifting meaning of "informal rulemaking." The transformation in informal rulemaking proceedings in turn can be traced to the more rigorous standards of review applied.

As originally conceived, "notice and comment" rulemaking provided a scant "record"

joined to a non-arbitrary, non-capricious opacity standard. We have today remanded the opacity standard for lime plants. If on remand an opacity standard is retained, EPA may continue to require continuous monitoring.

V. THE STANDARD OF REVIEW AS APPLIED

Our requirement that the EPA consider the representativeness of the test data relied upon in the development and justification of its standard does not presage any new or more stringent standard of judicial review. The rigorousness of the review in which this court has engaged in previous NSPS decisions—known to some as the "hard look" standard¹²⁶—has already been described.

for review. The statutorily required rationale consisted merely in "a concise general statement of [the rule's] basis and purpose." 5 U.S.C. § 553(c) (1976). The cumbersomeness of rulemaking "on the record" and its attendant delays prompted increased provision for the more flexible and expedient "notice and comment" rules in areas in urgent need of regulation. See Pedersen, *Formal Records and Informal Rulemaking*, 85 *Yale L.J.* 38, 39 (1975) [hereinafter cited as Pedersen].

The sheer massiveness of impact of the urgent regulations issued under the new rulemaking provisions and the diffidence of judges in the face of highly technical regulatory schemes prompted the courts to require the agencies to develop a more complete record and a more clearly articulated rationale to facilitate review for arbitrariness and caprice. See *Kennecott Copper Corp. v. EPA*, 462 F.2d 846, 849-50 (D.C.Cir. 1972) (remand of national secondary ambient air quality standards to EPA for additional rationale); K. Davis, *Administrative Law of the Seventies*, § 29.01-6 (1976); Stewart, *Vermont Yankee and the Evolution of Administrative Procedure*, 91 *Harv.L.Rev.* 1805, 1812-13 (1978); Nathanson, *Probing the Mind of the Administrator: Hearing Variations and Standards of Judicial Review Under the Administrative Procedure Act and Other Federal Statutes*, 75 *Colum.L.Rev.* 721, 746-70 (1975). (Indeed, a section of the Clean Air Act Amendments of 1977 not applicable to the instant proceedings expressly codified much of prior law and the suggestions made in Pedersen concerning the "formalization" of records in informal rulemaking. 42 U.S.C. § 7607(d) (Supp. I 1977); H.R. Rep.No.294, 95th Cong., 1st Sess. 320 (1977), reprinted in 4 *Legislative History* at 2787.)

In enacting the Clean Air Act Amendments of 1977, Congress expressly approved the rigorous standard of review which the courts had theretofore applied to Agency decisions under the Clean Air Act.¹²⁷ Although the judicial review provisions of the 1977 Amendments do not apply to this rule-making proceeding, Congress' express affirmation of the standards already developed fortifies our adherence to the learning of our earlier Clean Air Act decisions in

As these newly-required records and rationales became more routinely available, the "hard look" taken began to appear more judicial than administrative, blurring the original meaning of that phrase. The availability for judicial review of substantial administrative records has also generated both confusion and controversy over the applicable standard of review under the Administrative Procedure Act. See generally DeLong, *Informal Rulemaking and the Integration of Law and Policy*, 65 Va.L.Rev. 257, 284-89 (1979); Auerbach, *Informal Rulemaking: A Proposed Relationship Between Administrative Procedures and Judicial Review*, 72 Nw.U.L.Rev. 15 (1977); Pedersen, at 46-49.

127. H.R.Conf.Rep.No.564, 95th Cong., 1st Sess. 178 (1977), reprinted in 3 Legislative History 558, U.S.Code Cong. & Admin.News 1977, p. 1559:

With respect to the "arbitrary and capricious" scope of review retained in these amendments, the conferees intend that the courts continue their thorough, comprehensive review which has characterized judicial proceedings under the Clean Air Act thus far. The conferees also recognized the convergence in practice of the "substantial evidence" and the "arbitrary and capricious" standards of review. *Id.* (reinstating "arbitrary and capricious" standard of review):

In changing the scope of review as contained in the House bill, the conferees were aware that there may be little practical difference between the "substantial evidence" scope of review and the "arbitrary and capricious" scope of review and that the two tests tend to converge as described by recent court decisions. [Referring to *Assoc. Indus. v. Dep't of Labor*, 487 F.2d 342 (2d Cir. 1973)].

128. *Ethyl Corp. v. EPA*, 541 F.2d at 25 (*en banc*) (review of regulations under Clean Air Act requiring reduction of lead content of gasoline).

Congress has authorized the Administrator to "distinguish among classes, types and sizes within categories of new sources for the purpose and establishing . . . standards [under § 7411]," 42 U.S.C. § 7411(b)(2) (Supp. I 1977). But the Administrator has not availed himself of the discretion to account for varia-

reviewing the new source performance standards currently before us.

We think these decisions amply support our conclusion that a remand is appropriate in this case. Both decisions reviewing the NSPS and those reviewing other administrative determinations under the Clean Air Act evince a concern that variables be accounted for,¹²⁸ that the representativeness of test conditions be ascertained,¹²⁹ that the validity of tests be assured¹³⁰ and

tions in conditions covered by the standard here. Compare the extensive exercise of analogous discretion (with respect to existing facilities) under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (Supp. I 1977). *Weyerhaeuser Co. v. Costle*, 590 F.2d at 1053 (300 pulp and paper plants classified into 16 subcategories and 66 subdivisions, with different limitations for each subdivision). See also Judge Leventhal's concurring opinion in *ASARCO, Inc. v. EPA*, 578 F.2d 319, 330 (D.C. Cir. 1978) (noting the Administrator's discretion to classify under § 111 of the Clean Air Act).

129. *Portland Cement I*, 486 F.2d at 396 (Agency must explain generalization of standard based on tests of dry-process kilns to wet-process kilns). Cf. *AFL-CIO v. Marshall*, 617 F.2d at 656-657 (D.C. Cir. 1979) (challenge to technical feasibility of OSHA cotton dust regulation upheld where mills meeting the standard ran the "dustiest variety" of cotton); *Weyerhaeuser Co. v. Costle*, 590 F.2d at 1055-60 (D.C. Cir. 1978) (Agency gave adequate consideration to claimed variables in climate and hydraulic flow in establishing effluent limitations under the Federal Water Pollution Control Act). See *Nat'l Asphalt*, 539 F.2d at 786-87 (particulate standard upheld against claim that Agency "ignored a number of variables which should have been taken into account (including variations in the size, shape, and smoothness of particles in the feed aggregate, type of fuel, atmospheric conditions, and start up/shut down [of] plant operations)" when "Administrator's statements indicate an awareness of and a willingness to adjust for such factors"). See also *Ethyl Corp. v. EPA*, 541 F.2d at 38 (only rarely will single study or bit of evidence suffice) ("By its nature, scientific evidence is cumulative: the more supporting, albeit inconclusive, evidence available, the more likely the accuracy of the conclusion."); *Portland Cement I*, 486 F.2d at 396 (significance of single test doubted); *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 625 (noting that only one of 384 test vehicles was able to meet the standard).

130. *Portland Cement I*, 486 F.2d at 396-97 (use of faulty or discrepant testing procedures "rais-

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the statistical significance of results determined.¹³¹ Collectively, these concerns have sometimes been expressed as a need for "reasoned decision-making"¹³² and sometimes as a need for adequate "methodology."¹³³ However expressed, these more substantive concerns have been coupled with a requirement that assumptions be stated,¹³⁴ that process be revealed,¹³⁵ that the rejection of alternate theories¹³⁶ or abandonment of alternate courses of action¹³⁷ be explained and that the rationale

es serious questions about the validity of the standard" based on the data thereby obtained).

131. *Portland Cement I*, 486 F.2d at 396:

"It would . . . seem incumbent on the Administrator to estimate the possible degree of error [inherent] in his prediction," quoting *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 647.

132. *Portland Cement I*, 486 F.2d at 402; *Ethyl Corp. v. EPA*, 541 F.2d at 35-36 (citing several decisions of Judge Leventhal).

133. *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 632. See *Ethyl Corp. v. EPA*, 541 F.2d at 100 (Tamm, J., dissenting) (using "methodology" in a broader sense).

134. See *Int'l Harvester Corp. v. Ruckelshaus*, 478 F.2d at 625 (where test results inconclusive EPA stated assumptions). Cf. *AFL-CIO v. Marshall*, 617 F.2d at 651 (D.C. Cir. 1979) (agency must explicate assumptions underlying predictions or extrapolations); *Portland Cement I*, 486 F.2d at 402 (where EPA relies on tests rather than predictions, it must disclose underlying data and test procedures).

135. *Portland Cement I*, 486 F.2d at 393, 400 (data and findings in literature specifically relied upon should be revealed).

136. *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 651 (Bazelon, J., concurring) ("agency [must] set forth with clarity the grounds for its rejection of opposing views").

137. Cf. *Amoco Oil Co. v. EPA*, 501 F.2d 722, 738-39 (D.C. Cir. 1974) (Administrator adequately explained regulatory approach that depended on unavailability of alternative technology).

138. *Int'l Harvester Co. v. Ruckelshaus*, 478 F.2d at 648 (requiring explanation of assumptions); *Kennecott Copper Corp. v. EPA*, 462 F.2d at 849-50 (requiring more complete rationale). See *Ethyl Corp. v. EPA*, 541 F.2d at 104, 110 (Wilkey, J., dissenting) (Agency decisions must be explained, not merely explaina-

ble, citing *Environmental Defense Fund, Inc. v. EPA*, 465 F.2d 528, 539 (D.C. Cir. 1972) (Leventhal, J.)). See generally *A Hard Look at Vermont Yankee* at 706.

[33] Our opinion should not suggest the necessity of "ninety-five percent certainty"¹³⁹ in all the "facts" which enter into the

ble, citing *Environmental Defense Fund, Inc. v. EPA*, 465 F.2d 528, 539 (D.C. Cir. 1972) (Leventhal, J.)). See generally *A Hard Look at Vermont Yankee* at 706.

139. *Ethyl Corp. v. EPA*, 541 F.2d at 28 n. 58: Petitioners demand sole reliance on scientific facts, on evidence that reputable scientific techniques certify as certain. Typically, a scientist will not so certify evidence unless the probability of error, by standard statistical measurement, is less than 5%. That is, scientific fact is at least 95% certain.

Such certainty has never characterized the judicial or the administrative process. It may be that the "beyond a reasonable doubt" standard of criminal law demands 95% certainty. Cf. *McGill v. United States*, 121 U.S. App.D.C. 179, 185 n. 6, 348 F.2d 791, 797 n. 6 (1965). But the standard of ordinary civil litigation, a preponderance of the evidence, demands only 51% certainty. A jury may weigh conflicting evidence and certify as adjudicative (although not scientific) fact that which it believes is more likely than not. Since *Reserve Mining [Co. v. EPA]*, 514 F.2d 492 (8th Cir. 1975) was adjudicated in court, this standard applied to the court's fact-finding. Inherently, such a standard is flexible; inherently, it allows the fact-finder to assess risks, to measure probabilities, to make subjective judgments. Nonetheless, the ultimate finding will be treated, at law, as fact and will be affirmed if based on substantial evidence, or, if made by a judge, not clearly erroneous.

The standard before administrative agencies is no less flexible. Agencies are not limited to scientific fact, to 95% certainties. Rather, they have at least the same fact-finding powers as a jury, particularly when, as here, they are engaged in rule-making. Looking to the future, and commanded by Congress to make policy, a rule-making agency necessarily deals less with "evidentiary" disputes than with normative conflicts, projections from imperfect data, experiments and simulations, educated predictions, differing assessments of possible risks, and the like.

Agency's decision. We would require only that the Agency provide sufficient data to demonstrate a systematic approach to problems, not that it adduce vast quantities of factual data. However, where the facts pertinent to the standard's feasibility are available and easily discoverable by conventional technical means, there is somewhat less reason for so limited a data base. Nothing in the record suggests the relevant facts are not readily accessible to the Agency; the number of plants is large,¹⁴⁰ use of the control methods found by the Agency to represent the "best systems" is widespread,¹⁴¹ and stack emission measurement techniques have been known and applied for many years.¹⁴²

[34] With respect to the standard's achievability we are thus not presented with the question how much deference is owed a judgment predicated on limited evidence when additional evidence cannot be adduced or adduced in the near future.¹⁴³ We do not depart from some of the most carefully considered and closely reasoned decisions of this court which permit an

Amoco Oil Co. v. EPA, . . . 163 U.S. App.D.C. at 175, 501 F.2d at 735.

140. EPA estimated 179 lime plants were operating in 1975. SSEIS 3-1.

141. According to the MRI Report, one study showed that 24% of 85 rotary kiln lime plants were controlled by baghouses. *Id.* at 8-9. None of the emissions control systems found by the EPA to be capable of meeting the promulgated standard utilizes a newly developed or little-used technology. All have been widely used in the industry for many years. See R. Boynton, *Chemistry and Technology of Lime and Limestone* 267-68 (1966).

142. EPA's "Method 5" was established as a reference method in 1971. 36 Fed.Reg. 24876, 24888 (1971).

143. *Cf. Ethyl Corp. v. EPA*, 541 F.2d at 28: Where a statute is precautionary in nature, the evidence difficult to come by, uncertain, or conflicting because it is on the frontiers of scientific knowledge, the regulations designed to protect the public health, and the decision that of an expert administrator, we will not demand rigorous step-by-step proof of cause and effect. Such proof may be impossible to obtain if the precautionary purpose of the statute is to be served. Of course, we are not suggesting that the Ad-

agency latitude to exercise its discretion in accordance with the remedial purposes of the controlling statute where relevant facts cannot be ascertained or are on the frontiers of scientific inquiry.¹⁴⁴

[35] A systematic approach may not necessarily require a conclusion grounded in actual test results. We do not intend to bridle the Agency's discretion to make well-founded assumptions even where the assumption could be replaced by valid test results, but we think first, the assumption should be stated and second, where test data *could* have verified the assumption, a reason for not testing or relying on such data should be given.

[36] We recognize, for example, that the finding of facts, especially through elaborate testing, is costly¹⁴⁵ and the costs of additional testing may be added by the Agency to the costs of delay in issuing the proposed rule and the sum of these costs weighed against the benefit of proposing a rule without additional data.¹⁴⁶

administrator has the power to act on hunches or wild guesses. *Amoco* makes it quite clear that his conclusions must be rationally justified.

(footnote omitted) (*citing Amoco Oil Co. v. EPA*, 501 F.2d 722 (D.C. Cir. 1974)).

144. *Ethyl Corp. v. EPA*, 541 F.2d 1; *Amoco Oil Co. v. EPA*, 501 F.2d at 738-39; *Indus. Union Dep't v. Hodgson*, 499 F.2d 467, 474 (D.C. Cir. 1974). See generally McGarity, *Substantive and Procedural Discretion in Administrative Resolution of Science Policy Questions: Regulating Carcinogens in EPA and OSHA*, 67 *Geo. L.J.* 729 (1979).

145. EPA here estimated: "Sampling costs for performing a test consisting of three Method 5 runs [are] estimated to range from \$5,000 to \$9,000. If in-plant personnel are used to conduct tests, the costs will be somewhat less." SSEIS D-8.

146. *Cf. AFL-CIO v. Marshall*, 617 F.2d at 657-658 (D.C. Cir. 1979) (OSHA might have improved quality of record with more extensive studies at different mills and over different periods of time, but OSH Act, although requiring best available evidence, does not require administration to incur these costs).

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We leave to the Agency on remand the decision whether additional Agency-conducted testing is appropriate in this case. Data may already be available to the Administrator which would support the achievability of these standards for the industry as a whole. If so, satisfaction of the concerns we have expressed in this opinion may be a fairly simple matter.

To ensure that the Agency has engaged in reasoned decisionmaking, we remand. We have outlined our substantive misgivings; the Agency may choose the appropriate method of response.

Remanded.



Ralph RILEY, Petitioner,

v.

U. S. INDUSTRIES/FEDERAL SHEET METAL, INC.

and

Insurance Company of North America, Respondents.

No. 79-1417.

United States Court of Appeals,
District of Columbia Circuit.

Argued April 25, 1980.

Decided May 22, 1980.

Rehearing Denied July 3, 1980.

A claim for compensation under the Longshoremen's and Harbor Workers' Compensation Act was denied, and the decision of the administrative law judge was affirmed by Benefits Review Board. On petition for review, the Court of Appeals, Edwards, Circuit Judge, held that: (1) where worker awoke in early morning, after occasion of alleged accident, with severe pains in neck, shoulders and arms, and was taken

to hospital, and heart attack was originally suspected but it was concluded that his discomfort was due to exacerbation of his arthritic condition, he suffered "injury" within Longshoremen's and Harbor Workers' Compensation Act; (2) there being no question that claimant suffered "injury," administrative law judge, by requiring claimant to prove that accident did in fact occur, denied claimant benefits of rebuttable presumption that absent evidence to contrary, injury arose out of and in course of employment; and (3) statutory presumption of compensability is not limited to inference of work-related incident from injury, nor is scope of employer's burden of coming forward with substantial evidence in rebuttal, and thus finding of administrative law judge that no accident in fact occurred, there having been no question that claimant suffered "injury," was not responsive to issue.

Board's decision vacated and case remanded for full reconsideration.

1. Workers' Compensation ⇐618

Preexistence of arthritic neck condition could not, alone, be deemed determinative factor as to whether worker suffered "injury" and as to whether injury arose out of and in course of employment. Longshoremen's and Harbor Workers' Compensation Act, §§ 1 et seq., 2(2), 3, 20, 20(a) as amended 33 U.S.C.A. §§ 901 et seq., 902(2), 903, 920, 920(a); D.C.C.E. §§ 36-501, 36-502.

2. Workers' Compensation ⇐512

An "injury" need not be external one in order to be covered by Longshoremen's and Harbor Workers' Compensation Act. Longshoremen's and Harbor Workers' Compensation Act, §§ 1 et seq., 2(2), 3, 20(a) as amended 33 U.S.C.A. §§ 901 et seq., 902(2), 903, 920(a); D.C.C.E. §§ 36-501, 36-502.

3. Workers' Compensation ⇐558

Where worker awoke in early morning, after occasion of alleged accident, with severe pains in neck, shoulders and arms, and was taken to hospital, and heart attack was originally suspected but it was concluded

[Appalachian Power Co. v. EPA](#)

United States Court of Appeals for the District of Columbia Circuit

February 8, 2000, Argued ; April 14, 2000, Decided

No. 98-1512, Consolidated with Nos. 98-1536, 98-1537, 98-1538, 98-1540 & 98-1542

Reporter

208 F.3d 1015 *; 2000 U.S. App. LEXIS 6826 **; 341 U.S. App. D.C. 46; 30 ELR 20560; 50 ERC (BNA) 1449

APPALACHIAN POWER COMPANY, ET AL.,
PETITIONERS v. ENVIRONMENTAL PROTECTION
AGENCY, RESPONDENT

Prior History: [**1] On Petitions for Review of an Order of the Environmental Protection Agency.

Core Terms

monitoring, EPA, regulations, testing, emission standards, permits, authorities, compliance, federal standard, air, applicable requirements, promulgated, rulemaking, emission, binding, pollutants, frequency, petitioners', terms, limitations, conditions, one-time, notice, noninstrumental, instrumental, revise, implementation plan, testing requirement, policy statement, agencies

Case Summary

and to enhance the monitoring required in individual permits beyond that contained in state or federal emission standards significantly expanded the scope of [40 C.F.R. § 70.6\(a\)\(3\)\(i\)\(B\)](#). The court held that these provisions should have been subject to the rulemaking procedures required by [42 U.S.C.S. § 7607\(d\)](#). Accordingly, in view of the intertwined nature of the challenged and unchallenged portions of the Guidance, the court concluded that the Guidance must be set aside in its entirety.

Outcome

Upon petition for review, an Environmental Protection Agency document entitled "Periodic Monitoring Guidance for Title V Operating Permits Programs" (Guidance) on finding certain Guidance provisions should have been subject to the rulemaking procedures required under federal law.

LexisNexis® Headnotes

Procedural Posture


Petitioner's sought review of an order of the Environmental Protection Agency, which released a document entitled "Periodic Monitoring Guidance for Title V Operating Permits Programs" outlining periodic monitoring of source point emissions subject to Title V of the Clean Air Act Amendments of 1990.

Overview

In consolidated petitions for review, petitioners, electric power companies and trade associations representing the nation's chemical and petroleum industry, challenged the validity of portions of an Environmental Protection Agency (EPA) document entitled "Periodic Monitoring Guidance for Title V Operating Permits Programs" (Guidance). The court of appeals set aside the Guidance in its entirety. The court found that provisions of the Guidance directing state permitting authorities to conduct wide-ranging sufficiency reviews

Environmental Law > Air Quality > Operating Permits

Environmental Law > Air Quality > General Overview

 **Air Quality, Operating Permits**

See [40 C.F.R. § 70.6\(a\)\(3\)](#).

Administrative Law > Agency Rulemaking > Informal Rulemaking

Environmental Law > Air Quality > Enforcement > Administrative Proceedings

[HN2](#)  **Agency Rulemaking, Informal Rulemaking**

Only legislative rules have the force and effect of law. A legislative rule is one the agency has duly promulgated in compliance with the procedures laid down in the statute or in the Administrative Procedure Act.

Administrative Law > Agency Rulemaking > Negotiated Rulemaking

Governments > Federal Government > Claims By & Against

[HN3](#)  **Agency Rulemaking, Negotiated Rulemaking**

If an agency acts as if a document issued at headquarters is controlling in the field, if it treats the document in the same manner as it treats a legislative rule, if it bases enforcement actions on the policies or interpretations formulated in the document, if it leads private parties or State permitting authorities to believe that it will declare permits invalid unless they comply with the terms of the document, then the agency's document is for all practical purposes "binding."

Administrative Law > Agency Rulemaking > Informal Rulemaking

Administrative Law > ... > Freedom of Information > Methods of Disclosure > Publication

[HN4](#)  **Agency Rulemaking, Informal Rulemaking**

[5 U.S.C.S. § 552\(a\)\(1\)\(D\)](#) requires publication in the Federal Register of all interpretations of general applicability.

Administrative Law > Agency Rulemaking > Informal Rulemaking

Administrative Law > ... > Freedom of Information > Methods of Disclosure > Public Inspection

[HN5](#)  **Agency Rulemaking, Informal Rulemaking**

[5 U.S.C.S. § 552\(a\)\(2\)\(B\)](#) requires agencies to make available for inspection and copying those statements of

policy and interpretations which have been adopted by the agency and are not published in the Federal Register.


Administrative Law > Agency Rulemaking > Rule Application & Interpretation > Binding Effect

Environmental Law > Air Quality > Enforcement > Administrative Proceedings

Administrative Law > Agency Rulemaking > Informal Rulemaking

Administrative Law > Agency Rulemaking > Negotiated Rulemaking

Environmental Law > Air Quality > General Overview

[HN6](#)  **Rule Application & Interpretation, Binding Effect**

Under the Administrative Procedure Act (APA), a rule may consist of part of an agency statement of general or particular applicability and future effect. [5 U.S.C.S. § 551\(4\)](#). Interpretative rules and policy statements may be rules within the meaning of the APA and the Clean Air Act, although neither type of rule has to be promulgated through notice and comment rulemaking. See [42 U.S.C.S. § 7607\(d\)\(1\)](#), referring to [5 U.S.C.S. § 553\(b\)\(A\)](#) & [\(B\)](#).

Administrative Law > Agency Rulemaking > Informal Rulemaking

Administrative Law > Judicial Review > Reviewability > Reviewable Agency Action

[HN7](#)  **Agency Rulemaking, Informal Rulemaking**

In the administrative setting, two conditions must be satisfied for agency action to be "final": First, the action must mark the "consummation" of the agency's decisionmaking process, it must not be of a merely tentative or interlocutory nature. And second, the action must be one by which rights or obligations have been determined, or from which legal consequences will flow.

HNT1 Agency Rulemaking

Negotiated

Overview

Administrative Law > Agency Rulemaking > General

Quality > Enforcement > Administrative Proceedings

Environmental Law > Air

Rulemaking > Negotiated Rulemaking

Administrative Law > Agency

Counsel: Lauren E. Freeman argued the cause for petitioners. With her on the briefs were Henry V. Nickel, Leslie Sue Ritts, Michael H. Levin, Edmund B. Frost, David F. Zoll, Alexandra Dapolito Dunn, John Reese, Charles F. Lettow, Marilynn A. Burke, L. Burton Davis, William H. Lewis, Michael A. McCord and Ellen Siegler. Michael P. McGovern and Neal J. Cabral entered appearances. Jon M. Lipschultz, Attorney, U.S. Department of Justice, argued the cause for respondent. With him on the briefs were Lois J. Schiffer, Assistant Attorney General, and Gregory B. Fote, Attorney, Environmental Protection Agency.

See [42 U.S.C. § 7661c\(b\)](#).

State permitting authorities therefore may not, on the basis of Environmental Protection Agency's "Periodic Monitoring Guidance for Title V Operating Permits Programs" or [40 C.F.R. § 70.6\(a\)\(3\)\(i\)\(B\)](#), require in permits that the regulated source conduct more frequent monitoring of its emissions than that provided in the applicable State or federal standard, unless that standard requires no periodic testing, specifies no frequency, or requires only a one-time test.

HNT0 Air Quality, Operating Permits

Overview

Environmental Law > Air Quality > General

Permits

Environmental Law > Air Quality > Operating

HNT3 Enforcement, Administrative Proceedings

Permits

Environmental Law > Air Quality > Operating

Overview

Environmental Law > Air Quality > General

Environmental Law > Air Quality > Enforcement > Administrative Proceedings

An agency may not escape the notice and comment requirements by labeling a major substantive legal addition to a rule a mere interpretation. Courts must still look to whether the interpretation itself carries the force and effect of law, or rather whether it spells out a duty fairly encompassed within the regulation that the interpretation purports to construe.

HNT9 Agency Rulemaking

Negotiated

Quality > Enforcement > Administrative Proceedings

Environmental Law > Air

Rulemaking > Negotiated Rulemaking

Administrative Law > Agency

Partial affirmance of agency action is not an option when there is substantial doubt that the agency would have adopted the severed portion on its own.

HNT2 Administrative Law, Judicial Review

Standards

Environmental Law > Solid Wastes > Disposal

Overview

Administrative Law > Judicial Review > General

The fact that a law may be altered in the future has nothing to do with whether it is subject to judicial review at the moment.

HNT8 Reviewability, Renewable Agency Action

Action

Review > Reviewability > Renewable Agency

Administrative Law > Judicial

The Environmental Protection Agency cannot amend its regulations without complying with the rulemaking procedures required by [42 U.S.C. § 7607\(d\)](#).

Judges: Before: WILLIAMS, HENDERSON, and RANDOLPH, Circuit Judges. Opinion for the Court filed by Circuit Judge RANDOLPH.

Opinion by: RANDOLPH

Opinion

highway funds and an EPA takeover of permit-issuing authority within the State. See *Commonwealth of Virginia v. Browner*, [80 F.3d 869, 873-74 \(4th Cir. 1996\)](#).

HN1 EPA promulgated rules implementing the Title V permit program in 1992. The rules list the items each State permit program must contain,² including this one:

(3) *Monitoring and related record-keeping and reporting requirements.* (i) Each permit shall contain the following requirements **HN4** with respect to monitoring:

(A) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including part 64 of this chapter and any other procedures and methods that may be promulgated pursuant to sections 114(a)(3) or 504(b) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining:

(B) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring **HN10181** (which may consist of record-keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to paragraph(a)(3)(iii) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent **HN5** with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph (a)(3)(i)(B) of this section; and

(C) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods....

[40 C.F.R. § 70.6\(a\)\(3\)](#).

The key language--key because this dispute revolves

HN10171 RANDOLPH, *Circuit Judge:* These consolidated petitions for judicial review, brought by electric power companies, and trade associations representing the nation's chemical and petroleum industry, challenge the validity of portions of an EPA document entitled "Periodic Monitoring Guidance," released in 1998. In the alternative, petitioners seek review of a 1992 EPA rule **HN2** implementing Title V of the Clean Air Amendments of 1990.

I.

Title V of the 1990 amendments to the Clean Air Act altered the method by which government regulated the private sector to control air pollution. Henceforth, stationary sources of air pollution, or of potential air pollution, must obtain operating permits from State or local authorities administering their EPA-approved implementation plans. The States must submit to EPA for its review all operating permits and proposed and final permits. See [42 U.S.C. § 7661d](#). EPA has 45 days to object; if it does so, "the permitting authority may not issue the permit," *id.* [§ 7661d\(b\)\(3\)](#).¹ Congress instructed EPA to pass regulations establishing the "minimum elements of a permit program to be administered by any air pollution control agency," including "Monitoring and reporting requirements." [42 U.S.C. § 7661a\(b\)](#). Under Title V, the Governor of each State could submit to EPA a permit program by November 15, 1993, to comply with Title V and with whatever regulations EPA had promulgated in the interim. See [42 U.S.C. § 7661a\(d\)](#). This was to be accompanied **HN3** by a legal opinion from the State's attorney general that the laws of the State contained sufficient authority to authorize the State to implement the program. *Id.* If a State decided not to participate, or if EPA disapproved the State's program, federal sanctions would kick in, including a cut-off of federal

¹ If the State permitting authority fails to revise the permit to satisfy EPA's objection, EPA shall issue or deny the permit, at which point EPA's action becomes subject to judicial review. See [42 U.S.C. § 7661d\(c\)](#).

² The list is nicely summarized in DAVID R. WOOLEY, CLEAN AIR ACT HANDBOOK: A PRACTICAL GUIDE TO COMPLIANCE § 5.02[1] (9th ed. 2000).

around it--is in the first sentence of [§ 70.6\(a\)\(3\)\(i\)\(B\)](#). Permits contain terms and conditions with which the regulated entities must comply. Some of the terms and conditions--in regulatory lingo, "applicable requirements" (see [§ 70.6\(a\)\(3\)\(i\)\(B\)](#))³--consist of emission limitations and standards, State and federal. Experts in the field know that federal emission standards, such as those issued for hazardous air pollutants and new stationary sources, contain far more than simply limits on the **[**6]** amount of pollutants emitted.

Take for instance the following examples drawn at random from the Code of Federal Regulations. The national emission standard for hazardous air pollutants from primary lead smelting is contained in [40 C.F.R. §§ 63.1541-1550](#). In addition to emission limits,⁴ **[**8]** the operator must comply with detailed and extensive testing requirements **[**7]** contained in § 63.8 of the regulations, and must monitor certain pressure drops daily; make weekly checks to ensure that dust is being removed from hoppers; perform quarterly inspections of fans, and so forth. *Id.* § 63.1547. Or consider the standards of performance for new stationary sources contained in 40 C.F.R. part 60, one of the thickest of the dozen or so volumes EPA commands in the C.F.R. In the "beverage can surface coating industry," those subject to these regulations must--if they use "a capture system and an incinerator"--install some sort of

³ One EPA official explained:

Permits must incorporate terms and conditions to assure compliance with all applicable requirements under the Act, including the [state implementation plan], title VI, sections 111 and 112, the sulfur dioxide allowance system and NOx limits under the acid rain program, emission limits applicable to the source, monitoring, recordkeeping and reporting requirements, and any other federally-recognized requirements applicable to the source.

John S. Seitz, Director, Office of Air Quality Planning and Standards, *Developing Approvable State Enabling Legislation Required to Implement Title V*, at p. 4 (Feb. 25, 1993).

⁴ See [40 C.F.R. § 63.1543\(a\)](#):

No owner or operator of any existing, new, or reconstructed primary lead smelter shall discharge or cause to be discharged into the atmosphere lead compounds in excess of 500 grams of lead per megagram of lead metal produced ... from the aggregation of emissions discharged from the air pollution control devices used to control emissions from the sources [listed].

"temperature measurement device," properly calibrated and having a specified accuracy stated in terms of degrees Celsius. [40 C.F.R. § 60.494](#).⁵ Or if the new source is in the rubber tire manufacturing industry, an operator doing a "green tire spraying operation" using organic solvent-based sprays must install "an organics monitoring device used to indicate the concentration level of organic compounds **[*1019]** based on a detection principle such as infrared ..., equipped with a continuous recorder, for the outlet of the carbon bed." *Id.* § 60.544(a)(3).

Typically, EPA delegates to the States its authority to require companies to comply with these federal standards. The States incorporate the federal standards in their implementation plans and, under Title V of the 1990 law, the applicable standards become terms and conditions in permits. States too have their own emissions limitations and standards in their implementation plans, which they need in order to comply with national ambient air quality standards. See 40 C.F.R. part 52; [Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.](#), 467 U.S. 837, 846, 81 L. Ed. 2d 694, 104 S. Ct. 2778 (1984); [Union Electric Co. v. EPA](#), 427 U.S. 246, 249-50, 49 L. Ed. 2d 474, 96 S. Ct. 2518 (1976); **[**9]** [Commonwealth of Virginia v. EPA](#), 323 U.S. App. D.C. 368, 108 F.3d 1397, 1406 (D.C. Cir.), modified, 116 F.3d 499 (D.C. Cir. 1997). Petitioners tell us that States may formulate their emission standards not only by limiting the amount of air pollutants, but also by imposing practices, including the monitoring of emissions.⁶

On one thing the parties are in agreement. If an

⁵ If the facility does not use a capture system, it must calculate its emission limits using a series of equations provided by EPA. For some idea of the complexity of this exercise, consider that the facility must figure its total volume of coating solids per month using the following equation:

$$L[s] = E L[ci]V[si]$$
$$i=1$$

[40 C.F.R. § 60.493\(b\)\(1\)\(i\)\(B\)](#). It would serve no useful purpose to explain this or the many other equations in the sequence.

⁶ In some instances, States may adopt emission standards or limitations that are more stringent than federal standards. [42 U.S.C. § 7416](#). States may also adopt more stringent permit requirements. [40 C.F.R. § 70.1\(c\)](#).

applicable State emission standard contains no monitoring requirement to ensure compliance, EPA's regulation requires the State permitting agency to impose on the stationary source some sort of "periodic monitoring" as a condition in the permit or specify a reasonable frequency for any data collection mandate already specified in the applicable requirement. According to petitioners this sort of gap-filling is all [§ 70.6\(a\)\(3\)\(i\)\(B\)](#)--the so-called periodic monitoring rule--requires of State permit programs. By petitioners' lights, if a federal or State emission standard already contains some sort of requirement to do testing⁷ from time to time, this portion of the standard must be incorporated in the permit, not changed by the State to conform to EPA's imprecise and evolving notion of what constitutes "periodic monitoring."⁸ Otherwise, State authorities will wind up amending federal emission standards in individual permits, something not even EPA could do without conducting individual rulemakings to amend the regulations containing the federal standards. And with respect to State standards, the State agency will in effect be revising its implementation plan at EPA's behest, without going through the procedures needed to accomplish this. See, e.g., [42 U.S.C. § 7410\(k\)\(5\)](#) & (l).

[11]** In a document entitled "Periodic Monitoring Guidance for Title V Operating Permits Programs," released in September 1998, EPA took a sharply different view of [§ 70.6\(a\)\(3\)](#) than do petitioners. The "Guidance" was issued over the signature of two EPA officials--the Director of the Office of Regulatory Enforcement, and the Director of the Office of Air Quality Planning and Standards. It is narrative in form, consists of 19 single-spaced, typewritten pages, and is available on EPA's internet web site (www.epa.gov). "Periodic monitoring," the Guidance states, "is required for each emission point at a source subject to title V of the Act that is subject to an applicable requirement, such as a Federal regulation or a SIP emission limitation." PERIODIC MONITORING GUIDANCE FOR TITLE V OPERATING PERMITS PROGRAMS (hereinafter "GUIDANCE") at 5. New source performance standards, and national emission

⁷By testing we mean to include instrumental and noninstrumental monitoring as well.

⁸In support of their view, petitioners point to the Title V rule's preamble which states: "If the underlying applicable requirement imposes a requirement to do periodic monitoring or testing ..., the permit must simply incorporate this provision under [§ 70.6\(a\)\(3\)\(i\)\(A\)](#)." [57 Fed. Reg. 32,278 \(1992\)](#).

standards for hazardous pollutants, if EPA promulgated the standards after November 15, 1990, the effective date of the **[*1020]** Clean Air Act amendments, are "presumed to have adequate monitoring." *Id.* Also, for "emission units subject to the acid rain requirements," EPA has determined that its "regulations **[**12]** contain sufficient monitoring for the acid rain requirements." *Id.* Outside of these categories and one other, the Guidance states that "periodic monitoring is required ... when the applicable requirement does not require ... monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit." *Id.* at 6. How to determine this? Clearly, according to the Guidance, if an "applicable requirement imposes a one-time testing requirement, periodic monitoring is not satisfied ...," presumably because one time is not from time to time, which is what periodic means. *Id.*

II.

The phenomenon we see in this case is familiar. Congress passes a broadly worded statute. The agency follows with regulations containing broad language, open-ended phrases, ambiguous standards and the like. Then as years pass, the agency issues circulars or guidance or memoranda, explaining, interpreting, defining and often expanding the commands in the regulations. One guidance document may yield another and then another and so on. Several words in a regulation may spawn hundreds of pages of text as the agency offers more and more detail **[**13]** regarding what its regulations demand of regulated entities. Law is made, without notice and comment, without public participation, and without publication in the Federal Register or the Code of Federal Regulations. With the advent of the Internet, the agency does not need these official publications to ensure widespread circulation; it can inform those affected simply by posting its new guidance or memoranda or policy statement on its web site. An agency operating in this way gains a large advantage. "It can issue or amend its real rules, i.e., its interpretative rules and policy statements, quickly and inexpensively without following any statutorily prescribed procedures." Richard J. Pierce, Jr., *Seven Ways to Deossify Agency Rulemaking*, 47 ADMIN. L. REV. 59, 85 (1995).⁹ The agency may also think there is another advantage--immunizing its lawmaking from

⁹How much more efficient than, for instance, the sixty rounds of notice and comment rulemaking preceding the final rule in [Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.](#), [463 U.S. 29, 34, 77 L. Ed. 2d 443, 103 S. Ct. 2856 \(1983\)](#).

judicial review.

[**14] A.

EPA tells us that its Periodic Monitoring Guidance is not subject to judicial review because it is not final, and it is not final because it is not "binding." ¹⁰ [**16] Brief of Respondent at 30. See GUIDANCE at 19. It is worth pausing a minute to consider what is meant by "binding" in this context. [HN2](#) [↑] Only "legislative rules" have the force and effect of law. See [Chrysler Corp. v. Brown](#), 441 U.S. 281, 302-03 & n.31, 60 L. Ed. 2d 208, 99 S. Ct. 1705 (1979). A "legislative rule" is one the agency has duly promulgated in compliance with the procedures laid down in the statute or in the Administrative Procedure Act. ¹¹ If this were all that "binding" meant, EPA's [**1021] Periodic Monitoring Guidance could not possibly qualify: it was not the product of notice and comment rulemaking in accordance with the Clean Air Act, [42 U.S.C. § 7607\(d\)](#), and it has not been published in the Federal Register. ¹² But we have also recognized

¹⁰ Our jurisdiction extends to "any ... nationally applicable ... final action taken by" the EPA "Administrator." [42 U.S.C. § 7607\(b\)\(1\)](#). The Guidance issued over the signatures of two high level EPA officials rather than the Administrator. EPA does not, however, contest petitioners' assertion that because "the document was drafted, and reviewed by, high ranking officials in several EPA offices, including EPA's lawyers, there is no reason to doubt the authors' authority to speak for the Agency." Brief of Petitioners at 42. See [Her Majesty the Queen v. EPA](#), 286 U.S. App. D.C. 171, 912 F.2d 1525, 1531-32 (D.C. Cir. 1990); [Natural Resources Defense Council, Inc. v. Thomas](#), 269 U.S. App. D.C. 343, 845 F.2d 1088, 1094 (D.C. Cir. 1988).

¹¹ We have also used "legislative rule" to refer to rules the agency should have, but did not, promulgate through notice and comment rulemaking. See, e.g., [American Mining Congress v. Department of Labor](#), 302 U.S. App. D.C. 38, 995 F.2d 1106, 1110 (D.C. Cir. 1993). In this case, by "rule" we mean the following:

... the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency....

[5 U.S.C. § 551\(4\)](#).

¹² [HN4](#) [↑] [5 U.S.C. § 552\(a\)\(1\)\(D\)](#) requires publication in the Federal Register of all "interpretations of general applicability." [HN5](#) [↑] Compare [5 U.S.C. § 552\(a\)\(2\)\(B\)](#), requiring agencies to make available for inspection and copying "those

that an agency's other pronouncements can, as a practical matter, have a binding effect. See, e.g., [McLouth Steel Prods. Corp. v. Thomas](#), 267 U.S. App. D.C. 367, 838 F.2d 1317, 1321 (D.C. Cir. 1988). [HN3](#) [↑] If an agency [**15] acts as if a document issued at headquarters is controlling in the field, if it treats the document in the same manner as it treats a legislative rule, if it bases enforcement actions on the policies or interpretations formulated in the document, if it leads private parties or State permitting authorities to believe that it will declare permits invalid unless they comply with the terms of the document, then the agency's document is for all practical purposes "binding." See Robert A. Anthony, *Interpretative Rules, Policy Statements, Guidances, Manuals, and the Like--Should Federal Agencies Use Them to Bind the Public?*, 41 DUKE L.J. 1311, 1328-29 (1992), and cases there cited.

[**17] For these reasons, EPA's contention must be that the Periodic Monitoring Guidance is not binding in a practical sense. Even this, however, is not an accurate way of putting the matter. Petitioners are not challenging the Guidance in its entirety. [HN6](#) [↑] Under the Administrative Procedure Act, a "rule" may consist of "part of an agency statement of general or particular applicability and future effect...." [5 U.S.C. § 551\(4\)](#), quoted in full in *supra* note 11; see [5 U.S.C. §§ 551\(13\), 702](#). "Interpretative rules" and "policy statements" may be rules within the meaning of the APA and the Clean Air Act, although neither type of "rule" has to be promulgated through notice and comment rulemaking. See [42 U.S.C. § 7607\(d\)\(1\)](#), referring to [5 U.S.C. § 553\(b\)\(A\) & \(B\)](#). ¹³ [**19] EPA claims, on the one hand,

statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register."

¹³ We quoted, in [Panhandle Eastern Pipeline Co. v. FERC](#), 339 U.S. App. D.C. 94, 198 F.3d 266, 269 (D.C. Cir. 1999), the statement in [Pacific Gas & Electric Co. v. Federal Power Commission](#), 164 U.S. App. D.C. 371, 506 F.2d 33, 38 (D.C. Cir. 1974), that a policy statement is not a "rule," apparently within the meaning of [5 U.S.C. § 551\(4\)](#). Dicta in [Syncor International Corp. v. Shalala](#), 326 U.S. App. D.C. 422, 127 F.3d 90, 94 (D.C. Cir. 1997), suggests the same without referring to [§ 551\(4\)](#). See also [Hudson v. FAA](#), 338 U.S. App. D.C. 194, 192 F.3d 1031 (D.C. Cir. 1999).

On the other hand, in [Batterton v. Marshall](#), 208 U.S. App. D.C. 321, 648 F.2d 694, 700 (D.C. Cir. 1980), we interpreted the term "rule" in [§ 551\(4\)](#) as "broad enough to include nearly every statement an agency may make...." Quoting this

that the Guidance is a policy statement, rather than an interpretative rule, and is not binding.¹⁴ On **[**1022]** the other hand, EPA agrees with petitioners that "the Agency's position on the central legal issue here--the appropriateness of a sufficiency review of all Title V monitoring requirements--indeed is settled. **[**18]** ..." Brief of Respondent at 32. In other words, whatever EPA may think of its Guidance generally, the elements of the Guidance petitioners challenge consist of the agency's settled position, a position it plans to follow in reviewing State-issued permits, a position it will insist State and local authorities comply with in setting the terms and conditions of permits issued to petitioners, a position EPA officials in the field are bound to apply.

Of course, an agency's action is not necessarily final merely because it is binding.¹⁵ **[**22]** Judicial orders

language, we held in *Center for Auto Safety v. National Highway Safety Administration*, 228 U.S. App. D.C. 331, 710 F.2d 842, 846 (D.C. Cir. 1983), that agency policy statements accompanying the withdrawal of a notice of proposed rulemaking fell within the definition of a "rule." A few years later, then-Judge Scalia--citing *Batterton*--wrote for the court that under APA § 551(4), it is "clear" that "the impact of an agency statement upon private parties is relevant only to whether it is the sort of rule that is ... a general statement of policy." *Thomas v. New York*, 256 U.S. App. D.C. 49, 802 F.2d 1443, 1447 n.* (D.C. Cir. 1986). See also *National Tank Truck Carriers, Inc. v. Federal Highway Admin.*, 335 U.S. App. D.C. 166, 170 F.3d 203, 207 n.3 (D.C. Cir. 1999).

There is no need for us to try to reconcile these two lines of authority. Nothing critical turns on whether we initially characterize the Guidance as a "rule."

¹⁴ EPA is under the impression that policy statements can never be "rules" within the meaning of APA § 551(4): "even if the Guidance were somehow deemed to be a 'rule' (a conclusion that would, in EPA's view, be erroneous due to the non-binding nature of the Guidance), Petitioners' procedural challenge would still fail because the Guidance undoubtedly would be an interpretive (not legislative) rule...." Brief of Respondent at 43-44 n.40. We should note that the Guidance itself states that it "interprets" § 70.6(a)(3) of the regulations. GUIDANCE at 4 n.1.

¹⁵ We add that agency action does not necessarily have binding effect--that is, does not necessarily alter legal rights and obligations--merely because it is final. Denials of petitions for rulemaking, for instance, may be final although no private person is required to do anything. In the past, when this court examined the binding effect of agency action, we did so for the purpose of determining whether the non-legislative rule should have undergone notice and comment rulemaking because it was, in effect, a regulation. See, e.g., *Florida Power & Light*

can be binding; a temporary restraining order, for instance, compels compliance but it does not finally decide the case. *HNZT* In the administrative setting, "two conditions must be satisfied for agency action to be 'final': First, the action must mark the 'consummation' of the agency's decisionmaking process, *Chicago & Southern Airlines, Inc. v. Waterman S.S. Corp.*, 333 U.S. 103, 113, 92 L. Ed. 568, 68 S. Ct. 431 (1948)--it **[**20]** must not be of a merely tentative or interlocutory nature. And second, the action must be one by which 'rights or obligations have been determined,' or from which 'legal consequences will flow,' *Port of Boston Marine Terminal Assn. v. Rederiaktiebolaget Transatlantic*, 400 U.S. 62, 71, 27 L. Ed. 2d 203, 91 S. Ct. 203 (1970)." *Bennett v. Spear*, 520 U.S. 154, 178, 137 L. Ed. 2d 281, 117 S. Ct. 1154 (1997). The first condition is satisfied here. The "Guidance," as issued in September 1998, followed a draft circulated four years earlier and another, more extensive draft circulated in May 1998. This latter document bore the title "*EPA Draft Final Periodic Monitoring Guidance*."¹⁶ On the question whether States must review their emission standards and the emission standards EPA has promulgated to determine if the standards provide enough monitoring, the Guidance is unequivocal--the State agencies must do so. See GUIDANCE at 6-8. On the question whether the States may supersede federal and State standards and insert additional monitoring requirements as terms or conditions of a permit, the Guidance is certain--the State agencies must do so if they **[**21]** believe existing requirements are inadequate, as measured by EPA's multi-factor, case-by-case analysis set forth in the Guidance. See GUIDANCE at 7-8.

EPA may think that because the Guidance, in all its particulars, is subject to change, it is not binding and therefore not final action. There are suggestions in its brief to this effect. See, e.g., Brief of Respondent at 3, 33 n.30. But all laws are subject to change. Even that most enduring of documents, the Constitution of the United States, may be amended from time to time. *HN8* **[** The fact that a law may be altered in the future has

Co. v. EPA, 330 U.S. App. D.C. 344, 145 F.3d 1414, 1418-19 (D.C. Cir. 1998); *American Portland Cement Alliance v. EPA*, 322 U.S. App. D.C. 99, 101 F.3d 772, 776 (D.C. Cir. 1996); *Kennecott Utah Copper Corp. v. Dept. of Interior*, 319 U.S. App. D.C. 128, 88 F.3d 1191, 1207 (D.C. Cir. 1996); *National Solid Waste Mgmt. Ass'n v. EPA*, 276 U.S. App. D.C. 207, 869 F.2d 1526, 1534 (D.C. Cir. 1989).

¹⁶ In the title to the Guidance we have before us, EPA dropped the word "final."

nothing to do with whether it is subject to judicial review at the moment. See [McLouth Steel Prods. Corp. v. EPA, 838 F.2d at 1320](#).

On the issue whether the challenged portion of the Guidance has legal consequences, EPA points to the concluding paragraph of the document, which contains **[*1023]** a disclaimer: "The policies set forth in this paper are intended solely as guidance, do not represent final Agency action, and cannot be relied upon to create any rights enforceable by any party." GUIDANCE at 19. This language is boilerplate; since 1991 EPA has been placing it at the **[**23]** end of all its guidance documents. See Robert A. Anthony, *supra*, 41 DUKE L.J. at 1361; Peter L. Strauss, Comment, *The Rulemaking Continuum*, 41 DUKE L.J. 1463, 1485 (1992) (referring to EPA's notice as "a charade, intended to keep the proceduralizing courts at bay"). Insofar as the "policies" mentioned in the disclaimer consist of requiring State permitting authorities to search for deficiencies in existing monitoring regulations and replace them through terms and conditions of a permit, "rights" may not be created but "obligations" certainly are--obligations on the part of the State regulators and those they regulate. At any rate, the entire Guidance, from beginning to end--except the last paragraph--reads like a ukase. It commands, it requires, it orders, it dictates. Through the Guidance, EPA has given the States their "marching orders" and EPA expects the States to fall in line, as all have done, save perhaps Florida and Texas. See [Natural Resources Defense Council, Inc. v. Thomas, 269 U.S. App. D.C. 343, 845 F.2d 1088, 1094 \(D.C. Cir. 1988\)](#); [Community Nutrition Inst. v. Young, 260 U.S. App. D.C. 294, 818 F.2d 943, 947-48 \(D.C. Cir. 1987\)](#). **[**24]**

Petitioners tell us, and EPA does not dispute, that many of them are negotiating their Title V permits, that State authorities, with EPA's Guidance in hand, are insisting on continuous opacity monitors ¹⁷ for determining compliance with opacity limitations although the applicable "standard specifies EPA Method 9 (a visual observation method) as the compliance method (and, in some cases, already provides for periodic performance of that method)." Brief of Petitioners at 43-44. See

¹⁷A continuous opacity monitor employs "a calibrated light source that provides for accurate and precise measurement of opacity at all times." See Credible Evidence Revisions, [62 Fed. Reg. 8319 \(1997\)](#). In contrast, "Method 9 requires that a trained visible emissions observer (VEO) view a smoke plume with the sun at a certain angle to the plume" to determine the opacity of the plume released. *Id.*

[Natural Resources Defense Council, Inc. v. EPA, 306 U.S. App. D.C. 43, 22 F.3d 1125, 1133 \(D.C. Cir. 1994\)](#).

[25]** The short of the matter is that the Guidance, insofar as relevant here, is final agency action, reflecting a settled agency position which has legal consequences both for State agencies administering their permit programs and for companies like those represented by petitioners who must obtain Title V permits in order to continue operating. ¹⁸

[26]** B.

As to the validity of the Guidance, petitioners' arguments unfold in the following sequence. First, they contend that the Guidance amended the "periodic monitoring rule" of [§ 70.6\(a\)\(3\)\(i\)\(B\)](#). Although the rule only allowed State authorities to fill in gaps, that is, to require periodic monitoring when the applicable State emission standard contained no monitoring requirement, a one-time startup test, or provided no frequency for monitoring, the Guidance applies across the board, charging State authorities with the duty of assessing the sufficiency of all State and federal standards. ¹⁹ With the Guidance in **[*1024]** place, regional EPA offices have solid legal grounds for objecting to State-issued permits if the State authorities refuse to bend to EPA's will. Therefore, as petitioners see it, the Guidance is far more than a mere interpretation of the periodic monitoring rule and it is far more than merely a policy statement. In practical effect, it creates a new regime, a new legal system governing permits, and as such it should have been, but was not, promulgated in compliance with notice and comment

¹⁸EPA also claims that the Guidance is not ripe for review because the court's review would be more focused in the context of a challenge to a particular permit. We think there is nothing to this. Whether EPA properly instructed State authorities to conduct sufficiency reviews of existing State and federal standards and to make those standards more stringent if not enough monitoring was provided will not turn on the specifics of any particular permit. Furthermore, EPA's action is national in scope and Congress clearly intended this court to determine the validity of such EPA actions. See [42 U.S.C. § 7607](#). A challenge to an individual permit would not be heard in this court. (Petitioners contend that only state courts could adjudicate such cases. We express no view about that.)

¹⁹Petitioners also claim that the Guidance revised EPA's "Compliance Assurance Monitoring" rule, sustained in [Natural Resources Defense Council, Inc. v. EPA, 338 U.S. App. D.C. 340, 194 F.3d 130 \(D.C. Cir. 1999\)](#), an argument we find unnecessary to consider.

rulemaking procedures. Petitioners say that if they are wrong about this, if the Guidance **[**27]** represents a valid interpretation of the periodic monitoring rule in [§ 70.6\(a\)\(3\)\(i\)\(B\)](#), then the rule itself is invalid. Congress did not authorize EPA to require States, in issuing Title V permits, to make revisions to monitoring requirements in existing federal emission standards.

The case is presented to us in pure abstraction. Neither side cites any specific federal or State emission standard. Although petitioners complain that State officials will revise federal standards promulgated before November 1990, petitioners' briefs identify no specific federal standard potentially subject to revision. Which, if any, federal standards are susceptible to State revision in a permit for lack of periodic monitoring is thus something about which we can only guess. **[**28]** The same is true regarding State emission standards.

Perhaps petitioners should not be faulted. They disagree with EPA's general principle, with the agency's position that it can give State permit officials the authority to substitute new monitoring requirements in place of existing State or federal emission standards already containing some sort of monitoring requirements. The validity of that general principle does not turn on the specifics of any particular emission standard, although its application does. Besides, EPA is currently developing even more detail in far more extensive "guidance" using concrete examples of what would, and would not, constitute "periodic monitoring" in EPA's opinion. See Draft--Periodic Monitoring Technical Reference Document (Apr. 30, 1999).

[HN9] It is well-established that an agency may not escape the notice and comment requirements (here, of [42 U.S.C. § 7607 \(d\)](#)) by labeling a major substantive legal addition to a rule a mere interpretation. See [Paralyzed Veterans v. D.C. Arena L.P.](#), 326 U.S. App. D.C. 25, 117 F.3d 579, 588 (D.C. Cir. 1997); [American Mining Congress v. MSHA](#), 302 U.S. App. D.C. 38, 995 F.2d 1106, 1109-10 (D.C. Cir. 1993). **[**29]** "We must still look to whether the interpretation itself carries the force and effect of law, ... or rather whether it spells out a duty fairly encompassed within the regulation that the interpretation purports to construe." (citations and internal quotations omitted). See [Paralyzed Veterans](#), 117 F.3d at 588. With that in mind, we will deal first with petitioners' claim that the Guidance significantly expanded the scope of the periodic monitoring rule. [Section 70.6\(a\)\(3\)\(i\)\(B\)](#) tells us that "periodic monitoring" must be made part of the permit when the applicable State or federal standard does not provide for "periodic

testing or instrumental or noninstrumental monitoring." ²⁰ If "periodic" has its usual meaning, ²¹ this signifies that any State or federal standard requiring testing from time to time--that is yearly, monthly, weekly, daily, hourly--would be satisfactory. The supplementing authority in [§ 70.6\(a\)\(3\)\(i\)\(B\)](#) therefore would not be **[*1025]** triggered; instead, the emission standard would simply be incorporated in the permit, as EPA acknowledged in the rule's preamble, *see supra* note 8. On the other hand, if the State or federal standard contained merely a **[**30]** one-time startup test, specified no frequency for monitoring or provided no compliance method at all, [§ 70.6\(a\)\(3\)\(i\)\(B\)](#) would require the State authorities to specify that some testing be performed at regular intervals to give assurance that the company is complying with emission limitations.

So far, our parsing of the language of [§ 70.6\(a\)\(3\)\(i\)\(B\)](#) corresponds with petitioners' view that the rule serves only a gap-filling **[**31]** function. If this is what the rule means, there is no doubt that it is much narrower than the Guidance issued in 1998. There, EPA officials stated that regardless whether an emission standard contained a "periodic testing" or monitoring requirement, additional monitoring "may be necessary" if the monitoring in the standard "does not provide the necessary assurance of compliance." ²² *E.g.*,

²⁰ **[HN10]** EPA identified the source of its authority for [§ 70.6\(a\)\(3\)](#) as [42 U.S.C. § 7661c\(b\)](#). This provides that EPA "may by rule" set forth methods and procedures "for monitoring and analysis of pollutants regulated under this chapter, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance."

²¹ Although EPA defined many terms in its regulations governing permits, [40 C.F.R. § 70.2](#), it provided no definition of "periodic" or of "monitoring."

²² By measuring the adequacy of monitoring in this manner, EPA's position introduces circularity. The Guidance instructs permitting authorities that monitoring is sufficient if it provides "a reasonable assurance of compliance with requirements applicable to the source." GUIDANCE at 7. But some of the applicable requirements are themselves methods for testing a source's compliance with other standards. For instance, in the case of a requirement to conduct an annual stack test, EPA's methodology suggests that performance of the one-time test would be sufficient as it provides "a reasonable assurance of compliance" with the applicable requirement. The problem is this gives permitting authorities no assistance in evaluating the proper frequency of such tests.

GUIDANCE at 7-8. Petitioners describe that aspect of the Guidance this way: "The Guidance unequivocally directs state permitting authorities, as a minimum element of continued EPA program approval, to conduct wide-ranging sufficiency reviews and upgrade monitoring in nearly all individual permits or permit applications, even where the underlying applicable requirement incorporates 'periodic testing or instrumental or noninstrumental monitoring' in facial compliance with [§ 70.6\(a\)\(3\)\(i\)\(B\)](#)." Reply Brief of Petitioners at 13.

[32]** EPA's view of the scope of the Guidance is about the same as petitioners'. But the agency thinks statements in the preamble to its 1992 rule and its responses to comments in the final rulemaking alerted interested onlookers to its current position and show that the Guidance issued in 1998 is no broader than the rule itself. EPA's strongest point is the following statement made in 1992: "To the extent commentators assert that Title V does not authorize EPA to require monitoring beyond that provided for in the applicable requirement, EPA disagrees with the commenters." EPA Response to Comments (hereinafter "RTC") at 6-3. On the face of it, this assertion of statutory authority may have reflected EPA's claim--which no one now disputes--that if an "applicable requirement" contained a one-time stack test, the federal agency could insist that the State authority insert in the permit a requirement that the test be performed at regular intervals. If that is all the EPA statement signified, it would be entirely consistent with petitioners' interpretation of the final rule.²³

[33]** In its response to comments and in the preamble to the Title V regulations, EPA promised that if there is "any federally promulgated requirement with insufficient monitoring, EPA will issue a rulemaking to revise such requirement." [57 Fed. Reg. 32,278 \(1992\)](#); RTC at 6-4.²⁴ The Guidance, **[*1026]** of course, charts

²³ According to EPA's response to comments:

Examples of situations where [Section 70.6\(a\)\(3\)\(i\)\(B\)](#) would apply include a SIP provision which contains a reference test method but no testing obligation, or a NSPS which requires only a one time stack test on startup. Any Federal standards promulgated pursuant to the Act amendments of 1990 are presumed to contain sufficient monitoring and, therefore, only [Section 70.6\(a\)\(3\)\(i\)\(A\)](#) applies.

RTC at 6-4.

²⁴ Later in its response to comments, EPA repeated this

a very different course. Now, it is initially up to the States to identify federal standards with deficient monitoring, doubtless with EPA's input, formal or informal. And it is the State and local agencies that must alter the standards by requiring permittees--such as petitioners--to comply with more stringent monitoring requirements. Needless to say, EPA's approach--delegating to State officials the authority to alter duly promulgated federal standards--raises serious issues, not the least of which is whether EPA possesses the authority it now purports to delegate. One would suppose, and EPA did in 1992, that if federal regulations proved inadequate for one reason or another, EPA would have to conduct a rulemaking to amend them. See [Clean Air Implementation Project v. EPA, 150 F.3d 1200, 1203-04 \(D.C. Cir. 1998\)](#).

[34]** EPA thinks two other statements in its response to comments alerted everyone that its new rule would set in motion an across-the-board review of the existing monitoring requirements contained in federal and State emission standards. The first of these statements is: "In many cases, the monitoring requirements in the underlying regulation will suffice for assessing compliance." RTC at 6-3. EPA treats the "in many cases" as a qualification. What does this tell the careful reader? Only that sometimes the State or federal emission standard will need to be supplemented. But the critical question is when--when the monitoring in the standard consists only of a one-time test? or when the yearly or monthly or weekly or daily testing specified in the standard is not enough, as determined by State authorities or EPA during the permit process?

The second statement is this:

The EPA reiterates that permits must be enforceable, and must include periodic monitoring, which might involve the use of, or be based on, appropriate reference test methods.... Where EPA has not provided adequate guidance in regard to source testing or monitoring, permitting authorities are allowed to establish additional **[**35]** requirements, including requirements concerning the degree and frequency of source testing on a case-by-case basis, as necessary to assure compliance with Part 70 [Title V] permit terms or conditions. However, in no case may such frequency be less stringent than any frequency

promise: "... EPA will revise federal regulations that need additional specification of test methods, including specification of frequency and degree of testing." RTC at 6-5.

required by an underlying applicable requirement.

Id. at 6-5. If "periodic monitoring" means testing from time to time, the first sentence in this passage hardly advances EPA's current position. And the second sentence seems set against it. Only when "EPA has not provided adequate guidance in regard to source testing or monitoring," may State authorities provide additional monitoring. So what is "adequate guidance"? Once again the only concrete example EPA gave in 1992 was a one-time stack test, which rather makes petitioners' point.

The short of the matter is that the regulatory history EPA offers fails to demonstrate that [§ 70.6\(a\)\(3\)\(i\)\(B\)](#) initially had the broad scope the Guidance now ascribes to it. Nothing on the face of the regulation or in EPA's commentary at the time said anything about giving State authorities a roving commission to pore over existing State and federal standards, to decide **[**36]** which are deficient, and to use the permit system to amend, supplement, alter or expand the extent and frequency of testing already provided. In fact, EPA's promise in the 1992 rulemaking--that if federal standards were found to be inadequate in terms of monitoring it would open rulemaking proceedings--is flatly against EPA's current position. (EPA makes no attempt to square this promise with the argument it makes today.)

Furthermore, we attach significance to EPA's recognition, in its 1992 permit regulations, that "Title V does not impose substantive new requirements," [40 C.F.R. \[*1027\] § 70.1\(b\)](#). Test methods and the frequency of testing for compliance with emission limitations are surely "substantive" requirements; they impose duties and obligations on those who are regulated. Federal testing requirements contained in emissions standards are promulgated after notice and comment rulemaking. Testing requirements in emission standards in State standards are presumably adopted by the State's legislature or administrative agency, and approved by EPA as part of the State's implementation plan. We have recognized before that changing the method of measuring compliance with an emission limitation **[**37]** can affect the stringency of the limitation itself. [Portland Cement Ass'n v. Ruckelshaus, 158 U.S. App. D.C. 308, 486 F.2d 375, 396-97 \(D.C. Cir. 1973\)](#), discussed in [Clean Air Implementation Project v. EPA, 150 F.3d at 1203](#). In addition, monitoring imposes costs. Petitioners represent that a single stack test can "cost tens of thousands of dollars, and take a day or more to complete," which is why "stack testing is limited to once or twice a year (at most)." Brief of

Petitioners at 22 n.75. If a State agency, acting under EPA's direction in the Guidance, devised a permit condition increasing a company's stack test obligation (as set forth in a State or federal standard) from once a year to once a month, no one could seriously maintain that this was something other than a substantive change.²⁵

[38]** There is still another problem with EPA's position. Although its Guidance goes to great lengths to explain what is meant by the words "periodic monitoring," it almost completely neglects a critical first step. On the face of [§ 70.6\(a\)\(3\)\(i\)\(B\)](#), "periodic monitoring" is required if and only if "the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record-keeping designed to serve as monitoring)." While the Guidance is quick to say that all Title V permits must contain "periodic monitoring," it never explains what constitutes "periodic testing" or what constitutes "instrumental or noninstrumental monitoring." Instead, throughout the Guidance, EPA either yokes these three items together, or treats the terms as synonymous, without saying why. Yet if "periodic testing" and "instrumental or noninstrumental monitoring" mean the same thing as "periodic monitoring," there is no accounting for why [§ 70.6\(a\)\(3\)\(i\)\(B\)](#) was written as it was. The regulation could simply have said "periodic monitoring" is required for all permits, period.²⁶

²⁵ The Guidance, at p. 8, provides a six-point bullet point list for permit-writers, making clear that EPA expects them to engage in an intricate regulatory trade off (often on a unit-by-unit basis), assessing the costs and benefits of available technologies for the particular pollutant. This six-part list has mutated into a complex flow chart in the Draft Periodic Monitoring Technical Reference Document, and is reprinted as an Addendum to this opinion.

²⁶ EPA argues that our opinion in [Natural Resources Defense Council, Inc. v. EPA, 338 U.S. App. D.C. 340, 194 F.3d 130, 135-36 \(D.C. Cir. 1999\)](#), reflects an understanding of [§ 70.6\(a\)\(3\)](#) "nearly identical" to that contained in the Guidance. Supplemental Brief of Respondent at 4. The opinion stated:

The 1990 Clean Air Act Amendments did not mandate that EPA fit all enhanced monitoring under one rule and EPA has reasonably illustrated how its enhanced monitoring program, when considered in its entirety, complies with [§ 114\(a\)\(3\)](#). Specifically, EPA demonstrated that many of the major stationary sources exempt from CAM are subject to other specific rules, and if they are not, they are subject to the two residual rules:

[39]** **[**1028]** In sum, we are convinced that elements of the Guidance—those elements petitioners challenge--significantly broadened the 1992 rule. The more expansive reading of the rule, unveiled in the Guidance, cannot stand. [HN11](#) In directing State permitting authorities to conduct wide-ranging sufficiency reviews and to enhance the monitoring required in individual permits beyond that contained in State or federal emission standards even when those standards demand some sort of periodic testing, EPA has in effect amended [§ 70.6\(a\)\(3\)\(i\)\(B\)](#). This it cannot legally do without complying with the rulemaking procedures required by [42 U.S.C. § 7607\(d\)](#).²⁷ See [Alaska Professional Hunters Ass'n v. FAA](#), [336 U.S. App. D.C. 197](#), [177 F.3d 1030](#), [1034 \(D.C. Cir. 1999\)](#); [Caruso v. Blockbuster-Sony Music Entertainment Centre](#), [174 F.3d 166](#), [176-78 \(3d Cir. 1999\)](#); [Paralyzed Veterans](#), [117 F.3d at 585-86](#).

[40]** For the reasons stated, we find setting aside EPA's Guidance to be the appropriate remedy. Though petitioners challenge only portions of the Guidance, [HN12](#) partial affirmation is not an option when, as here, "there is 'substantial doubt' that the agency would have adopted the severed portion on its own." [Davis County Solid Waste Management v. EPA](#), [323 U.S. App. D.C. 425](#), [108 F.3d 1454](#), [1458 \(D.C. Cir. 1997\)](#) (quoting [North Carolina v. FERC](#), [235 U.S. App. D.C.](#)

(1) "The permit shall contain] periodic monitoring sufficient to yield reliable data ... that are representative of the source's compliance with the permit..." [40 C.F.R. § 70.6\(a\)\(3\)\(i\)\(B\)](#); (2) "All part 70 permits shall contain the following elements with respect to compliance: (1) Consistent with paragraph (a)(3) of this section, compliance certification, testing, [and] monitoring ... requirements sufficient to assure compliance with the terms and conditions of the permit." *Id.* [§ 70.6\(a\)\(1\)](#).

Id. The bracketed portion of the quotation reads out of subsection (B) the conditions that "periodic monitoring" is required only when "the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record-keeping designed to serve as monitoring)." When that clause is reinserted, it becomes clear that the quotation does not speak to the situation of permits which already provide for periodic testing, addressed in [40 C.F.R. § 70.6\(a\)\(3\)\(i\)\(A\)](#).

²⁷ Unless EPA certifies that the amendments to the Title V rule would not "have a significant economic impact on a substantial number of small entities," [5 U.S.C. § 605\(b\)](#), it must also comply with the various procedural requirements of the Small Business Regulatory Enforcement Fairness Act, [5 U.S.C. §§ 601-612](#).

[28](#), [730 F.2d 790](#), [795-96 \(D.C. Cir. 1984\)](#). In view of the intertwined nature of the challenged and unchallenged portions of the Guidance, the Guidance must be set aside in its entirety. See [42 U.S.C. § 7607](#). [HN13](#) State permitting authorities therefore may not, on the basis of EPA's Guidance or [40 C.F.R. § 70.6\(a\)\(3\)\(i\)\(B\)](#), require in permits that the regulated source conduct more frequent monitoring of its emissions than that provided in the applicable State or federal standard, unless that standard requires no periodic testing, specifies no frequency, or requires only a one-time test.

So ordered.

[SEE ADDENDUM IN ORIGINAL]

[Addendum not available electronically] **[**41]**

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SIERRA CLUB v. E.P.A.
Cite as 536 F.3d 673 (D.C. Cir. 2008)

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SIERRA CLUB, et al., Petitioners

v.

**ENVIRONMENTAL PROTECTION
AGENCY, Respondent**

**American Petroleum Institute,
et al., Intervenors.**

Nos. 04–1243, 07–1039.

United States Court of Appeals,
District of Columbia Circuit.

Argued Feb. 8, 2008.

Decided Aug. 19, 2008.

Background: Environmental organization brought Petition for Review from final order of Environmental Protection Agency (EPA), challenging rule preventing state and local authorities from supplementing federal monitoring requirements under Clean Air Act (CAA).

Holdings: The Court of Appeals, Griffith, Circuit Judge, held that:

- (1) rule contravened statutory directive that stationary-source emission permits include adequate monitoring requirements, and
- (2) preexisting monitoring rules were consistent with statute.

Petition granted in part and denied in part.

Kavanaugh, Circuit Judge, filed dissenting opinion.

1. Environmental Law ¶268, 291

Environmental Protection Agency (EPA) rule preventing state and local authorities from supplementing federal monitoring requirements for stationary-source emission permits under Clean Air Act (CAA) contravened statutory directive that each permit include adequate monitoring requirements, and thus was arbitrary and capricious; EPA was required either to fix

inadequate federal monitoring through rulemaking process before any new permits issued or to authorize permitting authorities to supplement monitoring on case-by-case basis. Clean Air Act, §§ 502(b), 504(c), 42 U.S.C.A. §§ 7661a(b), 7661c(c); 40 C.F.R. § 70.6(a)(3)(i)(A, B), (c)(1).

2. Administrative Law and Procedure

¶413

Agency's interpretation of its own regulations is controlling unless plainly erroneous or inconsistent with regulations being interpreted.

3. Environmental Law ¶268

Environmental Protection Agency (EPA) rules governing monitoring requirements for stationary-source emission permits under Clean Air Act (CAA) were consistent with statute, since they could be reasonably read to allow state and local permitting authorities to supplement inadequate monitoring requirements in each permit issued. Clean Air Act, §§ 502(b), 504(c), 42 U.S.C.A. §§ 7661a(b), 7661c(c); 40 C.F.R. § 70.6(a)(3)(i)(A, B), (c)(1).

Keri N. Powell argued the cause for petitioners. With her on the briefs was David S. Baron. John D. Walke entered an appearance.

Cynthia J. Morris, Attorney, U.S. Department of Justice, argued the cause for respondent. With her on the brief was John C. Cruden, Deputy Assistant Attorney General. Christopher S. Vaden, David J. Kaplan, Jon M. Lipshultz, Attorneys, U.S. Department of Justice, and Nancy A. Ketcham-Colwill and Kerry E. Rodgers, Counsel, U.S. Environmental Protection Agency, entered appearances.

Lauren E. Freeman argued the cause for intervenors. With her on the brief were Charles H. Knauss, Leslie S. Ritts, Susan Conti, Richard S. Wasserstrom, William H. Lewis, and M. Elizabeth Cox. Ralph J. Colleli, Jr. entered an appearance.

Before: SENTELLE, Chief Judge, and GRIFFITH and KAVANAUGH, Circuit Judges.

Opinion for the Court filed by Circuit Judge GRIFFITH.

Dissenting opinion filed by Circuit Judge KAVANAUGH.

GRIFFITH, Circuit Judge:

The 1990 Amendments to the Clean Air Act compel certain stationary sources of air pollution to obtain permits from state and local authorities that identify all emission limits for the source and also include “monitoring . . . requirements to assure compliance with the permit terms and conditions.” 42 U.S.C. § 7661c(c). Sometimes, existing monitoring requirements do not “assure compliance.” The Environmental Protection Agency (“EPA”) promulgated a rule preventing state and local authorities from supplementing these inadequate monitoring requirements. We vacate this rule because it is contrary to the statutory directive that each permit must include adequate monitoring requirements.

I.

A.

Under the regulatory regime established by the Clean Air Act (“Act”), emission limits for pollutants and monitoring requirements that measure compliance applicable to any given stationary source of air

pollution are scattered throughout rules promulgated by states or EPA, such as state implementation plans, *id.* § 7410, new source performance standards, *id.* § 7411, and national emission standards for hazardous air pollutants, *id.* § 7412. Before 1990, regulators and industry were left to wander through this regulatory maze in search of the emission limits and monitoring requirements that might apply to a particular source. Congress addressed this confusion in the 1990 Amendments by adding Title V of the Act, which created a national permit program that requires many stationary sources of air pollution to obtain permits that include relevant emission limits and monitoring requirements. *Id.* §§ 7661–7661f. Congress intended that EPA and state and local permitting authorities administer the permit program together.¹ Title V gives EPA a supervisory role over the program, which includes the duty to identify its “minimum elements,” *id.* § 7661a(b), the power to establish new compliance procedures, *id.* § 7661c(b), and the opportunity to object to permits that do not comply with the Act, *id.* § 7661d(b). State and local authorities are assigned the task of issuing permits in their jurisdictions but can do so only if EPA has approved their proposals for how to implement the permit program. *Id.* § 7661a(d)(1). If a permitting authority fails to propose an acceptable program, responsibility for issuing permits falls to EPA. *Id.* § 7661a(d)(3). To date, EPA has issued final approvals to permit programs proposed by more than 100 state and local authorities.

But Title V did more than require the compilation in a single document of existing applicable emission limits, *id.* § 7661c(a), and monitoring requirements, *id.* § 7661c(c). It also mandated that

1. A “permitting authority” is “the air pollution control agency authorized by [EPA] to

carry out a permit program” in a state or local jurisdiction. 42 U.S.C. § 7661(4).

“[e]ach permit issued under [Title V] shall set forth . . . monitoring . . . requirements to assure compliance with the permit terms and conditions.” *Id.* As we explain below, there has been much back and forth among EPA, industry, and environmental groups about how “[e]ach permit” must “assure compliance.”

B.

In 1992, EPA identified the “minimum elements” of the national permit program as the 1990 Amendments required, *see id.* § 7661a(b), by issuing its “Part 70 Rules,” *see* 40 C.F.R. pt. 70.² Three provisions of the Part 70 Rules are relevant to this matter. Subsection 70.6(a)(3)(i)(A) requires that “[e]ach permit” identify “[a]ll monitoring . . . required under applicable monitoring and testing requirements.” But “[w]here the applicable requirement does not require periodic testing,” subsection 70.6(a)(3)(i)(B) obliges the permitting authority to add to the permit “periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit.”³ Finally, subsection 70.6(c)(1)—which closely tracks the language of the statute, *see* 42 U.S.C. § 7661c(c)—provides that “[a]ll . . . permits shall contain . . . monitoring . . . requirements sufficient to assure compliance with the terms and conditions of the permit.”

For each permit issued, a permitting authority must gather the various emission limits and determine which monitoring requirements accompany them. The Part 70

Rules guide the way. Where an emission standard already specifies a monitoring requirement that is both “periodic” and sufficient to assure compliance, the permitting authority simply includes that requirement in the permit. 40 C.F.R. § 70.6(a)(3)(i)(A). Where the emission standard lacks a periodic monitoring requirement altogether, the permitting authority must create one that assures compliance and include it in the permit. *Id.* § 70.6(a)(3)(i)(B). There is no controversy over what the permitting authority should do in either of these scenarios.

But how should a permitting authority respond to an emission standard that has a periodic monitoring requirement inadequate to the task of assuring compliance? For example, suppose there is a standard that limits emission from a given stationary source to X units of pollutant per day. Suppose also that the standard requires annual monitoring. Where *annual* testing cannot assure compliance with a *daily* emission limit, may the permitting authority supplement the monitoring requirement “to assure compliance with the permit terms and conditions,” as the Act commands? 42 U.S.C. § 7661c(e). EPA’s answer to this question, what we shall call the “third scenario,” has shifted over time.

EPA first engaged with this issue in 1997, when the agency took the position that state and local permitting authorities could supplement periodic monitoring requirements that failed to assure compliance. *See* Letter from Winston A. Smith, Director, Air, Pesticides & Toxics Mgmt.

2. EPA promulgated materially similar rules to govern instances where the agency, rather than state and local authorities, assumes responsibility for issuing permits. *See* 40 C.F.R. pt. 71. Petitioners also challenge these “Part 71 Rules.” Our discussion of the Part 70 Rules applies equally to the Part 71 Rules.

3. The Part 70 Rules do not define “periodic,” but we have indicated that it means “testing from time to time—that is yearly, monthly, weekly, daily, hourly.” *Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1024 (D.C.Cir. 2000). An annual monitoring test would be periodic, but a one-time test would not.

Div., EPA, to Howard L. Rhodes, Director, Air Res. Mgmt. Div., Fla. Dep't of Env'tl. Prot. (Dec. 11, 1997) (rejecting permits interpreting Part 70 Rules to forbid supplementation). EPA memorialized this interpretation in a 1998 Guidance that construed 40 C.F.R. § 70.6(a)(3)(i)(B) to allow supplementation by state and local permitting authorities. See PERIODIC MONITORING GUIDANCE. Subsection 70.6(a)(3)(i)(B), which on its face appeared only to cover the circumstance where no periodic monitoring had been required, was now read to include the third scenario where periodic monitoring was required but was inadequate. Industry groups petitioned this court for review of the Guidance. Their principal argument was that the Guidance unlawfully expanded § 70.6(a)(3)(i)(B) without following notice-and-comment procedures. In the alternative, they argued that § 70.6(a)(3)(i)(B) conflicted with the Act. We vacated the Guidance because it unlawfully broadened § 70.6(a)(3)(i)(B) without following proper procedures. *Appalachian Power v. EPA*, 208 F.3d 1015, 1028 (D.C.Cir.2000). We did not, however, speak to whether § 70.6(a)(3)(i)(B) or any other provisions in the Part 70 Rules violate the Act.

Undeterred, the agency turned from 40 C.F.R. § 70.6(a)(3)(i)(B) to § 70.6(c)(1). In two decisions objecting to permits, EPA found in § 70.6(c)(1) authority for state and local permitting authorities to supplement inadequate monitoring requirements. See *Order Denying in Part and Granting in Part Petition for Objection to Permit, In re Fort James Camas Mill*, Petition No. X-1999-1 (Dec. 22, 2000); *Order Partially Granting and Partially Denying Petition for Objection to Permits, In re Pacifi-Corp's Jim Bridger and Naughton Electric Utility Steam Generating Plants*, Petition No. VIII-00-1 (Nov. 16, 2000). An industry group petitioned for review of EPA's interpretation of § 70.6(c)(1), but

we dismissed the challenge on jurisdictional grounds. *Util. Air Regulatory Group v. EPA*, 320 F.3d 272 (D.C.Cir.2003) (dismissing petition for review on standing and ripeness grounds).

In 2002, EPA proposed a regulation codifying this view of § 70.6(c)(1). The agency issued an advance notice of the rule, 67 Fed.Reg. 58,561, 58,564 (Sept. 17, 2002), and a sixty-day interim rule during the notice-and-comment period, 67 Fed.Reg. 58,529 (Sept. 17, 2002). But after an industry group challenged the sixty-day rule, see *Util. Air Regulatory Group v. EPA*, No. 02-1290 (D.C.Cir. filed Sept. 18, 2002), EPA had a change of view. Rather than defend the proposed rule, the agency settled the litigation by agreeing to adopt a final rule that would interpret § 70.6(c)(1) to *prohibit* state and local permitting authorities from supplementing inadequate monitoring requirements. See 68 Fed.Reg. 65,700, 65,701 (Nov. 21, 2003). This new rule would revise EPA's answer for the problem of the third scenario.

In 2004, EPA issued a rule to this effect, which provided that nothing in the Part 70 Rules authorized permitting authorities to supplement inadequate monitoring requirements. See 69 Fed.Reg. 3202 (Jan. 22, 2004). EPA resolved that it alone would remedy inadequate monitoring requirements by undertaking a "programmatic" strategy. See *id.* Pursuant to this strategy, EPA would identify inadequate periodic monitoring requirements and, rather than address their deficiencies in each permit, would issue rulemakings enhancing them to "assure compliance." We vacated this 2004 rule because EPA had not allowed for notice and comment. *Env'tl. Integrity Project v. EPA*, 425 F.3d 992, 998 (D.C.Cir.2005). In response, EPA issued notice and sought comment on a proposed rule that was identical. 71 Fed. Reg. 32,006 (June 2, 2006). In December

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2006, EPA adopted the rule. 71 Fed.Reg. 75,422 (Dec. 15, 2006) (“2006 rule”).

Several environmental groups challenge the 2006 rule and the monitoring provisions of the 1992 Part 70 Rules, *see* 40 C.F.R. §§ 70.6(a)(3)(i)(A), (a)(3)(i)(B), (c)(1), arguing that they violate the Clean Air Act and are arbitrary and capricious. Several industry groups have intervened on behalf of EPA. We have jurisdiction to consider these petitions for review. 42 U.S.C. § 7607(b)(1).

II.

[1] We first consider whether EPA’s 2006 rule violates the Clean Air Act. Because Congress has charged EPA with administering Title V, *see* 42 U.S.C. § 7661a(b), our inquiry is governed by *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). If the Act unambiguously authorizes or forecloses EPA’s 2006 rule, step one of the *Chevron* analysis requires that we follow Congress’s express policy choice. If the Act is unclear on the matter, step two of *Chevron* requires that we defer to EPA’s reasonable interpretation. *Id.* at 842–43, 104 S.Ct. 2778. We hold, under step one of *Chevron*, that Title V of the Act unambiguously precludes EPA’s interpretation in the 2006 rule. Accordingly, we vacate the 2006 rule.⁴

Title V is a complex statute with a clear objective: it enlists EPA and state and local environmental authorities in a common effort to create a permit program for most stationary sources of air pollution. Fundamental to this scheme is the mandate that “[e]ach permit . . . shall set forth . . . monitoring . . . requirements to assure compliance with the permit terms and con-

ditions.” 42 U.S.C. § 7661c(c). By its terms, this mandate means that a monitoring requirement insufficient “to assure compliance” with emission limits has no place in a permit unless and until it is supplemented by more rigorous standards. *Cf.* EPA Br. at 29 (“EPA recognizes that the monitoring required by some rules . . .—particularly, those that pre-date the 1990 . . . Amendments—may not be adequate to assure compliance and should be improved.”).

Title V gave EPA two ways to comply with this requirement. First, EPA could have fixed all inadequate monitoring requirements through the rulemaking process before any permits issued under the new national permit program. 42 U.S.C. § 7661c(b). EPA declined such an undertaking. Second, EPA could have authorized permitting authorities to supplement inadequate monitoring requirements on a case-by-case basis in each permit issued. EPA has been of two minds on this option. As we have already described, for many years the agency chose this as the best way to comply with the Act. In the 2006 rule and the litigation that preceded it, however, EPA reversed course and prohibited state and local permitting authorities from exercising this power.

EPA’s about-face means that some permit programs currently in place do not comply with Title V because the agency failed to fix inadequate monitoring requirements before new permits issued, and prohibited state and local authorities from doing so. State and local authorities have issued more than 16,000 permits since the 1990 Amendments, and because stationary sources must renew their permits at least every five years, *id.* § 7661a(b)(5)(B), thousands more will issue while EPA completes its programmatic strategy. Many

4. Because we strike the 2006 rule on this ground, we do not consider petitioners’ argu-

ment that the rule is also arbitrary and capricious.

of those permits will fail to comply with the Act because their monitoring requirements are inadequate. If Congress meant that potentially thousands of permits could be issued without adequate monitoring requirements, then it would not have said “[e]ach permit . . . shall set forth . . . monitoring . . . requirements to assure compliance with the permit terms and conditions.” *Id.* § 7661c(c) (emphasis added). There can be no doubt about the plain meaning of this phrase. “Each” means “[e]very one of a group considered individually.” AMERICAN HERITAGE DICTIONARY 269 (4th ed.2001). Title V requires that “[e]very one” of the permits issued by permitting authorities include adequate monitoring requirements. Any other conclusion would run counter to Justice Frankfurter’s timeless advice on statutory interpretation: “(1) Read the statute; (2) read the statute; (3) read the statute!” *In re England*, 375 F.3d 1169, 1182 (D.C.Cir.2004) (Roberts, J.) (quoting HENRY J. FRIENDLY, BENCHMARKS 202 (1967)).

EPA and the industry intervenors marshal several arguments in support of the 2006 rule. First, they argue that the Act’s “[e]ach permit” mandate is not as sweeping as it seems, and in fact bars permitting authorities from adding monitoring requirements, because the Act’s next sentence says: “Such monitoring . . . requirements shall conform to any applicable regulation under [§ 7661c(b)].” 42 U.S.C. § 7661c(c). Section 7661c(b) allows EPA to promulgate monitoring requirements. Taken together, the argument goes, these provisions limit the creation of new monitoring requirements to EPA alone. We disagree. Had EPA used its § 7661c(b) power to fix inadequate monitoring requirements *prior to the issuance of any*

permits, those newly-adequate requirements would bind state and local authorities under § 7661c(c). But EPA did no such thing. Similarly, where EPA fixes inadequate monitoring requirements pursuant to § 7661c(b) after permits began to issue, permits will have to “conform to” those updated requirements. *Id.* § 7661c(c).⁵ At least for some inadequate monitoring requirements, however, EPA has offered nothing more than vague promises to act in the future. Under the “[e]ach permit” mandate, state and local authorities must be allowed to cure these monitoring requirements before including them in permits.

Along these lines, our dissenting colleague argues that EPA has already stamped all pre-existing monitoring requirements as adequate “to assure compliance,” and that permitting authorities may not supplement those requirements. Were that true, this would be a harder case, presenting the question of “Who Decides?” Dissenting Opinion at 2. But EPA has not decided that all pre-existing monitoring requirements “assure compliance.” Quite the opposite, the agency concedes that some monitoring requirements “may not be adequate to assure compliance and should be improved,” EPA Br. at 29, and promises to fix them in the future. The question in this case is whether permitting authorities may supplement inadequate monitoring requirements when EPA has taken no action. We read Title V to mean that somebody must fix these inadequate monitoring requirements. We leave for another day the question of who wins when EPA and state and local permitting authorities conflict over whether a given requirement is sufficient “to assure com-

5. EPA has already done this with respect to some inadequate monitoring requirements. See EPA Br. at 52 (describing recent enhance-

ments to pre-1990 inadequate monitoring requirements).

pliance,” because the question is not presented in this case.

Second, EPA and the intervenors contend generally that it would be imprudent to allow state and local authorities to supplement inadequate requirements. Their contentions can be grouped into two lines of argument. On the one hand, they argue that allowing supplementation by state and local authorities would contradict the Act’s design. They suggest that allowing such supplementation would create new emission standards not authorized by the Act, and would undermine the Act’s judicial-review provision, *id.* § 7607(b)(1), by giving two bites at the apple to parties who want more stringent environmental regulations. On the other hand, they argue that allowing supplementation by state and local authorities would be bad policy. There is no need for permitting authorities to supplement inadequate requirements, they say, because those authorities can pass more stringent requirements through state and local legislation. In any case, they maintain, EPA’s programmatic approach would be more consistent, more efficient, more publicly accountable, and less burdensome than allowing permitting authorities to supplement inadequate requirements on a case-by-case basis. But neither of these lines of attack is persuasive because both share the same flaw—they attempt to sidestep the unambiguous “[e]ach permit” mandate of the Act. Appeals to the design and policy of a statute are unavailing in the face of clear statutory text. As Chief Justice Roberts wrote while a member of this court, “when the statute’s language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.” *In re England*, 375 F.3d at 1177 (quotation marks omitted).

Finally, EPA and the intervenors argue that we must uphold the 2006 rule because *Appalachian Power* suggested that the Act does not authorize state and local authorities to supplement inadequate monitoring requirements. That is simply incorrect. In that case we set aside an EPA Guidance interpreting the Part 70 Rules, holding that the agency’s broad interpretation of 40 C.F.R. § 70.6(a)(3)(i)(B) effectively amended that subsection without adhering to required rulemaking procedures. 208 F.3d at 1028; *cf.* EPA Br. at 46 (admitting that *Appalachian Power* “was ultimately decided on procedural grounds”). We had no occasion in *Appalachian Power* to determine, as we must here, whether the Act allows supplementation by permitting authorities of inadequate monitoring requirements.

III.

Independent of their challenge to the 2006 rule, petitioners also seek review of the monitoring requirements of the Part 70 Rules, arguing that if those provisions forbid permitting authorities from supplementing inadequate monitoring requirements, they too must be vacated. As we explained in our earlier *Chevron* analysis, the Clean Air Act requires such supplementation. Accordingly, the Part 70 Rules may be upheld only if they can be read consistent with that mandate. Because the Part 70 Rules can be so read, we uphold them.

[2, 3] “[A]n agency’s interpretation of its own regulations is controlling unless plainly erroneous or inconsistent with the regulations being interpreted.” *Long Island Care at Home, Ltd. v. Coke*, — U.S. —, 127 S.Ct. 2339, 2349, 168 L.Ed.2d 54 (2007) (quotation marks omitted). Because we have set aside the 2006 rule as conflicting with the Act, EPA’s interpretation of the Part 70 Rules does not control.

See Hazardous Waste Treatment Council v. Reilly, 938 F.2d 1390, 1395 (D.C.Cir. 1991) (explaining that an agency's interpretation of its own regulations must "meet the test of consistency with the underlying statute"). Turning to the Part 70 Rules themselves, we conclude that their monitoring provisions are consistent with the Act because they can be easily and reasonably read to allow state and local permitting authorities to supplement inadequate monitoring requirements in each permit issued.

Neither § 70.6(a)(3)(i)(A) nor § 70.6(a)(3)(i)(B) allows state and local authorities to supplement inadequate monitoring requirements, so the question is whether § 70.6(c)(1) does. That provision states that "[c]onsistent with [§ 70.6(a)(3)]," all permits "shall" contain "monitoring . . . requirements sufficient to assure compliance with the terms and conditions of the permit." The meaning of this subsection is not immediately evident. One option is that § 70.6(c)(1) does nothing more than repeat the requirements of § 70.6(a)(3)(i)(A) and § 70.6(a)(3)(i)(B). This reading finds support in the phrase "[c]onsistent with [§ 70.6(a)(3)]." But we are reluctant to adopt this interpretation because it would run afoul of a basic canon of construction. As the Supreme Court has instructed, "It is [a court's] duty to give effect, if possible, to every clause and word of a statute. . . ." *United States v. Menasche*, 348 U.S. 528, 538–39, 75 S.Ct. 513, 99 L.Ed. 615 (1955) (quotations and citations omitted). The same is true for regulations. *See Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, — U.S. —, 127 S.Ct. 2518, 2535–36, 168 L.Ed.2d 467 (2007) ("[W]e have cautioned against

reading a text in a way that makes part of it redundant.").

To save § 70.6(c)(1) from becoming surplusage, we must interpret the provision to require something beyond what is already required by § 70.6(a)(3)(i)(A) and § 70.6(a)(3)(i)(B). The most reasonable reading is that it serves as a gap-filler to those provisions. In other words, § 70.6(c)(1) ensures that all Title V permits include monitoring requirements "sufficient to assure compliance with the terms and conditions of the permit," even when § 70.6(a)(3)(i)(A) and § 70.6(a)(3)(i)(B) are not applicable. This reading provides precisely what we have concluded the Act requires: a permitting authority may supplement an inadequate monitoring requirement so that the requirement will "assure compliance with the permit terms and conditions." Because § 70.6(c)(1) can be reasonably read this way, we uphold the monitoring provisions of the Part 70 Rules as consistent with the Act.⁶

IV.

We grant the petition for review with respect to the 2006 rule, which we vacate. We deny the petition for review with respect to the monitoring provisions of the Part 70 Rules.

So ordered.

KAVANAUGH, Circuit Judge,
dissenting:

I agree completely with the majority opinion about bedrock principles of statutory interpretation. The plain meaning of the text controls; courts should not strain to find ambiguity in clarity; courts must ensure that agencies comply with the plain statutory text and not bypass *Chevron*

6. And because we read the Part 70 Rules to allow supplementation of inadequate monitoring requirements, we need not consider peti-

tioners' argument that those rules would be arbitrary and capricious if they prohibited supplementation.

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step 1. And I strongly align myself with the majority's quotation from Justice Frankfurter about the best tool of statutory interpretation: "(1) Read the statute; (2) read the statute; (3) read the statute!" Maj. Op. at 678.

In this case, however, I respectfully part ways with the majority opinion because the relevant statutory language supports EPA's 2006 rule.

Under the Clean Air Act, state and local authorities issue permits for certain sources that emit air pollution. The permits must list the pre-existing emission limits and the pre-existing "monitoring . . . requirements to assure compliance" with the emission limits. 42 U.S.C. § 7661c(c); *see also* § 7661c(a). Importantly, by regulation, those emission limits and monitoring requirements are not created by state and local permitting authorities at the time they issue the permits. Rather, the permit is simply a device that lists in one "source-specific bible for Clean Air Act compliance" pre-existing emission limits and monitoring requirements, including those set forth by pre-existing EPA-approved state implementation plans (SIP), EPA-dictated New Source Performance Standards (NSPS), EPA-generated National Emission Standards for Hazardous Air Pollutants (NESHAP), and other applicable requirements. *Virginia v. Browner*, 80 F.3d 869, 873 (4th Cir.1996); *see also Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1026–27 (D.C.Cir.2000).

The dispute in this case boils down to the following: When issuing permits, can state and local permitting authorities independently determine whether, in their view, those pre-existing monitoring requirements are sufficient "to assure compliance" with emission limits—and if they think not, impose additional monitoring requirements? The legal question here is: Who Decides? According to petitioners,

the statute says that state and local permitting authorities can decide on their own to impose additional monitoring requirements as they see fit. EPA responds that it possesses the statutory authority and discretion to decide whether state and local permitting authorities can impose additional monitoring requirements.

The statutory text resolves that question; the statute grants EPA the authority to determine whether state and local permitting authorities can impose additional monitoring requirements. The text says that the monitoring requirements listed in the permit "shall conform to any applicable regulation under subsection (b) of this section." § 7661c(c). In turn, subsection (b) says EPA "may by rule prescribe procedures and methods for determining compliance *and for monitoring* and analysis of pollutants regulated under this chapter. . . ." § 7661c(b) (emphasis added).

Exercising its authority under this rather straightforward statutory scheme, EPA has decided that pre-existing periodic monitoring requirements (for example, in the SIP, NSPS, and NESHAP) are to "assure compliance" with emission limits and that state and local permitting authorities may not add new periodic monitoring requirements when issuing permits. EPA has allowed one exception: If there are no periodic monitoring requirements set forth in the pre-existing applicable requirements, state and local permitting authorities not only can but *must* add periodic monitoring requirements to permits. 40 C.F.R. § 70.6(a)(3)(i)(B).

To be sure, EPA and the state and local permitting authorities (and outside interest groups) might disagree about whether the pre-existing monitoring requirements listed in the permit will "assure compliance" with the relevant emission limits. But pursuant to its statutory authority, EPA has determined that the permitting pro-

cess is not the time and place for state and local permitting authorities to add new periodic monitoring requirements. Rather, if changes are to be made to the underlying monitoring requirements, they should occur during the process for formulating and revising SIP, NSPS, NESHAP, and other applicable requirements.

I therefore would reject petitioners' primary statutory argument.*

For its part, the majority opinion says it need not resolve the broad question raised by petitioners whether EPA must allow state and local permitting authorities to add new periodic monitoring requirements when issuing permits. Maj. Op. at 678–79. The majority instead resolves this case on more limited grounds, based on a factual wrinkle in this case. According to EPA, there is a narrow group of pre-existing applicable monitoring requirements (primarily from before 1990) that may not assure compliance with emission limits. EPA has determined that any such shortcomings should be resolved by rule or through revisions to the underlying SIPs, for example, not by state and local permitting authorities during the permitting process. EPA's approach to this problem is consistent with the overall statutory and regulatory scheme, which indicates that

the permitting process is generally not the vehicle for making substantive monitoring decisions; again, the permit simply lists the pre-existing monitoring requirements and emission limits in one place. I thus find nothing in the statute that prohibits EPA's approach to fixing any inadequate pre-existing monitoring requirements.

The majority's contrary decision is narrow and appears to allow state and local permitting authorities to add periodic monitoring requirements only in those cases where EPA itself concludes that the pre-existing applicable monitoring requirements are not adequate and EPA has taken no action. That is likely to be a small percentage of overall permit decisions. But because I conclude that the challenged EPA rule is entirely consistent with the statutory text and is otherwise reasonable, and because petitioners' other challenges are not persuasive, I would deny the petition in whole. I respectfully dissent.



* Taking a different position from petitioners or EPA, the industry intervenors argue that the statutory text actually *prohibits* EPA from allowing state and local permitting authorities to impose additional monitoring requirements when issuing permits. I disagree with indus-

try intervenors for the same reason that I disagree with petitioners. The statute gives EPA the discretion to decide this question; the statutory text does not mandate a particular answer.

EXHIBIT J

BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)
)
Public Service Company of New Mexico)
San Juan Generating Station)
)
Permit Number: P062R2)
)
Issued by the New Mexico)
Environment Department)
Air Quality Bureau)
_____)

ORDER RESPONDING TO
PETITIONERS' REQUEST THAT
THE ADMINISTRATOR
OBJECT TO ISSUANCE OF A
STATE OPERATING PERMIT

Petition Number: VI-2010-___

ORDER GRANTING IN PART AND DENYING IN PART
PETITION FOR OBJECTION TO PERMIT

The United States Environmental Protection Agency ("EPA") received a Petition to Object to Issuance of a State Title V Operating Permit ("Petition") on November 19, 2010, from WildEarth Guardians (WEG), San Juan Citizens Alliance (SJCA), and Carson Forest Watch (collectively "Petitioners"). The Petitioners request that the EPA object, pursuant to section 505(b)(2) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. §7661d(b)(2), to the renewal, by the New Mexico Environment Department Air Quality Bureau ("NMED") of the title V operating permit issued to Public Service Company of New Mexico ("PNM") to operate the San Juan Generating Station ("SJGS"), a coal-fired power plant in San Juan County, New Mexico.

Specifically, the Petitioners claim that the SJGS title V permit ("Permit" or "SJGS permit"): (1) fails to ensure compliance with the Prevention of Significant Deterioration ("PSD") requirements; (2) fails to ensure compliance with source impact analysis requirements in the New Mexico State Implementation Plan; (3) fails to require prompt reporting of deviations; (4) fails to require sufficient periodic monitoring; and (5) includes a condition that is contrary to applicable requirements.

The EPA has reviewed the Petitioners' allegations pursuant to the standard set forth in section 505(b)(2) of the Act, which requires the Administrator to issue an objection if the

Petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of the Act. *See also* 40 C.F.R. § 70.8(d); *New York Public Interest Research Group v. Whitman*, 321 F.3d 316,333 n.11 (2d Cir. 2003).

Based on a review of the Petition and other relevant materials, including the Permit and Permit record, and relevant statutory and regulatory authorities, I grant in part and deny in part the Petition requesting that the EPA object to the Permit.¹

STATUTORY AND REGULATORY FRAMEWORK

Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), calls upon each state to develop and submit to the EPA an operating permit program to meet the requirements of title V. The EPA granted interim approval to the title V operating permit program submitted by the state of New Mexico, effective December 19, 1994. 59 Fed. Reg. 59656 (November 18, 1994). Subsequently, the EPA granted full approval of the New Mexico title V operating permit program, effective December 26, 1996, and approved a revision to the program in 2004. 40 C.F.R. Part 70, Appendix A; *see also* 61 Fed. Reg. 60032, 60034 (November 26, 1996) and 69 Fed. Reg. 54244, 54247 (September 8, 2004). New Mexico State Implementation Plan (“SIP”) revisions related to references from the SJGS permit terms include approval of 20.2.7 New Mexico Administrative Code (NMAC) - Excess Emissions. 74 Fed. Reg. 46910 (September 14, 2009).

All major stationary sources of air pollution and certain other sources are required to apply for title V operating permits that include emission limitations and such other conditions as are necessary to assure compliance with applicable requirements of the Act, including requirements of the applicable SIP. CAA sections 502(a) and 504(a), 42 U.S.C. §§ 7661a(a) and 7661c(a). The title V operating permits program does not generally impose new substantive air quality control requirements (referred to as “applicable requirements”), but it does require permits to contain monitoring, recordkeeping, reporting, and other requirements to assure compliance by sources with applicable requirements. *See* 57 Fed. Reg. 32250 (July 21, 1992) (EPA final action promulgating 40 C.F.R. Part 70). One purpose of the title V program is to “enable the source, states, EPA and the public to better understand the requirements to which the source is subject, and whether the source is meeting those requirements.” 57 Fed. Reg. 32250, 32251 (July 21, 1992). Thus, the title V operating permits program is a vehicle for ensuring that air quality control requirements are appropriately applied to facility emission units and that compliance with these requirements is assured.

For a major modification of a major stationary source, applicable requirements include the requirement to obtain a preconstruction permit that complies with applicable new source review requirements (e.g., PSD requirements). Part C of the CAA establishes the PSD program, the preconstruction review program that applies to areas of the country, such as San Juan

¹ EPA acknowledges Petitioners’ alternative requests that the Administrator treat this petition as a petition to reopen the Permit for cause in accordance with 40 C.F.R. § 70.7(f), or that the Administrator treat this petition as a petition to reopen the Permit for cause in accordance with 40 C.F.R. § 70.7(f) pursuant to the Administrative Procedure Act (APA), 5 U.S.C. §§ 553(e) and 555(b). Petition at 3. EPA is not responding to these alternative requests in today’s Order.

County, that are designated as attainment or unclassifiable for the national ambient air quality standards (NAAQS). CAA §§ 160-169, 42 U.S.C. §§ 7470-7479. New Source Review, or "NSR," is the term used to describe both the PSD program as well as the nonattainment NSR program (applicable to areas that are designated as nonattainment with the NAAQS). In attainment areas, such as San Juan County, New Mexico, where SJGS is located, a major stationary source may not begin construction or undertake certain modifications without first obtaining a PSD permit. CAA § 165(a)(1), 42 U.S.C. § 7475(a)(1). The PSD program analysis must address two primary and fundamental elements before the permitting authority may issue a permit: (1) an evaluation of the impact of the proposed new or modified major stationary source on ambient air quality in the area, and (2) an analysis ensuring that the proposed facility is subject to Best Available Control Technology (BACT) for each pollutant subject to regulation under the PSD program. CAA § 165(a)(3),(4), 42 U.S.C. § 7475(a)(3), (4); *see also* 20.2.74.200 NMAC (New Mexico's PSD program).

The EPA implemented PSD through rule initially on December 5, 1974. 39 FR 23836. The CAA amendments of 1977 set out PSD requirements within the Act. The EPA implemented the amendment's PSD requirements in two largely identical sets of regulations: one set found at 40 C.F.R. § 52.21, contains the EPA's federal PSD program, which applies in areas without a SIP-approved PSD program; the other set of regulations, found at 40 C.F.R. § 51.166, contains requirements that state PSD programs must meet to be approved as part of a SIP.

New Mexico's implementation of PSD included both a partially delegated program at its outset and later switched to a fully approved program as part of the SIP. On December 20, 1980, New Mexico requested a partial program delegation from EPA Region 6. EPA Region 6 evaluated and acted on that request by granting NMED (known as the NM Environmental Improvement Division at the time) partial delegation that included the administrative review of PSD permit applications and the technical development of PSD permits, including authority for source inspection for compliance and review of compliance test reports. This authority extended to sources in those parts of New Mexico that did not include San Bernalillo County or Indian governed lands. This approval was effective on February 16, 1982. 47 FR 11318, March 16, 1982. With that partial delegation, both EPA Region 6 and NMED had to sign the permits, which NMED was responsible for developing and enforcing.

On June 27, 1983, the governor of New Mexico submitted a SIP revision that included NM Regulation 707 (PSD program implementation and enforcement requirements), for which approval was proposed on September 22, 1983 (*See* 48 FR 43194). New Mexico supplemented that submittal on February 21, 1984, and May 14, 1985. In February 1987, the EPA published a notice of conditional approval of the SIP, which incorporated PSD into NM Regulation 707, which was effective on March 30, 1987 (*See* 52 FR 5964, February 27, 1987). The conditional approval was related to pending modifications to NM and federal stack height rules, which were successfully completed. The PSD requirements in the NMAC were recodified in 20 NMAC Chapter 2 Part 74 on July 20, 1995; *see also* 40 C.F.R. § 52.793. The applicable requirements of the Act for construction of new major sources, or major modifications at major sources, such as at SJGS, include the requirement to comply with PSD requirements under the New Mexico SIP (*See, e.g.,* 40 C.F.R. § 70.2). In this case, New Mexico's rules require a source to apply for a

PSD permit, which is then incorporated into the existing title V permit as a revision to the title V permit.

Consistent with the Act and the EPA's regulations, to obtain a PSD permit in New Mexico pursuant to NMAC 20.2.74.200, the applicant must show that the source will not cause or contribute to a violation of any NAAQS and satisfy the BACT requirement for any pollutant subject to regulation. As we have previously stated, if a PSD permit that is incorporated into a title V permit does not meet these requirements of the SIP, the title V permit will not be in compliance with all applicable requirements.²

Under CAA section 505(a), 42 U.S.C. § 7661d(a), and the relevant implementing regulations found at 40 C.F.R. § 70.8(a), states are required to submit each proposed title V operating permit to the EPA for review. Upon receipt of a proposed permit, the EPA has 45 days to object to final issuance of the permit, if it is determined not to be in compliance with applicable requirements or requirements under 40 C.F.R. Part 70. 40 C.F.R. § 70.8(c). If the EPA does not object to a permit on its own initiative, section 505(b)(2) of the Act provides that any person may petition the Administrator, within 60 days of expiration of the EPA's 45-day review period, to object to the permit. 42 U.S.C. § 7661d(b)(2) and 40 C.F.R. § 70.8(d). The petition must “be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period).” CAA section 505(b)(2), 42 U.S.C. § 7661d(b)(2).

In response to such a petition, the Administrator must issue an objection if a petitioner demonstrates that a permit is not in compliance with the requirements of the CAA. 42 U.S.C. § 7661d(b)(2); *see also* 40 C.F.R. § 70.8(c)(1); *New York Public Interest Research Group v. Whitman*, 321 F.3d 316, 333 n. 11 (2d Cir. 2003) (“NYPIRG 2003”). Under CAA section 505(b)(2), the burden is on the petitioner to make the required demonstration to the EPA. *Sierra Club v. Johnson*, 541 F.M. 1257, 1266-67 (11th Cir. 2008); *Citizens Against Ruining the Environment v. EPA*, 535 F.3d 670, 677-78 (7th Cir. 2008); *Sierra Club v. EPA*, 557 F.3d 401, 406 (6th Cir. 2009) (discussing the burden of proof in title V petitions); *see also NYPIRG 2003*, 321 F.3d at 333 n. 11. In evaluating a petitioner’s claims, the EPA considers, as appropriate, the adequacy of the permitting authority’s rationale in the permitting record, including the response to comment. If, in responding to a petition, the EPA objects to a permit that has already been issued, the EPA or the permitting authority will modify, terminate, or revoke and reissue the permit consistent with the procedures set forth in 40 C.F.R. §§

² In our 2009 Columbia Generating Order we stated: Where a petitioner's request that the Administrator object to the issuance of a title V permit is based in whole, or in part, on a permitting authority's alleged failure to comply with the requirements of its approved PSD program (as with other allegations of inconsistency with the Act) the burden is on the petitioners to demonstrate that the permitting decision was not in compliance with the requirements of the Act, including the requirements of the SIP. Such requirements, as EPA has explained in describing its authority to oversee the implementation of the PSD program in states with approved programs, include the requirements that the permitting authority (1) follow the required procedures in the SIP; (2) make PSD determinations on reasonable grounds properly supported on the record; and (3) describe the determinations in enforceable terms. *See In the Matter of Wisconsin Power and Light, Columbia Generating Station*, Permit No. Ill 003090-P20; Petition Number V -2008-1 (October 8, 2009) at 8.

70.7(g)(4), (5)(i)-(ii) and 70.8(d).

BACKGROUND

I. The Facility

SJGS is a 1,848-megawatt (MW) power plant consisting of four coal-fired generating units and associated support facilities located approximately three miles north-northeast of the city of Waterflow, in San Juan County, New Mexico. The area is in attainment for all criteria pollutants. Each of the coal-fired boilers (Units 1-4) burns pulverized coal received by conveyors from the adjacent San Juan Mine to generate high-pressure steam that powers a steam turbine coupled with an electric generator. Electric power produced by the units is supplied to the electric power grid for sale. Units 1 and 2 have a unit capacity of 350 and 360 MW, respectively, while Units 3 and 4 have a unit capacity of 544 MW each. The Units began operations in 1976, 1973, 1979, and 1982, respectively. *See* Statement of Basis (“SOB”) for the April 2, 2010 draft Permit (“draft SOB”) at 1.

PNM, the operator of the SJGS, entered into a consent decree in 2005 with The Grand Canyon Trust, Sierra Club, and NMED to reduce emissions of nitrogen oxides (NO_x), sulfur dioxide (SO₂), particulate matter (PM), and mercury. *See* Consent Decree (CD) entered in *The Grand Canyon Trust, et. al. v. Public Service Co. of New Mexico*, CV 02-552 BB/ACT (ACE)(D.N.M. 2005). The CD also required SJGS to obtain any necessary authorizations and to comply with all “federal, state, and local laws and regulations and orders of this Court.” CD at 35. In addition, the CD required that the emissions controls and limitations, emissions monitoring, and all definitions relied upon in the CD be incorporated into the title V operating permit at renewal. CD at 38-39.

II. The SJGS Permit Renewal Action and Petition to Object

On February 3, 2009, NMED received an application from PNM for the renewal of the SJGS Permit - Permit Number P062R2 (“draft Permit”). A copy of the draft Permit along with the draft SOB was submitted for a 30-day public comment period beginning April 2, 2010. On May 7, 2010, WEG submitted comments on the draft Permit on behalf of themselves, SJCA, and Carson Forest Watch to NMED (“WEG Comments”), raising several concerns. On the same day under separate cover, SJCA submitted comments on their own behalf and on behalf of five additional citizens groups (“SJCA Comments”) on the draft Permit. The five additional groups included the Northern New Mexico Group of the Sierra Club, the Center for Biological Diversity, Dooda Desert Rock, the Coalition for Clean Affordable Energy, and Dine Care. NMED prepared a separate response to comments (“RTC”), dated August 4, 2010, for each group (“WEG RTC” and “SJCA RTC,” respectively) and submitted the proposed Permit along with a revised SOB (“proposed SOB”) to the EPA on the same date. On September 20, 2010, the last day of the 45-day EPA review period, the EPA submitted preliminary comments to NMED (“EPA Comments”) on the proposed Permit but did not object to the proposed Permit. On November 19, 2010, Petitioners submitted an electronic copy of the Petition to the EPA,

requesting that the EPA object to the renewal of the Permit. The NMED issued the final permit on January 24, 2011.

The Petition claims that the Permit does not comply with 40 C.F.R. Part 70 in that it: (1) fails to ensure compliance with the PSD requirements; (2) fails to ensure compliance with source impact analysis requirements in the New Mexico SIP; (3) fails to require prompt reporting of deviations; (4) fails to require sufficient periodic monitoring; and (5) includes a condition that is contrary to applicable requirements.

ISSUES RAISED BY PETITIONERS

I. The Permit Fails to Ensure Compliance with PSD Requirements

Petitioners' Claim 1: Petitioners generally assert that the “evidence indicate[s] that PSD requirements are, in fact, applicable to [SJGS] and that the facility is currently in violation of PSD requirements.” Petition at 4. Specifically, Petitioners allege that “according to information brought to light by the EPA and both expressly and impliedly confirmed by NMED,” SJGS never obtained the required PSD permits for the initial construction of at least Units 1, 3 and 4, and likely Unit 2, and for the recent addition of low-NOx burners on all four units.” Petition at 5. Petitioners therefore claim that NMED was required to prepare a Permit that includes PSD requirements, including BACT requirements and a compliance plan to bring SJGS into compliance with applicable PSD requirements in accordance with 42 U.S.C. §§ 7661b(b) and 7661c(a) and 40 C.F.R. § 70.6(b)(3). *Id.* Since the Permit does not contain these requirements, Petitioners assert that the Administrator must object to the issuance of this Permit.

Petitioners' Claim 1A: Petitioners assert that despite evidence indicating the applicability of PSD requirements, SJGS never obtained PSD permits for the initial construction of the Units. Petition at 4. Petitioners allege that “it appears the construction of Units 1, 3 and 4 occurred after the effective date of EPA’s PSD program [June 1, 1975],” which would require SJGS to obtain PSD permits for these Units; however, Petitioners assert that the evidence suggests that no PSD permits were issued. *Id.* at 5. Petitioners further assert that NMED did not address this issue in proposing the Permit. *Id.* Petitioners point to the proposed SOB and EPA Comments to express their “serious concerns over whether [SJGS] is operating in compliance with PSD” and to assert that NMED was “obligated to investigate whether [SJGS] was in compliance with PSD to ensure compliance with applicable requirements in accordance with Title V.” *Id.* at 6.

Petitioners did not raise these concerns in the public comments they submitted to NMED on the draft Permit on May 7, 2010. *See* WEG Comments and SJCA Comments. Instead, Petitioners now assert that “the grounds for [their] concerns over this issue arose after the public comment period” and “came to light only after Petitioners received EPA’s comments” on the Permit. Petition at 8. Petitioners allege that “[d]uring the public comment period and based on the information provided by NMED to the public, Petitioners had no reason to believe that the issue of PSD applicability as it relates to the construction of units

1, 3, and 4, remained relevant.” *Id.*

EPA's Response to Claim 1A: I deny the Petitioners' request for an objection to the Permit on this claim on the basis that Petitioners have not shown that it was impracticable to raise this objection during the public comment period or that the grounds for this objection arose after the public comment period. Additionally, I deny the Petitioners' request for an objection to the Permit on this claim on the alternative basis that Petitioners have not demonstrated that the SJGS permit is not in compliance with the requirements of the Act, specifically the PSD requirements. *See generally* CAA section 505(b)(2), 42 U.S.C. § 7661d(b)(2); 40 C.F.R. 70.8(c)-(d).

Section 505(b)(2) of the Act, 42 U.S.C. § 7661d(b)(2), and 40 C.F.R. 70.8(d) state that a petition to object to a title V permit shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period unless the petitioner demonstrates that it was impracticable to raise such objections during the public comment period or unless the grounds for such objection arose after the public comment period. Petitioners have not satisfied this requirement. Petitioners concede that they did not raise this claim in their public comments submitted on May 7, 2010. Petition at 8.³ Instead, they argue that the grounds for this claim “arose after the public comment period” and “came to light only after Petitioners received EPA’s comments” on the proposed Permit. *Id.* As a factual matter, the grounds for this claim arose when the Units were originally constructed in the 1970s and 1980s, allegedly without required PSD permits. The fact that Petitioners may have only now realized that they have questions regarding PSD applicability for the initial construction of the Units does not mean that the *grounds* or the *basis* for this issue arose *after* the public comment period. The grounds for this particular claim in this permit action were clearly present *during* the public comment period. Petitioners also cannot show that it was impracticable for them to have raised this claim in their public comments. Information was available in the record to alert Petitioners to this potential concern. For example, section 4.0 in the draft SOB for the draft Permit provides a permit history table and while the table references the installation of Units 1, 3 and 4, it does not mention PSD applicability for these units under the initial entries. Draft SOB at 4-5. Petitioners could have relied on the *absence* of PSD permitting information in this table in the draft SOB regarding the initial construction of the Units to raise questions in their public comments regarding PSD compliance at SJGS. Additionally, the permit history table includes an entry that indicates that Grand Canyon Trust and Sierra Club filed a lawsuit against PNM on May 16, 2002, alleging CAA violations because “units 3 and 4 did not have a PSD permit.” Draft SOB at 4; *Grand Canyon Trust et.al. v. Public Service Co. of New Mexico*, 283 F.Supp.2d 1249 (D.N.M. 2003) (addressing allegations that PNM violated CAA by failing to obtain PSD permits for initial construction of Units 3 and 4). However, Petitioners did not raise such concerns in their comments, but instead focused their PSD applicability questions in their public comments on other issues. For example, instead of raising questions in their public comments about PSD applicability to the initial construction of the Units, Petitioners raised questions regarding whether PSD requirements apply to the greenhouse gas

³ The only comments submitted during the public comment period were the WEG Comments and the SJGA Comments. Neither of these comments raised this issue during the public comment period.

emissions at SJGS. WEG Comments at 1-2. But even these comments demonstrate that Petitioners had an understanding of the permitting history for SJGS and that Petitioners had an opportunity to raise their questions regarding PSD applicability to the initial construction of the Units in their public comments. Petitioners stated in their comments:

The Statement of Basis indicates that a number of permitting actions allowing construction and modifications of the coal-fired boilers have been undertaken since 1973, likely leading to significant increases in CO₂ emissions. There is no indication that NMED assessed greenhouse gas emissions as part of those permitting actions, meaning NMED has no basis to conclude that the San Juan Generating Station is in compliance with applicable requirements, or that the Title V Permit ensures compliance with applicable requirements.

Id. at 2. Petitioners were obviously aware of the permitting history at SJGS, yet they failed to show why they could not raise this particular PSD permitting claim in their public comments. See *In the Matter of Public Service Company of Colorado, dba Xcel Energy, Hayden Station*, Petition VIII-2009-01, at 10-13 (March 24, 2010) (“*Hayden Order*”) (finding issue was “one that was reasonably ascertainable and could have been raised by the Petitioner before the public comment period closed”). Therefore, I deny their request for an objection to the Permit on this claim.

I also deny the Petitioners’ request for an objection to the Permit on this claim on the alternative basis that Petitioners have not demonstrated that the SJGS permit is not in compliance with applicable PSD requirements under the Act with regards to installation of Units 1, 3 and 4. Petitioners allege that “it appears the construction of at least units 1, 3 and 4 occurred subsequent to the effective date of EPA’s PSD program [June 1, 1975]. Therefore, it appears that PNM was required to obtain PSD permits for at least units 1, 3, and 4 in accordance with 40 C.F.R. 52.21 (1975).” Petition at 5. Petitioners further claim that “there is no evidence that, at least with regards to units 1, 3, and 4, the units have been subjected to PSD requirements since their initial construction, in violation of the Clean Air Act.” In support of their allegation, Petitioners claim that “EPA has flagged PSD applicability as an area of concern” and that a related District Court holding “does not absolve NMED from assuring that [SJGS] is in compliance with all applicable requirements.” Petition at 5-6.

Petitioners’ reference to EPA’s Comments (framed by EPA as “preliminary comments”) is not sufficient to demonstrate for purposes of CAA section 505(b)(2) that PSD applied to Units 1, 3, and 4. See *In the Matter of Chevron Products Company, Richmond, California Facility*, Petition IX-2004-10, at 4-5 (March 15, 2005) (finding petitioners’ reference to an EPA comment letter to be insufficient to demonstrate that a permit is not in compliance with the Act under section 505(b)(2)); see also, *In the Matter of Georgia Power Company, Bowen Steam- Electric Generating Plant*, Final Order at 5-9 (January 8, 2007); *In the Matter of East Kentucky Power Cooperative, Inc., Hugh L. Spurlock Generating Station*, Petition IV-2006-4, Final Order at 13-18 (August 30, 2007); and *In the Matter of CEMEX, Inc., Petition VIII-2008-01*, Final Order at 6 (April 20, 2009) (all noting that reference to a Notice of Violation and

information contained therein alone are not sufficient to demonstrate for purposes of CAA section 505(b)(2) that a title V permit is not in compliance with the Act); *Sierra Club v. Johnson*, 541 F.3d 1257, 1259 (11th Cir. 2008) (EPA's filing of a complaint for the alleged violations in the NOV is not sufficient to demonstrate applicability and violation of a requirement under CAA section 505(b)(2)). Petitioners provide no additional evidence to support their allegation that these Units should be subject to PSD. For example, Petitioners provide no additional evidence that Units 1, 3, and 4 were major stationary sources pursuant to the requirements in place when the Units were constructed. Petitioners also provide no explanation or rationale showing how the PSD requirements in place at the time applied to the initial construction of these Units. Therefore, Petitioners have not demonstrated that PSD applies, which is a threshold determination for demonstrating that SJGS is not in compliance with the PSD requirements.

Similarly, to the extent Petitioners intended it as a separate claim, I deny Petitioners' claim that NMED was obligated to investigate whether SJGS was in compliance with PSD for the installation of these Units. First, as discussed above, this claim was not raised in public comments, and there is no showing that it was not practicable to raise it, or that the grounds for this claim arose after the public comment period. Second, Petitioners have not demonstrated that NMED was obligated to investigate whether SJGS was in compliance with PSD for installation of Units 1, 3 and 4. NMED summarized the permitting history and related activities regarding the installation of these Units. Petitioners' reference to the EPA's "preliminary" comment letter does not demonstrate that PSD had been triggered for installation of these Units, nor that SJGS had an obligation to investigate this matter further in this title V proceeding.

Petitioners' Claim 1B: Petitioners assert that the Permit fails to assure compliance with applicable PSD requirements because "it fails to address significant increases in [CO] emissions that occurred as a result of the installation of low-NO_x burners on all four units at [SJGS] in 2006." Petition at 8. Petitioners quote extensively from communications between the EPA and NMED in support of their assertion that the EPA also raised these concerns in their comments on the proposed Permit and that NMED, in their October 27, 2010, response ("NMED's Response to EPA"), "conceded that, in fact it had failed to address the increases in [CO] emissions and that, upon further investigation, the Title V Permit failed to assure compliance with PSD [for] recent significant increases in [CO] emissions." *Id.* at 8-10. Petitioners cite NMED's Response to EPA that included NMED's October 4, 2010, re-evaluation of PSD applicability at the four Units as a result of installing the low-NO_x burners in 2006. *Id.* at 9. Petitioners quote from NMED's Response to EPA in which NMED concludes that its own analysis "clearly shows that all four units individually and combined exceed the 100 tons/year increase threshold for PSD significance," which NMED said meant that "NSR Permit 0063M4 should have been a PSD Permit." *Id.* at 10. Petitioners quote NMED as stating in their response: "It is our intent to add a Compliance Plan in the current Title V Permit P062R2 for PNM to submit a PSD application to address the significant increase in CO from the construction of the low-NO_x burners." *Id.* Petitioners assert, however, that the proposed Permit, which does not include a Compliance Plan, "does not bring the facility into compliance with PSD" and therefore "fails to assure compliance with applicable requirements." *Id.*

Petitioners did not raise these concerns in the public comments they submitted to NMED on the draft permit on May 7, 2010. *See* WEG Comments at 1-7; SJCA Comments at 1-7. Instead, Petitioners assert that “the grounds for [their] concerns over this issue arose after the public comment period” and “came to light only after Petitioners received EPA’s comments” on the Permit. Petition at 10. Petitioners allege that “[d]uring the public comment period and based on the information provided by NMED to the public, Petitioners had no reason to believe that the issue of PSD applicability as it related to units 1- 4 was an issue [for CO] emissions.” *Id.* Petitioners state that NMED only completed its re-evaluation of actual CO emissions increases as a result of the low-NO_x burner installations after the public comment period, so Petitioners “could not have possibly commented on the adequacy of the Title V Permit in this regard.” *Id.*

EPA’s Response to Claim 1B: I grant the Petitioners’ request for an objection on this claim because NMED failed to provide an adequate basis and rationale for not addressing PSD requirements in the Permit for the low-NO_x burner installations at each Unit in 2006.

As explained in my response to Claim 1A, a petition to object to a title V permit shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period unless the petitioner demonstrates that it was impracticable to raise such objections during the public comment period or unless the grounds for such objection arose after the public comment period. CAA section 505(b)(2), 42 U.S.C. § 7661d(b)(2); 40 C.F.R. 70.8(d). Petitioners assert that the grounds for this claim arose after the public comment period because information regarding CO emissions increases from the low-NO_x burner installations was only made available to them after the public comment period. As Petitioners note: “NMED only completed an actual analysis of the [CO] increases” from the low-NO_x burner installations in October 2010, and the new results, analysis and conclusions were only made available to the EPA and Petitioners well after the close of the public comment period. Petition at 10. After conducting that analysis, NMED seems to conclude in its October 29, 2010, response to EPA that PSD permits were needed for the low-NO_x burner installations at these Units. *See* NMED’s Response to EPA at 2-3. Since this information was only made available to Petitioners after the public comment period, Petitioners note the impracticability of raising this claim earlier when they assert that they “could not [have] possibly commented on the adequacy of the Title V Permit in this regard” without this additional information. Petition at 10. While the Petitioners could have raised comments regarding PSD and the installation of low-NO_x burners on all four Units in 2006 during the public comment period, the apparent conclusion by NMED that PSD had been triggered at these Units, and NMED’s expression of intent to add a title V compliance schedule to the Permit, occurred after the public comment period. I therefore find that Petitioners may raise this claim and I will consider its merits below.

I grant Petitioners’ request to object to the Permit on this claim because NMED has not provided an adequate explanation in the record regarding its decision not to address PSD requirements in the Permit for the low-NO_x burner installations on the Units. As NMED itself states:

This comparison clearly shows that all four units individually and combined

exceed the 100 tons/year increase threshold for CO PSD significance. Therefore, it is our conclusion that NSR Permit 00063M4 should have been a PSD Permit or processed as a PSD permit. It is our intent to add a Compliance Plan in the current Title V Permit P062R2 for PNM to submit a PSD application to address the significance increase in CO from the construction of the low NOx Burners.

NMED's Response to EPA at 3. However, NMED issued the final Permit on January 24, 2011, *without including* the compliance plan for addressing PSD requirements. The only explanation NMED offers for this apparent change is the following:

Considering adding Compliance plan for submitting PSD netting analysis for NSR Permit 00634M4 that was issued /8/2006. May not be appropriate to do this in TV permit, since it has nothing to do with the facility being out of compliance and bring them back into compliance. Was not added to Permit P062R2.

Final SOB at 14. This explanation clearly does not provide sufficient detail or reasoning regarding why NMED did not include the compliance plan in the Permit as previously indicated in NMED's Response to EPA. These confusing and contradictory statements in the record regarding PSD applicability for the 2006 low-NO_x burner installations at each Unit require further clarification by NMED so that the public may clearly understand its basis for the Permit that was issued on January 24, 2011. Therefore, given the unresolved nature of this claim in the record, NMED must clarify the record, explain its final decision regarding this issue, and make any necessary changes to the Permit consistent with its SIP and title V.

II. The Permit Fails to Ensure Compliance with Source Impact Analysis Requirements in the New Mexico State Implementation Plan

Petitioners' Claim 2: Petitioners assert that "NMED failed to ensure that the applicable NO_x and [PM] emission limits set forth in the Title V Permit were based on an actual analysis of ambient air quality impacts, as required by the New Mexico SIP at NMAC 20.2.72.208.D." Petition at 11; WEG Comments at 2-3. Petitioners specifically assert that this failure was of serious concern regarding several new permits, including permits 0063M3, 0063M4, 0063M6, and 0063M6R1. Petition at 11. Petitioners assert that this SIP provision requires NMED to deny any permit for construction, modification or revision if the project would cause or contribute to the exceedance of any NAAQS or New Mexico Air Quality Standards (NMAQS), unless the ambient air impacts are offset under the applicable requirements in New Mexico regulations. *Id.* Petitioners assert that NMED did not follow these requirements because "it is not apparent that NMED assessed the NO_x and [PM] limits to specifically ensure that [SJGS] would not cause or contribute to exceedances" of the applicable NAAQS or NMAQS. *Id.* In support of this claim, Petitioners only assert that "there is simply no indication that any analysis of [applicable NAAQS or NMAQS] impacts has even been completed for any NSR permit issued for any pollutant

emitting activity at” SJGS. Petition at 12. Petitioners note that “NMED only asserts that ‘air dispersion modeling [was] conducted for [NSR permit 0063M6R1] or previous permitting action(s) [and] demonstrated compliance with the NAAQS.” Petition at 12. Petitioners again allege that “no information or analysis [was] presented, cited, or otherwise referenced by NMED indicating that any analysis of the impacts of [SJGS] to ambient concentrations [of NAAQS or NMAQS] has ever been completed.” *Id.* Petitioners assert that the Permit must contain provisions to bring SJGS into compliance with these underlying source impact analysis requirements. *Id.*

EPA’s Response to Claim 2: I deny the Petitioners’ request for an objection to the Permit on this claim on the basis that Petitioners have not demonstrated that the Permit fails to address applicable requirements. Petitioners have not demonstrated that NMED failed to conduct the appropriate source impacts analysis under the applicable New Mexico NSR permitting regulations. Petitioners generally assert that NMED failed to provide the citations for the permitting actions under which the source impacts analyses were conducted. Without providing additional evidence, they further generally assert that the source impact analyses were not conducted and that therefore the permit limits are not protective of the NAAQS or NMAQS and violate applicable requirements. These general assertions, however, are not sufficient to show that the Permit does not address applicable requirements.

The Part 70 regulations require that certain information be made available to the public during its review of the draft Permit. In particular, 40 C.F.R. 70.7(h)(2) requires that the public notice announcing the availability of the draft Permit for review and public comment also include “the name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including those set forth in §70.4(b)(3)(viii) of this part, and all other materials available to the permitting authority that are relevant to the permit decision....” The Public Notice issued for this Permit included this information. Public Notice, April 2, 2010 (“Public Notice”). For example, the Public Notice stated: “This operating permit application is for a permit renewal. Per 20.2.70.401.C.(4) NMAC, this permitting action involves renewal of Operating and Acid Rain Permits and includes modification authorized by NSR Permits 0063M4 thru 63M6R1.” *Id.* at 1. The Public Notice also identified the specific emissions limits that were “established in NSR Permit 0063-M3 and M4, and brought forward into this permit.” *Id.* The Public Notice further stated:

The permit application, draft permit and relevant supporting materials are currently available for review at the Air Quality Bureau, Operating Permits Unit, 1301-B Siler, Santa Fe, New Mexico 87507-3113. The Department contact in Santa Fe is Joseph Kimbrell at 505-476-4347.

Public Notice at 2. Additionally, the draft SOB provided information regarding these minor NSR permits, explaining that the Permit renewal “includes modification authorized by NSR 0063MR thru 63M6R1.” Draft SOB at 1. A history of changes to the Permit, including

minor NSR actions, was listed in Section 4 of the draft SOB, which list specifically referenced NSR Permits 0063M3, 0063M4, 0063M6, and 0063M6R1. *Id.* at 3-5. Petitioners were thus provided the requisite information in the draft Permit record such that they could have contacted NMED and requested the source impact analyses for any of the emissions limits from the NSR permits that were included in the SJGS Permit. Moreover, in responding to this claim in Petitioners' comments, NMED explained:

Permit modifications are submitted under 20.2.72 NMAC, Construction Permits, and emissions are modeled as required by regulation before the construction/modification to ensure compliance with the NAAQS. All allowable emission limits in the draft Title V permit were imposed by NSR permit 0063MR6R1, and air dispersion modeling conducted for that or previous permitting action(s) demonstrated compliance with the NAAQS.

WEG RTC at 2.

However, Petitioners do not claim that they requested the analysis, but were unsuccessful, or that they reviewed NMED permitting files and found no source impacts analyses, or that the analyses they reviewed were inadequate or showed violations. Petitioners simply state that "it is not apparent" that NMED performed the air quality assessment, without any further explanation regarding *why* it was not apparent to Petitioners. In other words, Petitioners do not demonstrate that they were unable to obtain or review any source impacts analyses for previous SJGS NSR permitting actions. Instead, when NMED explains to them that such analyses had been conducted as part of the NSR permitting actions, Petitioners appear to ignore NMED's response and continue to assert in their Petition that "no [source impact] information or analysis was presented, cited, or otherwise referenced" WEG Comments at 2; Petition at 12. This assertion appears incorrect, but, in any case, does not establish that the analysis *does not exist*, and Petitioners fail to explain, if such was the case, that they were unable to obtain this information when they requested it from NMED. Without this kind of explanation, Petitioners cannot demonstrate that NMED failed to perform the requisite analyses and therefore cannot demonstrate that the Permit fails to address all applicable requirements.

Therefore, based on a review of the record, Petitioners have not demonstrated that the Permit failed to address all applicable requirements or that NMED failed to conduct the appropriate source impact analyses as required by the New Mexico SIP. Petitioners were apparently aware of the relevant NSR permitting actions from which the PM and NO_x emissions limits were incorporated into the Permit since they reference the same specific NSR permits in their Petition that NMED referenced in the permitting record. Petition at 11; Public Notice at 1; draft SOB at 1, 3-5; WEG RTC at 2-3. Yet, Petitioners did not show that they requested but were unable to obtain the analyses from NMED or otherwise show that the required analyses were not performed. Therefore, I deny the request to object to this claim.

III. The Permit Fails to Require Prompt Reporting of Deviations

Petitioners' Claim 3: The Petitioners assert that Condition B110.C of the Permit requiring reporting of permit deviations only once every six months does not meet the requirements of the Clean Air Act, 42 USC § 7661b(b)(2), and title V regulations, 40 CFR § 70.6(a)(3)(iii)(B) because it fails to require prompt reporting of all permit deviations. *See* Petition at 12-13.

According to Petitioners, 40 C.F.R. § 70.6(a)(3)(iii)(B) defines prompt reporting “in relation to the degree and type of deviation likely to occur and the applicable requirements.” *Id.* at 12. Petitioners assert that in explaining the meaning of “prompt,” the House Report for CAA Amendments of 1990 stated “the permittee would presumably be required to report that violation without delay.” *Id.* (quoting H.F. Rep. No. 101-490, pt. 1, at 348 (1990)).⁴ Petitioners further assert that the Second Circuit Court of Appeals in *New York Public Interest Group v. Johnson*, 427 F.3d 172 (2d Cir. 2005) has held that “prompt” for purposes of prompt reporting of permit deviations must be less than every six months depending upon the source’s compliance history and public health risk. *Id.* at 12.

In their RTC to the issue of reporting deviations under Condition B110.C, NMED responded that Condition B110.D also requires that excess emissions be reported in accordance with 20.2.7.110.A NMAC which requires initial reports within two business days and final reports within 10 days of the end of the excess emissions event. *See* WEG RTC at 3. Petitioners assert that while NMED explained that certain emissions events that may be defined as deviations would be required to report more promptly than each 6 months, NMED failed to explain why it considered the stated reporting timeframes to be ‘prompt.’ *Id.* at 13. In addition, Petitioners cite to the 2005 CD for SJGS that mandates more stringent reporting of deviations than the current title V permit requires (*See* CD at 9) as evidence that “clearly, underlying applicable requirements demand more frequent reporting of deviations that the Title V permit currently provides for.” Petition at 13.

EPA's Response to Claim 3: I grant this request for an objection to the Permit on the basis that the record does not adequately document or explain NMED’s decisions regarding how it concluded that reporting each six months, or more frequently in the case of excess emissions under the SIP, constitutes ‘prompt’ reporting of all permit deviations.

Petitioners claim that the SJGS permit does not provide for prompt reporting of all deviations in agreement with the regulations and the Act, specifically referencing Conditions B110.C and D. CAA section 503(b)(2), 42 U.S.C. § 7661b(b)(2), provides that EPA’s regulations

⁴ Petitioners state that “[i]n general EPA believes that ‘prompt’ should be defined as requiring reporting within two to ten days for deviations that may result in emissions increases. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems.” *See* Petition at 12. (quoting Clean Air Act Proposed Interim Approval of Operating Permits Program: State of New York, 61 Fed. Reg. 39617-39602 [sic] (July 30, 1996)). As explained in *In the Matter of GCC Dacotah Cement Manufacturing Plant*, Petition VIII-2006-3 at 11, n. 5 (June 15, 2007): “To the extent Petitioners believe that EPA’s position is currently that ‘prompt reporting’ should generally be defined as within 2-10 days, I note that, as reflected in the NYPIRG case and other Title V orders, EPA’s experience with the Title V program since 1996 has led EPA to the conclusion that such a limited time frame for reporting is not necessary for all deviations.”

must require permittees “to promptly report any deviations from permit requirements to the permitting authority.” Part 70 provides that title V permits must require prompt reporting of deviations from permit requirements, and directs permitting authorities to “define ‘prompt’ in relation to the degree and type of deviation likely to occur and the applicable requirements.” 40 C.F.R. § 70.6(a)(3)(iii)(B). Permitting authorities may specify prompt reporting requirements for each permit term on a case-by-case basis, or may adopt general reporting requirements by rule, or both. *See, e.g., In the Matter of Onyx Environmental Services*, Petition V-2005-1, at 15 (February 1, 2006) (“*Onyx Order*”).

Condition B110.C addresses deviation reporting by generally requiring semiannual reporting for “all deviations from permit requirements.” *See* Permit at 36. As indicated in NMED’s RTC, in addition the Permit also specifies the time for submitting notice to NMED when emission limitations are exceeded under Condition B110.D. As stated in the RTC, under this condition NMED requires reporting of an exceedance of a quantity, rate, opacity or concentration specified by an air quality regulation or permit condition⁵ within a business day of discovery per 20.2.7.110 NMAC. *See* WEG RTC at 3- 4. According to the RTC, this timeframe is meant to be consistent with EPA’s guidance “that ‘prompt’ should be defined as requiring reporting within two to ten days for deviations that may result in emissions increases.” *Id.* Condition B110.D provides that the permittee must submit reports of excess emissions as required under 20.2.7.110A NMAC, a provision of the federally enforceable New Mexico SIP.

While, as noted, NMED included Permit conditions providing for deviation reporting of excess emissions under the SIP and incorporated other deviation reporting requirements per Condition B110 of the permit, the RTC does not explain NMED’s decisions on what constitutes “prompt” reporting of permit deviations in relation to the degree and type of deviation likely to occur and the applicable requirements. *See, e.g., In the Matter of GCC Dacotah Cement Manufacturing Plant*, Petition VIII-2006-3, at 11 (June 15, 2007) (granting where a permitting authority failed to adequately explain its prompt reporting decisions). For example, NMED does not explain why it believes semiannual reporting is “prompt” for some permit deviations but why another timeframe is justified for others; nor does the RTC expressly reference any such analysis that NMED might have provided elsewhere. NMED also does not address Petitioners’ assertions regarding the reporting requirements included in the CD, including how these should be included in the Permit. *Id.* NMED should explain how it is appropriately addressing prompt reporting requirements.

In response to Petitioners’ point about *NYPIRG 2005*, I note that the *NYPIRG 2005* decision is not controlling in New Mexico. Moreover, although I am granting on Claim 3 of this Petition, the EPA is not subscribing to Petitioners’ view that, in light of *NYPIRG 2005*, prompt reporting must be less than every six months. Instead, as explained above, I am granting due to inadequacies in NMED’s permitting record on prompt reporting of permit deviations.

⁵ 20.2.7.6(B) NMAC defines “air quality regulation or permit condition” to mean “any regulation adopted by the board, including a federal new source performance standard adopted by reference, or any condition of an air quality permit issued by the department. National emission standards for hazardous air pollutants and maximum achievable control technology standards are not included in this definition.” (emphasis added)

As explained above, I grant this claim based on the lack of justification in the permit record for NMED's decisions regarding reporting of permit deviations, in accordance with the requirements of 40 C.F.R. § 70.6(a)(3)(iii)(B). I direct NMED to consider whether the permit conditions for reporting of deviations are consistent with the requirements of 40 C.F.R. § 70.6(a)(3)(iii)(B) for all permit deviations and provide further explanation of its conclusions, in the SOB or elsewhere in the permitting record, or make appropriate changes to the Permit to ensure prompt reporting consistent with the Act and implementing regulations.

IV. The Permit Fails to Require Sufficient Periodic Monitoring

Petitioners' Claim 4: Petitioners allege generally that the SJGS Permit fails to contain monitoring that assures compliance with the terms and conditions of the permit, and that NMED must supplement this monitoring to ensure compliance with the Permit. Permit at 13-14; CAA section 504(c), 42 U.S.C. § 7661c(c), 40 C.F.R. §§ 70.6(a)(3)(i)(B), 70.6(c)(1); *Sierra Club v. EPA*, 536 F.3d 673, 680 (D.C. Cir. 2008)). Related to this general claim, Petitioners make two specific claims, which we describe and respond to below.

Petitioners' Claim 4A: The Petitioners allege that while “the Title V Permit establishes PM limits for the coal-fired boilers at Condition A106.A..., the prescribed monitoring fails to ensure compliance with these emission limits.” *Id.* Their particular concern is with Condition B108.D, which they allege could allow SJGS to be exempt from PM monitoring requirements for two monitoring periods if SJGS operates any Unit individually for less than 25 percent of a monitoring period. Additionally, Petitioners assert that this Condition may allow for a longer exemption period if SJGS operates any Unit individually for less than 10 percent of any monitoring period. *Id.* Petitioners assert that this Condition is problematic because it could allow SJGS to forego PM monitoring altogether if SJGS operates any Unit individually less than 25 percent of a monitoring period. *Id.* Petitioners note that although NMED asserts that “[t]he intent of this exemption is to reduce the possibility that equipment that is not operating must be started up for the sole purpose of monitoring,” the practical result of this exemption could allow SJGS to operate Units 1, 2, 3, or 4 for almost 90 days annually without being required to conduct any PM monitoring. *Id.* Petitioners assert that “[i]t is unclear how this would ensure continuous compliance with hourly or lb/mmbtu emission limits. The fact that PNM could be allowed to avoid monitoring altogether if it only operates units 1, 2, 3, or 4 for 10% or less than any monitoring period—9 days a quarter or 36 days a year—underscores the inappropriateness of including Condition B108.D in the Title V Permit due to its failure to ensure sufficient periodic monitoring that assures compliance with applicable PM limits.” *Id.*

EPA's Response to Claim 4A: I grant the Petitioners' request for an objection on this claim on the basis that NMED's Permit record, including the draft SOB, does not adequately document the rationale for NMED's permitting decision supporting the monitoring exemptions contained in Condition B108.D. In its response to Petitioners' comments on this claim, NMED explained that the PM monitoring requirements in the Permit include a Compliance Assurance Monitoring (CAM) plan, quarterly stack testing, and Continuous Opacity Monitors (COM). WEG RTC at 4-6; Permit at 13-14 (*see* Table 106.C, Footnote 4), 22-23, Appendix B. NMED

also addressed Condition B108.D⁶ which states:

The requirement for monitoring during any monitoring period is based on the percentage of time that the unit has operated. However, to invoke monitoring exemptions at B108.D(2), hours of operation shall be monitored and recorded.

(1) If the emission unit has operated for more than 25% of a monitoring period, then the permittee shall conduct monitoring during that period.

(2) If the emission unit has operated for 25% or less of a monitoring period then the monitoring is not required. After two successive periods without monitoring, the permittee shall conduct monitoring during the next period regardless of the time operated during that period, except that for any monitoring period in which a unit has operated for less than 10% of the monitoring period, the period will not be considered as one of the two successive periods.

(3) A minimum of one of each type of monitoring activity shall be conducted during the five year term of this permit.

WEG RTC at 6; Permit at 34-35. Condition B108.D could be read to exempt SJGS from having to conduct PM monitoring at the Units based on the percentage of time that the Units have operated during an annual monitoring period. In response to Petitioners' comments regarding these monitoring exemptions, NMED provided the following justification for this Condition:

The intent of this exemption is to reduce the possibility that equipment that is not operating must be started up for the sole purpose of monitoring. For a permittee to invoke this exemption, it must be able to produce records of the hours of operation for the specified semi-annual reporting period.

Regardless of the facility's operating frequency, a minimum of one of each type of monitoring activity must be conducted during the five year period.

NMED has also discussed these monitoring exemptions with EPA, Region 6 and they agreed that this is a reasonable policy for demonstrating compliance.

WEG RTC at 6. This response by NMED, however, does not adequately explain how the exemptions provided for in the monitoring provisions are consistent with the title V requirements. For example, NMED's explanation in its response to Petitioners that the exemption is needed "to reduce the possibility that equipment that is not operating must be started up for the sole purpose of monitoring" is not adequate because it does not provide NMED's reasoning to support the decision that the frequency of monitoring, considering exemption periods, is sufficient to assure compliance with the annual and hourly PM limits in the Permit. *Id.* While it may be appropriate not to require startup of a unit for the sole purpose of monitoring, NMED has not explained how

⁶ Part B of the Permit includes General Conditions, which include Condition B108, General Monitoring Requirements. NMED cites NMAC 20.2.70. 302.A and C as authority for Condition B108.

the scope of the monitoring exemptions is consistent with this objective, nor how the monitoring in the permit is sufficient to assure compliance with the PM limits in the Permit. Additionally, NMED's response that a permittee "must be able to produce records of the hours of operation" to invoke this exemption does not explain *why* this exemption is even appropriate for inclusion in the Permit, or how, if utilized, the Permit would still contain sufficient monitoring to ensure compliance with the PM limits. *Id.* The rationale for the monitoring requirements selected by a permitting authority must be clear and documented in the SOB or elsewhere in the permit record. 40 C.F.R. § 70.7(a)(5); *In the Matter of Public Service Company, Hayden Station*, Petition Number VIII-2009-01, at 7-8 (March 24, 2010).⁷ Accordingly, I grant Petitioners' objection on this issue because the Permit lacks an adequate justification in the record to explain NMED's decisions regarding the exemptions from compliance monitoring for the Units. In addressing this objection, NMED must discuss the adequacy of the permit monitoring requirements in support of the Permit's exemption for low operation periods, or make appropriate changes to the Permit to ensure it includes monitoring requirements consistent with the Act and implementing regulations.⁸

Petitioners' Claim 4B: Petitioners allege that the Permit "fails to require any monitoring of emissions related to duct leaks from units 1-4." Petition at 14. Petitioners assert that while the Permit "expressly limits emissions of NO_x, SO₂, [CO], and [PM] from duct leaks at Condition A106.D," the Permit "actually sets forth no explicit monitoring of such emissions to ensure compliance, and therefore fails to ensure sufficient monitoring." *Id.* Petitioners note that although the Permit requires that SJGS conduct a duct leak management program in accordance with Condition A402.C, it is unclear what this program entails or how it will ensure compliance with the emission limits for duct leaks. *Id.* The Petitioners also indicate that it does not appear "[that] the duct leak management program has been prepared, or that NMED has assured its effectiveness in appropriately limiting emissions of NO_x, SO₂, CO, and PM from duct leaks." *Id.* at 15. Petitioners note that Condition A402.C states that compliance with the duct leak management program will be determined "using data generated by the monitoring and by Department inspections of the units," but allege that it is unclear what monitoring data will be generated and what NMED will inspect to ensure compliance. *Id.* Petitioners also assert that the program is vague and does not appear to include any specific standards for ensuring that any duct leak management program is implemented to ensure compliance with applicable emission limits. *Id.* Petitioners are particularly troubled by the fact that there are apparently no limits on the number of leaking ducts allowed, or leaking points along any ducts. *Id.* Based on the above, Petitioners allege that the Permit "simply does not require sufficient monitoring to assure compliance with the duct leak emission limits for NO_x, SO₂, [CO], and [PM]." Petition at 15.

⁷ See also *In the Matter of Williams Four Corners, LLC, Sims Mesa CDP Compressor Station* Petition Number VI-2011—, at 16-17 (July 29, 2011); *In the Matter of Public Service Company of Colorado dba Xcel Energy, Pawnee Station*, Petition Number VIII-2010, at 12-13 (June 30, 2011) and *In the Matter of Public Service Company of Colorado dba Xcel Energy, Valmont Station*, Petition Number VIII-2010, at 10-12 (September 29, 2011).

⁸ We note that Condition B108 also contains Condition B108.A, which states: "These [monitoring] requirements do not supersede or relax requirements of federal regulations." This provision was not addressed by Petitioners or NMED. It could be read to provide that a federally applicable monitoring requirement would prevail over the general monitoring exclusion under Condition B108.D, making it unclear whether this monitoring exemption has a place in the Permit.

EPA's Response to Claim 4B: I grant the Petitioners' request to object to the Permit on this claim on the basis that NMED failed to adequately respond to Petitioners' comment and explain how the duct leak monitoring requirements will ensure compliance with the applicable emissions limits in the Permit. As Petitioners note, *Sierra Club*, 536 F.3d at 678, makes it clear that CAA section 504(c) requires all title V permits to contain monitoring requirements to assure compliance with permit terms and conditions. EPA discussed the Part 70 periodic monitoring and sufficiency of monitoring requirements at length in two title V orders issued on May 28, 2009. *See In the Matter of CITGO Refining and Chemicals Company L.P.*, Petition VI-2007-01 (May 28, 2009) ("*CITGO Order*"); *In the Matter of Premcor Refining Group, Inc.*, Petition VI-2007-2 (May 28, 2009) ("*Premcor Order*"). The EPA's title V monitoring rules (40 C.F.R. §§ 70.6(a)(3)(i)(A) and (B) and 70.6(c)(1)) are designed to address the statutory requirement that "[e]ach permit issued under [title V] shall set forth . . . monitoring . . . requirements to assure compliance with the permit terms and conditions." CAA section 504(c), 42 U.S.C. § 7661c(c). As a general matter, permitting authorities must take three steps to satisfy the monitoring requirements in the EPA's part 70 regulations. First, under 40 C.F.R. § 70.6(a)(3)(i)(A), permitting authorities must ensure that monitoring requirements contained in applicable requirements are properly incorporated into the title V permit. *See CITGO Order* at 7; *Premcor Order* at 7. Second, if the applicable requirement contains no periodic monitoring, permitting authorities must add "periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit." 40 C.F.R. § 70.6(a)(3)(i)(B); *see CITGO Order* at 7; *Premcor Order* at 7. Third, if there is some periodic monitoring in the applicable requirement, but that monitoring is not sufficient to assure compliance with permit terms and conditions, permitting authorities must supplement monitoring to assure such compliance. 40 C.F.R. § 70.6(c)(1). *E.g.*, *CITGO Order* at 6-7; *In the Matter of Wheelabrator Baltimore, L.P.*, at 13 (April 14, 2010). Further, permitting authorities have a responsibility to respond to significant comments. *See, e.g.*, *Onyx Order* at 7 ("It is a general principle of administrative law that an inherent component of any meaningful notice and opportunity for comment is a response by the regulatory authority to significant comments.") (citing *Home Box Office*, 567 F.2d at 35). This principle applies to significant comments on the adequacy of monitoring. *CITGO Order* at 7.

The determination of whether the monitoring is adequate in a particular circumstance generally will be made on a case-by-case basis considering site-specific factors. *See CITGO Order* at 7; *see also, In the Matter of United States Steel Corporation – Granite City Works*, Petition V-2009-3, at 7 (January 31, 2011) ("*US Steel Order*"). However, in many cases, monitoring from the applicable requirement will be sufficient to assure compliance with permit terms and conditions; consequently, the EPA recommends the monitoring analysis should begin by assessing whether the monitoring required in the applicable requirement is sufficient. *See CITGO Order* at 7; *US Steel Order* at 7. Some factors that permitting authorities may consider in determining appropriate monitoring are: (1) the variability of emissions from the unit in question; (2) the likelihood of a violation of the requirements; (3) whether add-on controls are being used for the unit to meet the emission limit; (4) the type of monitoring, process, maintenance, or control equipment data already available for the emissions unit; and (5) the type and frequency of

the monitoring requirements for similar emission units at other facilities.⁹ See *CITGO Order* at 7-8. In addition, the rationale for the monitoring requirements selected by a permitting authority must be clear and documented in the permit record. *Id.* at 7 (citing 40 C.F.R. § 70.7(a)(5)).

Upon review of the Petition, the Permit, the incorporated preconstruction permit 0063M4 referenced by NMED to contain the duct leak program (See WEG RTC at 6), and the permit application, I find that NMED failed to adequately respond to Petitioners' comment. NMED must make clear in the record the details of and rationale for the duct leak monitoring program that is clearly required by the Permit. Permit at 8 and at 23-24. While the requirement for a program is clearly stated, the duct leak monitoring requirements themselves are unclear, vague, and lack adequate detail in the Permit. For example, the NMED fails to explain how to assess increases in leaking areas and time frames for leak repair. Additionally, the rationale for why NMED selected the particular duct leak monitoring requirements for demonstrating compliance with the applicable emissions limits must be clear and documented in the SOB or elsewhere in the Permit record. Again, NMED failed to explain, in either the Permit or the SOB, how the duct leak management program or the expansion joint maintenance program monitoring will generate adequate information to assure compliance with the applicable emission limits. Permit at 23-24. Consequently, I order NMED to either provide an adequate rationale for duct leak monitoring requirements in the Permit, or to make appropriate changes to the Permit to ensure it includes adequate duct leak monitoring requirements.

V. Condition B112.E Is Contrary to Applicable Requirements

Petitioners' Claim 5: Petitioners assert that permit Condition B112.E is contrary to the CAA in that NMED cannot automatically conclude that compliance with a title V permit assures compliance with the NAAQS. Petition at 15-16. Petitioners argue this is implied by condition B112. E, which states: "For sources that have submitted air dispersion modeling that demonstrates compliance with federal ambient air quality standards, compliance with the terms and conditions of this permit regarding source emissions and operation shall be deemed to be compliance with federal ambient air quality standards specified at 40 CFR 50 NAAQS." Petition at 15. Petitioners assert that in order for NMED to make such a finding, NMED must first prepare an analysis and assessment of emissions on a source-by-source basis, both individually and cumulatively. *Id.* Because the NAAQS are revised every five years, Petitioners assert that Condition B112.E is inappropriate given that permit terms and conditions are rarely revised and are not required to be revised as the NAAQS are revised. *Id.* Petitioners note that some of the construction permits for the SJGS were issued prior to the issuance of several of the NAAQS, including 1982, 1975, and 1973, predating the 1997 8-hour ozone NAAQS, the 1997 annual and 24-hour PM_{2.5} NAAQS, while other construction permits were issued in 1997, 2005, and 2006, predating the 2006 revisions of the annual and 24-hour PM_{2.5} NAAQS and predating the 2008

⁹ EPA has also advised that "[s]everal rules and guidelines may prove helpful to States in establishing monitoring for compliance assurance purposes in Title V permits. Examples include the monitoring design criteria (appropriate data representativeness, frequency, and measures of quality assurance) outlined in the CAM rule, monitoring under several Maximum Achievable Control Technology ('MACT') standards (40 C.F.R. Part 63), and certain monitoring provided by acid rain rules (40 C.F.R. Parts 72-78)." *Premcor Order* at 8.

revisions of the 8-hour ozone NAAQS, and the 2010 revisions of the annual and hourly NO₂ NAAQS and the 2010 hourly SO₂ NAAQS. *Id.* Therefore, Petitioners contend that the SJGS title V permit cannot include a provision that automatically concludes that operation of the source in compliance with the title V permit will protect any and all NAAQS specified at 40 C.F.R. Part 50. *Id.* at 15-16.

EPA's Response to Claim 5: I grant this claim on the basis that NMED failed to fully respond to Petitioners' comments relating to permit Condition B112.E. Appearing in the section entitled "B112 Compliance," of the SJGS permit, Condition B112.E states:

For sources that have submitted air dispersion modeling that demonstrates compliance with federal ambient air quality standards, compliance with the terms and conditions of this permit regarding source emissions and operation shall be deemed to be compliance with federal ambient air quality standards specified at 40 CFR 50 NAAQS.

Permit at 39. During the public comment period, Petitioners submitted comments asserting, among other things, that Condition B112.E was inappropriate and that NMED could not automatically conclude that compliance with a title V permit assures compliance with the NAAQS. WEG Comments at 6-7. Rather, the commenters argued, NMED must first prepare an analysis and assessment of emissions on a source-by-source basis, both individually and cumulatively, to make such a finding. *Id.* In its RTC addressing Condition B112.E, NMED discusses the NSR permitting requirements, stating that they require construction permit applicants to conduct air dispersion modeling to demonstrate that the source's proposed emissions will comply with applicable NAAQS. WEG RTC at 7. The RTC continues by noting that after review and approval, NMED incorporates modeled emission rates that demonstrate compliance into the NSR permit, and the title V permit then incorporates the applicable requirements of the NSR permit together with additional monitoring, recordkeeping, and reporting as necessary to ensure compliance with the permit. *Id.* NMED also states SJGS submitted a permit renewal application and thus is "required to provide a certification of compliance with the relevant terms and conditions of the current operating permit as provided by 20.2.70.300.D(1) NMAC" for this application. *Id.* NMED's RTC further notes that Section 16 of the application addresses air dispersion modeling requirements to demonstrate compliance with standards. *Id.* In addition, the RTC states that under Condition B101.A(13) of the SJGS permit, the permittee is required to comply with all applicable requirements, including those requirements that become effective during the term of the permit, and that the permittee shall meet such requirements on a timely basis. *Id.* However, the RTC does not address Petitioners' comment that Condition B112.E was inappropriate because NMED could not automatically conclude that compliance with a title V permit assures compliance with the NAAQS.

Permitting authorities have a responsibility to respond to significant comments. *See, e.g., Onyx Order* at 7 ("It is a general principle of administrative law that an inherent component of any meaningful notice and opportunity for comment is a response by the regulatory authority to significant comments.") (citing *Home Box Office*, 567 F.2d at 35). This principle applies to significant comments on the appropriateness of a term or condition in a title V permit. *See CITGO Order* at 7. While NMED's WEG RTC provides a detailed discussion of the process by

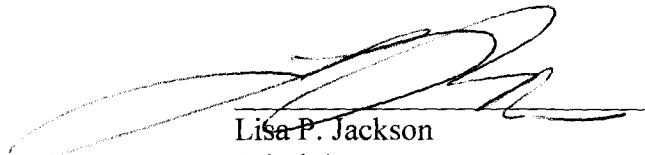
which emission limitations from underlying SIP permits are carried forward into the source's title V permit, NMED failed to adequately respond to Petitioners' specific comment that Condition B112.E was contrary to the CAA in that NMED cannot automatically provide that compliance with the terms and conditions of the title V permit shall be deemed compliance with the NAAQS. Because of NMED's failure to respond to this comment, I grant the Petition on this claim. Furthermore, NMED's reference to Condition B101.A(13) of the SJGS permit (stating that the permittee is required to comply with all applicable requirements, including those requirements that become effective during the term of the permit) creates additional confusion as Condition B112.E and Condition B101.A(13) could be read to conflict with one another, yet NMED does not explain the relationship between these two conditions. WEG RTC at 7.

In responding to this Order, NMED must fully respond to the Petitioners' comment. In so doing, I also suggest that NMED consider the basis for Condition B112.E and clarify the purpose and scope of Condition B112.E, considering whether the term should be removed or revised for clarity, in accordance with the appropriate permit revision requirements. NMED may additionally wish to consider the relationship between Condition B112.E and Condition B101.A(13) and, as necessary, revise the permit to ensure that these terms will not conflict with one another.

CONCLUSION

For the reasons set forth above and pursuant to CAA section 505(b)(2) and 40 C.F.R. § 70.8(d), I hereby grant in part and deny in part the Petition from WildEarth Guardians, San Juan Citizens Alliance and Carson Forest Watch requesting that the EPA object to the title V permit issued to Public Service New Mexico for the San Juan Generating Station, San Juan County, New Mexico.

Dated: Feb. 15, 2012



Lisa P. Jackson
Administrator

EXHIBIT K

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT -- NSPS SOURCE

PERMITTEE

REG Danville, LLC
Attn: Paul Calamari
300 North Anderson Street
Danville, Illinois 61832

<u>Application No.:</u> 09120031	<u>I.D. No.:</u> 183020AIY
<u>Applicant's Designation:</u>	<u>Date Received:</u> December 23, 2009
<u>Operation of:</u> Biodiesel Plant	
<u>Date Issued:</u> June 13, 2022	<u>Expiration Date:</u> June 13, 2032
<u>Source Location:</u> 300 North Anderson Street, Danville, Vermilion County	

This permit is hereby granted to the above-designated Permittee to OPERATE emission unit(s) and/or air pollution control equipment consisting of:

Biodiesel Process (comprised of transesterification reactors, separation operations, coalescing operations, purification operations, glycerine separation, vacuum and condensers, and methanol recovery processes) controlled by Condenser/Chiller/Absorber;

Methanol Tanks controlled by Condenser/Chiller/Absorber;

Sodium Methoxide Tank controlled by Condenser/Chiller/Absorber;

Biodiesel Distillation Column controlled by Condenser/Chiller/Absorber;

One (1) 34.0 mmBtu/hour Natural Gas/Biodiesel-fired Boiler (B-1);

One (1) 30.6 mmBtu/hour Natural Gas-fired Boiler (B-3);

One (1) 14 mmBtu/hr Natural Gas-fired Hot Oil Heater (HO-1);

Biodiesel Loadout Racks;

Feedstock Pre-treat System;

Support Equipment, including: Hydrogen Chloride Storage Tank; Sodium Hydroxide Storage and Dosing Tanks; Phosphoric Acid Storage Tank; Filter Aid Storage Bin; Silica Storage Bin; Wastewater Treatment; Citric Acid Storage Tank; Biodiesel Tanks Storage Tank; Glycerine Tanks Storage Tank; Free Fatty Acid Storage Tank; Spent Filter Cake; Degummed Soybean Oil; PFD Feedstock Tank; Refined Feedstock Tank; and Soapstock Storage Tank; and

Fugitive VOM and HAP Emissions from Pumps, Valves, and Flanges

pursuant to the above referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

1a. This Federally Enforceable State Operating Permit (FESOP) is issued:

- i. To limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 10 tons/year for any single

Hazardous Air Pollutant (HAP) and 25 tons/year for any combination of such HAPs). As a result, the source is excluded from the requirements to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit, are described in Attachment A.

- ii. To establish federally enforceable production and operating limitations, which restrict the potential to emit to less than 10 tons/year for any individual Hazardous Air Pollutant (HAP) and 25 tons/year of any combination of such HAPs so that the source is not subject to the requirements of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Miscellaneous Organic Chemical Manufacturing, 40 CFR 63 Subpart FFFF.
 - b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.
 - c. This permit supersedes all operating permit(s) for this location.
- 2a. Boilers B-1 and B-3 and Hot Oil Heater HO-1 are subject to the New Source Performance Standard (NSPS) for Small Industrial-Commercial-Institutional Steam Generating Units, 40 CFR Part 60 Subparts A and Dc. The Illinois EPA is administering the NSPS in Illinois on behalf of the United States Environmental Protection Agency (USEPA) under a delegation agreement. Pursuant to 40 CFR 60.40c(a), except as provided in 40 CFR 60.40c(d), (e), (f), and (g), the affected facility to which 40 CFR 60 Subpart Dc applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million British thermal units per hour (MMBtu/h)) or less, but greater than or equal to 2.9 MW (10 MMBtu/h).
- b. Pursuant to 40 CFR 60.42c(d), on and after the date on which the initial performance test is completed or required to be completed under 40 CFR 60.8, whichever date comes first, no owner or operator of an affected facility that combusts oil shall cause to be discharged into the atmosphere from that affected facility any gases that contain SO₂ in excess of 215 ng/J (0.50 lb/MMBtu) heat input from oil; or, as an alternative, no owner or operator of an affected facility that combusts oil shall combust oil in the affected facility that contains greater than 0.5 weight percent sulfur. The percent reduction requirements are not applicable to affected facilities under this paragraph.
 - c. Pursuant to 40 CFR 60.42c(h)(1), for distillate oil-fired affected facilities with heat input capacities between 2.9 and 29 MW (10 and 100 MMBtu/hour), compliance with the emission limits or fuel oil sulfur limits under 40 CFR 60.42c may be determined based on a certification from the fuel supplier, as described under 40 CFR 60.48c(f), as applicable.
 - d. Pursuant to 40 CFR 60.42c(i), the SO₂ emission limits, fuel oil sulfur limits, and percent reduction requirements under 40 CFR 60.42c apply at all times, including periods of startup, shutdown, and malfunction.

- e. Pursuant to 40 CFR 60.43c(c), on and after the date on which the initial performance test is completed or required to be completed under 40 CFR 60.8, whichever date comes first, no owner or operator of an affected facility that combusts coal, wood, or oil and has a heat input capacity of 8.7 MW (30 mmBtu/hr) or greater shall cause to be discharged into the atmosphere from that affected facility any gases that exhibit greater than 20 percent opacity (6-minute average), except for one 6-minute period per hour of not more than 27 percent opacity. Owners and operators of an affected facility that elect to install, calibrate, maintain, and operate a continuous emissions monitoring system (CEMS) for measuring PM emissions according to the requirements of 40 CFR 60 Subpart Dc and are subject to a federally enforceable PM limit of 0.030 lb/mmBtu or less are exempt from this opacity standard.
- 3a. The Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, Biodiesel Distillation Column, and Pumps, Valves, and Flanges at this source are subject to the NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006, 40 CFR 60, Subparts A and VVa. The Illinois EPA is administering the NSPS in Illinois on behalf of the USEPA under a delegation agreement. Pursuant to 40 CFR 60.480a(a):
- i. The provisions of 40 CFR 60 Subpart VVa apply to affected facilities in the synthetic organic chemicals manufacturing industry.
 - ii. The group of all equipment (defined in 40 CFR 60.481a) within a process unit is an affected facility.
- b. Pursuant to 40 CFR 60.480a(b), any affected facility under 40 CFR 60.480a(a) that commences construction, reconstruction, or modification after November 7, 2006, shall be subject to the requirements of 40 CFR 60 Subpart VVa.
- c. Pursuant to 40 CFR 60.482-1a(b), compliance with 40 CFR 60.482-1a to 60.482-10a will be determined by review of records and reports, review of performance test results, and inspection using the methods and procedures specified in 40 CFR 60.485a.
- d. Pursuant to 40 CFR 60.482-1a(d), equipment that is in vacuum service is excluded from the requirements of 40 CFR 60.482-2a through 60.482-10a if it is identified as required in 40 CFR 60.486a(e)(5).
- e. Pursuant to 40 CFR 60.482-1a(e), equipment that an owner or operator designates as being in VOC service less than 300 hr/yr is excluded from the requirements of 40 CFR 60.482-2a through 60.482-11a if it is identified as required in 40 CFR 60.486a(e)(6) and it meets any of the conditions specified in 40 CFR 60.482-1a(e)(1) through (3).
- i. The equipment is in VOC service only during startup and shutdown, excluding startup and shutdown between batches of the same campaign for a batch process.

- ii. The equipment is in VOC service only during process malfunctions or other emergencies.
 - iii. The equipment is backup equipment that is in VOC service only when the primary equipment is out of service.
- f. Pursuant to 40 CFR 60.482-4a(a), except during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined by the methods specified in 40 CFR 60.485a(c).
- g. Pursuant to 40 CFR 60.482-10a(b), vapor recovery systems (for example, condensers and absorbers) shall be designed and operated to recover the VOC emission vented to them with an efficiency of 95 percent or greater, or to an exit concentration of 20 parts per million by volume (ppmv), whichever is less stringent.
- 4a. The Biodiesel Distillation Column is subject to NSPS for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations, 40 CFR 60 Subparts A and NNN. The Illinois EPA is administering the NSPS in Illinois on behalf of the USEPA under a delegation agreement. Pursuant to 40 CFR 60.660(a), the provisions of 40 CFR 60 Subpart NNN apply to each affected facility designated in 40 CFR 60.660(b) that is part of a process unit that produces any of the chemicals listed in 40 CFR 60.667 as a product, co-product, by-product, or intermediate, except as provided in 40 CFR 60.660(c).
- b. Pursuant to 40 CFR 60.660(b), the affected facility is any of the following for which construction, modification, or reconstruction commenced after December 30, 1983:
 - i. Each distillation unit not discharging its vent stream into a recovery system.
 - ii. Each combination of a distillation unit and the recovery system into which its vent stream is discharged.
 - iii. Each combination of two or more distillation units and the common recovery system into which their vent streams are discharged.
- c. Pursuant to 40 CFR 60.662(c), each owner or operator of any affected facility shall comply with 40 CFR 60.662(a), (b), or (c) for each vent stream on and after the date on which the initial performance test required by 40 CFR 60.8 and 40 CFR 60.664 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. Each owner or operator shall maintain a TRE index value greater than 1.0 without use of VOC emission control devices.
- 5a. The Biodiesel Process is subject to the NSPS for Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes, 40 CFR 60, Subparts A and RRR. The

Illinois EPA is administering the NSPS in Illinois on behalf of the USEPA under a delegation agreement. Pursuant to 40 CFR 60.700(a), the provisions of 40 CFR 60 Subpart RRR apply to each affected facility designated in 40 CFR 60.700(b) that is part of a process unit that produces any of the chemicals listed in 40 CFR 60.707 as a product, co-product, by-product, or intermediate, except as provided in 40 CFR 60.700(c).

- b. Pursuant to 40 CFR 60.700(b) The affected facility is any of the following for which construction, modification, or reconstruction commenced after June 29, 1990:
 - i. Each reactor process not discharging its vent stream into a recovery system.
 - ii. Each combination of a reactor process and the recovery system into which its vent stream is discharged.
 - iii. Each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged.
 - c. Pursuant to 40 CFR 60.702(c), each owner or operator of any affected facility shall comply with 40 CFR 60.702(a), (b), or (c) for each vent stream on and after the date on which the initial performance test required by 40 CFR 60.8 and 40 CFR 60.704 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. Each owner or operator shall maintain a TRE index value greater than 1.0 without use of a VOC emission control device.
- 6a. Boilers B-1 and B-3 and Hot Oil Heater HO-1, and the Support Equipment are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
 - b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.
 - c. Boiler B-1 is subject to 35 Ill. Adm. Code Part 212 Subpart E (Particulate Matter Emissions From Fuel Combustion Emission Units). Pursuant to 35 Ill. Adm. Code 212.206, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period to exceed 0.15 kg of particulate matter per MW-hr of actual heat

input from any fuel combustion emission unit using liquid fuel exclusively (0.10 lbs/mmBtu).

- d. This source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.
- e. The Support Equipment are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).
- f. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
 E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

- g. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units for Which Construction or Modification Commenced on or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

7. Boiler B-1 is subject to 35 Ill. Adm. Code Part 214 Subpart B (New Fuel Combustion Emission Sources). Pursuant to 35 Ill. Adm. Code 214.122(b)(2), on and after January 1, 2017, the owner or operator of a new fuel combustion emission source with actual heat input smaller than, or equal to, 73.2 MW (250 mmBtu/hr), burning liquid fuel exclusively, must comply with the following:

The sulfur content of all distillate fuel oil used by the fuel combustion emission source must not exceed 15 ppm;

- 8a. The Methanol Tanks, Sodium Methoxide Tank, Biodiesel Loadout Racks, and the Support Equipment storage tanks are subject to 35 Ill. Adm. Code Part 215 Subpart B (Organic Emissions from Storage and Loading Operations). Pursuant to 35 Ill. Adm. Code 215.122(a), no person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere during the loading of any organic material from the aggregate loading pipes of any loading facility having through-put of greater than 151 cubic meters per day (40,000 gal/day) into any railroad tank car, tank truck or trailer unless such

loading facility is equipped with submerged loading pipes, submerged fill, or a device that is equally effective in controlling emissions and is approved by the Illinois EPA according to the provisions of 35 Ill. Adm. Code Part 201.

- b. Pursuant to 35 Ill. Adm. Code 215.122(b), no person shall cause or allow the loading of any organic material into any stationary tank having a storage capacity of greater than 946 l (250 gal), unless such tank is equipped with a permanent submerged loading pipe, submerged fill, or an equivalent device approved by the Illinois EPA according to the provisions of 35 Ill. Adm. Code Part 201 or unless such tank is a pressure tank as described in 35 Ill. Adm. Code 215.121(a) or is fitted with a recovery system as described in 35 Ill. Adm. Code 215.121(b)(2).
- c. The Wastewater Treatment is subject to 35 Ill. Adm. Code Part 215 Subpart C (Organic Emissions from Miscellaneous Equipment). Pursuant to 35 Ill. Adm. Code 215.141(a), no person shall use any single or multiple compartment effluent water separator which receives effluent water containing 757 l/day (200 gal/day) or more of organic material from any equipment processing, refining, treating, storing or handling organic material unless such effluent water separator is equipped with air pollution control equipment capable of reducing by 85 percent or more the uncontrolled organic material emitted to the atmosphere. Exception: If no odor nuisance exists the limitations of 35 Ill. Adm. Code 215.141(a) shall not apply if the vapor pressure of the organic material is below 17.24 kPa (2.5 psia) at 294.3 K (70 F).
- d. The Pumps are subject to 35 Ill. Adm. Code Part 215 Subpart C (Organic Emissions from Miscellaneous Equipment). Pursuant to 35 Ill. Adm. Code 215.142, no person shall cause or allow the discharge of more than 32.8 ml (2 cu in) of volatile organic liquid with vapor pressure of 17.24 kPa (2.5 psia) or greater at 294.3 K (70 F) into the atmosphere from any pump or compressor in any 15 minute period at standard conditions.
- e. The Biodiesel Process and Biodiesel Distillation Column are subject to 35 Ill. Adm. Code Part 215 Subpart K (Use of Organic Material). Pursuant to 35 Ill. Adm. Code 215.301, no person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission source, except as provided in 35 Ill. Adm. Code 215.302, 215.303, 215.304 and the following exception: If no odor nuisance exists the limitation of 35 Ill. Adm. Code Part 215 Subpart K shall apply only to photochemically reactive material.
- f. Pursuant to 35 Ill. Adm. Code 215.302(b), emissions of organic material in excess of those permitted by 35 Ill. Adm. Code 215.301 are allowable if such emissions are controlled by one of the following methods:

A vapor recovery system which adsorbs and/or condenses at least 85 percent of the total uncontrolled organic material that would otherwise be emitted to the atmosphere;
- g. The Pumps, Valves, and Flanges at this source are subject to 35 Ill. Adm. Code Part 215 Subpart Q (Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment). Pursuant to 35 Ill. Adm. Code 215.420, the provisions of 35 Ill. Adm. Code 215.421 through 215.429 of

35 Ill. Adm. Code Part 215 Subpart Q shall apply to all plants in the State of Illinois which manufacture synthetic organic chemicals and polymers, except those located in any of the following counties: Will, McHenry, Cook, DuPage, Lake, Kane, Madison, St. Clair, Macoupin, and Monroe.

9. Boilers B-1 and B-3 and Hot Oil Heater HO-1 are subject to 35 Ill. Adm. Code Part 216 Subpart B (Fuel Combustion Emission Sources). Pursuant to 35 Ill. Adm. Code 216.121, no person shall cause or allow the emission of carbon monoxide (CO) into the atmosphere from any fuel combustion emission source with actual heat input greater than 2.9 MW (10 mmBtu/hr) to exceed 200 ppm, corrected to 50 percent excess air.
10. This permit is issued based on the Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, Biodiesel Distillation Column, and Pumps, Valves, and Flanges at this source not being subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Equipment Leaks (Fugitive Emission Sources), 40 CFR 61 Subpart V, because pumps, compressors, pressure relief devices, sampling connections, systems, open-ended valves or lines, valves, flanges and other connectors, product accumulator vessels at the source are not in volatile hazardous air pollutant service as defined in 40 CFR 61.241.
- 11a. This permit is issued based on the Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, Biodiesel Distillation Column, and Pumps, Valves, and Flanges at this source not being subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry, 40 CFR 63 Subparts F, G, H, and I because this source does not produce as a primary product, one of the chemicals listed in Table 1 of 40 CFR 63, Subpart F.
- b. This permit is issued based on the Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, Biodiesel Distillation Column, and Pumps, Valves, and Flanges at this source not being subject to the NESHAP for Miscellaneous Organic Chemical Manufacturing, 40 CFR 63 Subpart FFFF because the source is not a major source of Hazardous Air Pollutants (HAP) emissions as defined in section 112(a) of the Clean Air Act (CAA).
- c. This permit is issued based on Boilers B-1 and B-3 and Hot Oil Heater HO-1 at this source not being subject to the NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63 Subpart DDDDD because this source is not or is part of, a major source of HAP as defined in 40 CFR 63.2.
- d. This permit is issued based on Boilers B-1 and B-3 and Hot Oil Heater HO-1 at this source not being subject to the NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources, 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11195(e), a gas-fired boiler as defined in 40 CFR 63 Subpart JJJJJJ are not subject to 40 CFR 63 Subpart JJJJJJ and to any requirements in 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11237, gas-fired boiler includes any boiler that burns gaseous fuels not combined with any solid fuels, burns liquid fuel only during periods of gas curtailment, gas supply emergencies, or periodic testing

on liquid fuel. Periodic testing of liquid fuel shall not exceed a combined total of 48 hours during any calendar year.

- e. This permit is issued based on the Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, Biodiesel Distillation Column, and Pumps, Valves, and Flanges at this source not being subject to NESHAP for Chemical Manufacturing Area Sources, 40 CFR 63 Subpart VVVVVV because the chemical manufacturing process units (CMPU) (including each storage tank, transfer operation, surge control vessel, and bottoms receiver) do not meet the conditions specified in 40 CFR 63.11494(a)(2). Specifically, HAPs listed in Table 1 to 40 CFR 63 Subpart VVVVVV (Table 1 HAP) are not present in the chemical manufacturing process units (CMPU), as specified in 40 CFR 63.11494(a)(2)(i), (ii), (iii), or (iv).
 - i. The CMPU uses as feedstock, any material that contains quinoline, manganese, and/or trivalent chromium at an individual concentration greater than 1.0 percent by weight, or any other Table 1 HAP at an individual concentration greater than 0.1 percent by weight. To determine the Table 1 HAP content of feedstocks, you may rely on formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet (MSDS) for the material. If the concentration in an MSDS is presented as a range, use the upper bound of the range.
 - ii. Quinoline is generated as byproduct and is present in the CMPU in any liquid stream (process or waste) at a concentration greater than 1.0 percent by weight.
 - iii. Hydrazine and/or Table 1 organic HAP other than quinoline are generated as byproduct and are present in the CMPU in any liquid stream (process or waste), continuous process vent, or batch process vent at an individual concentration greater than 0.1 percent by weight.
 - iv. Hydrazine or any Table 1 HAP is produced as a product of the CMPU.
- 12. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of 35 Ill. Adm. Code 212.314 shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to 35 Ill. Adm. Code 212.314 is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.
- 13. Pursuant to 35 Ill. Adm. Code 215.122(c), if no odor nuisance exists the limitations of 35 Ill. Adm. Code 215.122 shall only apply to the loading of volatile organic liquid with a vapor pressure of 17.24 kPa (2.5 psia) or greater at 294.3°K (70°F).

- 14a. Pursuant to 40 CFR 60.11(b), compliance with opacity standards in 40 CFR Part 60 shall be determined by conducting observations in accordance with Method 9 in appendix A of 40 CFR Part 60, any alternative method that is approved by the Illinois EPA or USEPA, or as provided in 40 CFR 60.11(e)(5). For purposes of determining initial compliance, the minimum total time of observations shall be 3 hours (30 6-minute averages) for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard).
 - b. Pursuant to 40 CFR 60.11(c), the opacity standards set forth in 40 CFR Part 60 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable standard.
 - c. Pursuant to 40 CFR 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Illinois EPA or USEPA which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
- 15a. Pursuant to 40 CFR 60.482-3a(a), each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere, except as provided in 40 CFR 60.482-1a(c) and 40 CFR 60.482-3a(h), (i), and (j).
 - b. Pursuant to 40 CFR 60.482-2a(f), if any pump is equipped with a closed vent system capable of capturing and transporting any leakage from the seal or seals to a process or to a fuel gas system or to a control device that complies with the requirements of 40 CFR 60.482-10a, it is exempt from 40 CFR 60.482-2a(a) through (e).
 - c. Pursuant to 40 CFR 60.482-3a(b), each compressor seal system as required in 40 CFR 60.482-3a(a) shall be:
 - i. Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or
 - ii. Equipped with a barrier fluid system degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of 40 CFR 60.482-10a; or
 - iii. Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.
 - d. Pursuant to 40 CFR 60.482-3a(c), the barrier fluid system shall be in heavy liquid service or shall not be in VOC service.

- e. Pursuant to 40 CFR 60.482-4a(c), any pressure relief device that is routed to a process or fuel gas system or equipped with a closed vent system capable of capturing and transporting leakage through the pressure relief device to a control device as described in 40 CFR 60.482-10a is exempted from the requirements of 40 CFR 60.482-4a(a) and (b).
- f.
 - i. Pursuant to 40 CFR 60.482-4a(d)(1), any pressure relief device that is equipped with a rupture disk upstream of the pressure relief device is exempt from the requirements of 40 CFR 60.482-4a(a) and (b), provided the owner or operator complies with the requirements in 40 CFR 60.482-4a(d)(2).
 - ii. Pursuant to 40 CFR 60.482-4a(d)(2), after each pressure release, a new rupture disk shall be installed upstream of the pressure relief device as soon as practicable, but no later than 5 calendar days after each pressure release, except as provided in 40 CFR 60.482-9a.
- g. Pursuant to 40 CFR 60.482-5a(a), each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system, except as provided in 40 CFR 60.482-1a(c) and 40 CFR 60.482-5a(c).
- h. Pursuant to 40 CFR 60.482-5a(b), each closed-purge, closed-loop, or closed-vent system as required in 40 CFR 60.482-5a(a) shall comply with the requirements specified in 40 CFR 60.482-5a(b)(1) through (4).
 - i. Gases displaced during filling of the sample container are not required to be collected or captured.
 - ii. Containers that are part of a closed-purge system must be covered or closed when not being filled or emptied.
 - iii. Gases remaining in the tubing or piping between the closed-purge system valve(s) and sample container valve(s) after the valves are closed and the sample container is disconnected are not required to be collected or captured.
 - iv. Each closed-purge, closed-loop, or closed-vent system shall be designed and operated to meet requirements in either 40 CFR 60.482-5a(b)(4)(i), (ii), (iii), or (iv).
 - A. Return the purged process fluid directly to the process line.
 - B. Collect and recycle the purged process fluid to a process.
 - C. Capture and transport all the purged process fluid to a control device that complies with the requirements of 40 CFR 60.482-10a.
 - D. Collect, store, and transport the purged process fluid to any of the following systems or facilities:

- I. A waste management unit as defined in 40 CFR 63.111, if the waste management unit is subject to and operated in compliance with the provisions of 40 CFR Part 63, Subpart G, applicable to Group 1 wastewater streams;
 - II. A treatment, storage, or disposal facility subject to regulation under 40 CFR part 262, 264, 265, or 266;
 - III. A facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the process fluids are not hazardous waste as defined in 40 CFR part 261;
 - IV. A waste management unit subject to and operated in compliance with the treatment requirements of 40 CFR 61.348(a), provided all waste management units that collect, store, or transport the purged process fluid to the treatment unit are subject to and operated in compliance with the management requirements of 40 CFR 61.343 through 40 CFR 61.347; or
 - V. A device used to burn off-specification used oil for energy recovery in accordance with 40 CFR Part 279, Subpart G, provided the purged process fluid is not hazardous waste as defined in 40 CFR Part 261.
- i. Pursuant to 40 CFR 60.482-5a(c), in-situ sampling systems and sampling systems without purges are exempt from the requirements of 40 CFR 60.482-5a(a) and (b).
 - j.
 - i. Pursuant to 40 CFR 60.482-6a(a)(1), each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in 40 CFR 60.482-1a(c) and 40 CFR 60.482-6a(d) and (e).
 - ii. Pursuant to 40 CFR 60.482-6a(a)(2), the cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line.
 - k. Pursuant to 40 CFR 60.482-6a(b), each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.
 - l. Pursuant to 40 CFR 60.482-6a(c), when a double block-and-bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with 40 CFR 60.482-6a(a) at all other times.
 - m. Pursuant to 40 CFR 60.482-6a(d), open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset are exempt from the requirements of 40 CFR 60.482-6a(a), (b), and (c).

- n. Pursuant to 40 CFR 60.482-6a(e), open-ended valves or lines containing materials which would autocatalytically polymerize or would present an explosion, serious overpressure, or other safety hazard if capped or equipped with a double block and bleed system as specified in 40 CFR 60.482-6a(a) through (c) are exempt from the requirements of 40 CFR 60.482-6a(a) through (c).
- o. Pursuant to 40 CFR 60.482-9a(a), delay of repair of equipment for which leaks have been detected will be allowed if repair within 15 days is technically infeasible without a process unit shutdown. Repair of this equipment shall occur before the end of the next process unit shutdown. Monitoring to verify repair must occur within 15 days after startup of the process unit.
- p. Pursuant to 40 CFR 60.482-9a(b), delay of repair of equipment will be allowed for equipment which is isolated from the process and which does not remain in VOC service.
- q. Pursuant to 40 CFR 60.482-9a(c), delay of repair for valves and connectors will be allowed if:
 - i. The owner or operator demonstrates that emissions of purged material resulting from immediate repair are greater than the fugitive emissions likely to result from delay of repair, and
 - ii. When repair procedures are effected, the purged material is collected and destroyed or recovered in a control device complying with 40 CFR 60.482-10a.
- r. Pursuant to 40 CFR 60.482-9a(d), delay of repair for pumps will be allowed if:
 - i. Repair requires the use of a dual mechanical seal system that includes a barrier fluid system, and
 - ii. Repair is completed as soon as practicable, but not later than 6 months after the leak was detected.
- s. Pursuant to 40 CFR 60.482-9a(e), delay of repair beyond a process unit shutdown will be allowed for a valve, if valve assembly replacement is necessary during the process unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the next process unit shutdown will not be allowed unless the next process unit shutdown occurs sooner than 6 months after the first process unit shutdown.
- t. Pursuant to 40 CFR 60.482-9a(f), when delay of repair is allowed for a leaking pump, valve, or connector that remains in service, the pump, valve, or connector may be considered to be repaired and no longer subject to delay of repair requirements if two consecutive monthly monitoring instrument readings are below the leak definition.

- u. Pursuant to 40 CFR 60.482-10a(m), closed vent systems and control devices used to comply with provisions of 40 CFR 60 Subpart VVa shall be operated at all times when emissions may be vented to them.
- 16a. Pursuant to 35 Ill. Adm. Code 215.421(a), the owner or operator of a plant which has more than 1,500 components in gas or light liquid service, which components are used to manufacture the synthetic organic chemicals or polymers listed in 35 Ill. Adm. Code Part 215 Appendix D, shall conduct leak inspection and repair programs in accordance with 35 Ill. Adm. Code Part 215 Subpart Q for that component containing more than 10 percent volatile organic material as determined by ASTM method E-260, E-168, and E-169. The provisions of 35 Ill. Adm. Code Part 215 Subpart Q are not applicable if the products listed in 35 Ill. Adm. Code Part 215 Appendix D are made from natural fatty acids for the production of hexadecyl alcohol.
- b. Pursuant to 35 Ill. Adm. Code 215.421(b), a component shall be considered to be leaking if the volatile organic material concentration exceeds 10,000 parts per million ppm when measured at a distance of 0 centimeters cm from the component as determined by Method 21, 40 CFR Part 60, Appendix A.
- 17a. In the event that the operation of this emission unit results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in raw material or installation of controls, in order to eliminate the odor nuisance.
- b. The Condenser/Chiller/Absorber shall be in operation at all times when the associated Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, or Biodiesel Distillation Column is in operation and emitting air contaminants.
 - c. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the Condenser/Chiller/Absorber associate with the Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, and Biodiesel Distillation Column such that the Condenser/Chiller/Absorber is kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.
 - d. Boiler B-1 shall only be operated with natural gas or biodiesel as the fuel. The use of any other fuel in Boiler B-3 may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.
 - e. Boiler B-3 and Hot Oil Heater HO-1 shall only be operated with natural gas as the fuel. The use of any other fuel in Boiler B-3 or Hot Oil Heater HO-1 may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.

- f. Organic liquid by-products or waste materials shall not be used in any emission unit at this source without written approval from the Illinois EPA.
 - g. The Illinois EPA shall be allowed to sample all fuels stored at the above location.
- 18a. All normal traffic pattern access areas, all normal traffic pattern roads, and parking facilities which are located on manufacturing property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by Special Condition 17(b).
- b. The emission units described in Special Condition 17(a) shall be operated under the provisions of an operating program, consistent with the requirements set forth in Special Condition 17(c) and (d), and prepared by the owner or operator and submitted to the Illinois EPA for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.
 - c. As a minimum the operating program shall include the following:
 - i. The name and address of the source;
 - ii. The name and address of the owner or operator responsible for execution of the operating program;
 - iii. A map or diagram of the source showing approximate locations of storage piles, conveyor loading operations, normal traffic pattern access areas surrounding storage piles and all normal traffic patterns within the source;
 - iv. Location of unloading and transporting operations with pollution control equipment;
 - v. A detailed description of the best management practices utilized to achieve compliance with 35 Ill. Adm. Code 212.301, including an engineering specification of particulate collection equipment, application systems for water, oil, chemicals and dust suppressants utilized and equivalent methods utilized;
 - vi. Estimated frequency of application of dust suppressants by location of materials; and
 - vii. Such other information as may be necessary to facilitate the Illinois EPA's review of the operating program.
 - d. The Fugitive Particulate Operating Program, as submitted by the Permittee pursuant to Special Condition 17(b) on January 18, 2022, is incorporated herein by reference. The source shall be operated under and shall comply with the provisions of this Fugitive Particulate Operating Program and any amendments to the Fugitive Particulate

Operating Program submitted pursuant to Special Conditions 17(b) and (c).

- e. The operating program shall be amended from time to time by the owner or operator so that the operating program is current. Such amendments shall be consistent with 35 Ill. Adm. Code 212.301 and Special Conditions 17(a) through (c) and shall be submitted to the Illinois EPA within thirty (30) days of such amendment. Any future revision to the Fugitive Particulate Operating Program made by the Permittee during the permit term is automatically incorporated by reference provided the revision is not expressly disapproved, in writing, by the Illinois EPA. In the event that the Illinois EPA notifies the Permittee of a deficiency with any revision to the Fugitive Particulate Operating Program, the Permittee shall be required to revise and resubmit the Fugitive Particulate Operating Program within thirty (30) days of receipt of notification to address the deficiency.

19a. Emissions from and operation of the Biodiesel Process (including Distillation Column), Methanol Tanks, and Sodium Methoxide Tank shall not exceed the following limits:

- i. The Biodiesel Plant shall not process more than 22,500 tons/month and 225,000 tons/year of vegetable oil and animal fat.
- ii. Emissions of VOM and HAPs from the Biodiesel Process (including Distillation Column), Methanol Tanks, and Sodium Methoxide Tank shall not exceed the following limits:

<u>Equipment/Process</u>	<u>VOM Emissions</u>		<u>Single HAP (Methanol) Emissions</u>		<u>Total combined HAP Emissions</u>	
	<u>(T/Mo)</u>	<u>(T/Yr)</u>	<u>(T/Mo)</u>	<u>(T/Yr)</u>	<u>(T/Mo)</u>	<u>(T/Yr)</u>
Biodiesel Process, Methanol Tanks, and Sodium Methoxide Tank	1.08	10.80	0.22	2.20	1.08	10.80

These limits are based on maximum production rates, maximum plant operation of 8,760 hours per year, and an overall 98% reduction of VOM and HAP emission control system.

b. Emissions from and operation of Boiler B-1 shall not exceed the following limits:

- i. Emissions from the combustion of natural gas:

<u>Pollutant</u>	<u>Emissions</u>		
	<u>(lbs/mmscf)</u>	<u>(lbs/Hr)</u>	<u>(Tons/Yr)</u>
Carbon Monoxide (CO)	84.0	2.86	12.51
Nitrogen Oxides (NO _x)	100.0	3.40	14.89
Particulate Matter (PM)	7.6	0.26	1.13
Sulfur Dioxide (SO ₂)	0.6	0.02	0.09
Volatile Organic Material (VOM)	5.5	0.19	0.82

These limits are based on the maximum firing rate of the boiler (34.0 mmBtu/hour), natural gas heat content of 1,000 Btu/scf, 8,760 hours/year of operation, and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

ii. Emissions from the combustion of biodiesel:

<u>Pollutant</u>	<u>Emissions</u>		
	<u>(lbs/10³ Gal)</u>	<u>(lbs/Hr)</u>	<u>(Tons/Yr)</u>
Carbon Monoxide (CO)	5.00	1.21	0.03
Nitrogen Oxides (NO _x)	20.00	4.86	0.12
Particulate Matter (PM)	3.30	0.80	0.02
Sulfur Dioxide (SO ₂)	0.213	0.05	0.01
Volatile Organic Material (VOM)	0.20	0.05	0.01

These limits are based on the firing rate of the boiler (34.0 mmBtu/hour), a heat content of 140,000 Btu/gal, 48 hours/year of operation, a sulfur content of 15 ppm, and standard emission factors (Tables 1.3-1 and 1.3-3 AP-42, Fifth Edition, Volume I, Supplement E, September 1999, corrected May 2010).

c. Emissions from and operation of Boiler B-3 and Hot Oil Heater HO-1 (combined) shall not exceed the following limits:

i. Natural Gas Usage: 37.6 mmscf/mo, 375.7 mmscf/yr

ii. Emissions from the combustion of natural gas:

<u>Pollutant</u>	<u>Emission</u>	<u>Emissions</u>	
	<u>Factor</u>	<u>(Ton/Mo)</u>	<u>(Ton/Yr)</u>
	<u>(lb/mmscf)</u>		
Carbon Monoxide (CO)	84.0	1.58	15.78
Nitrogen Oxides (NO _x)	100.0	1.88	18.78
Particulate Matter (PM)	7.6	0.14	1.43
Sulfur Dioxide (SO ₂)	0.6	0.011	0.11
Volatile Organic Material (VOM)	5.5	0.10	1.03

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

d. Emissions from and operation of the Biodiesel Loadout Racks:

<u>Equipment/Process</u>	<u>VOM Emissions</u>		<u>Single HAP</u>		<u>Total combined HAP</u>	
	<u>(T/Mo)</u>	<u>(T/Yr)</u>	<u>Emissions</u>	<u>Emissions</u>	<u>Emissions</u>	<u>Emissions</u>
			<u>(T/Mo)</u>	<u>(T/Yr)</u>	<u>(T/Mo)</u>	<u>(T/Yr)</u>
Biodiesel Loadout Racks	0.36	3.60	0.01	0.10	0.02	0.20

These limits are based on the maximum material throughput and a standard emission factor derived using the equations in Section

5.2, AP 42, Fifth Edition, Volume I, July 2008 for Truck Loading. The VOM and HAP emissions for the Biodiesel Loadout Racks shall be determined from the following equation:

$$E = \frac{(12.46 * S * P * M)}{(T)}$$

where;

E = Loading loss rate (lbs/1,000 gallons throughput);

S = Saturation Factor (Table 5.2-1, AP-42);

P = True Vapor Pressure of Liquid Loaded (psia);

M = Vapor Molecular Weight of Liquid Loaded (lbs/lb-mole)

T = Temperature of Liquid Loaded (R)

- e. This permit is issued based on negligible emissions of VOM and HAPs from the Feedstock Pre-treat System. For this purpose, emissions of each pollutant shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 ton/year.
 - f. This permit is issued based on negligible emissions of Particulate Matter (PM), VOM, and HAPs from the Support Equipment. For this purpose, emissions of each pollutant from all such emission units shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 ton/year.
 - g. Fugitive emissions of VOM, methanol, and combined HAPs from leaking components (i.e., Pumps, Valves, and Flanges, etc.) shall not exceed 1.63 tons/month and 16.30 tons/year, 0.57 tons/month and 5.70 tons/year and 0.79 tons/month and 7.90 tons/year, respectively.
 - h. Compliance with the annual limits of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).
- 20a. Pursuant to 40 CFR 60.8(a), except as specified in 40 CFR 60.8(a)(1), (a)(2), (a)(3), and (a)(4), at such other times as may be required by the Illinois EPA or USEPA under section 114 of the Clean Air Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Illinois EPA or USEPA a written report of the results of such performance test(s).
- b. Pursuant to 40 CFR 60.8(b), performance tests shall be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subpart of 40 CFR Part 60 unless the Illinois EPA or USEPA:
 - i. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
 - ii. Approves the use of an equivalent method;

- iii. Approves the use of an alternative method the results of which the Illinois EPA or USEPA has determined to be adequate for indicating whether a specific source is in compliance;
 - iv. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Illinois EPA's or USEPA's satisfaction that the affected facility is in compliance with the standard; or
 - v. Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph shall be construed to abrogate the Illinois EPA's or USEPA's authority to require testing under section 114 of the Clean Air Act.
- c. Pursuant to 40 CFR 60.8(c), performance tests shall be conducted under such conditions as the Illinois EPA or USEPA shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Illinois EPA or USEPA such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of a performance test nor shall emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.
- d. Pursuant to 40 CFR 60.8(d), the owner or operator of an affected facility shall provide the Illinois EPA or USEPA at least 30 days prior notice of any performance test, except as specified under other subparts of 40 CFR Part 60, to afford the Illinois EPA or USEPA the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the Illinois EPA or USEPA as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Illinois EPA or USEPA by mutual agreement.
- e. Pursuant to 40 CFR 60.8(e), the owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:
- i. Sampling ports adequate for test methods applicable to such facility. This includes:
 - A. Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures; and
 - B. Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures.

- ii. Safe sampling platform(s).
 - iii. Safe access to sampling platform(s).
 - iv. Utilities for sampling and testing equipment.
- f. Pursuant to 40 CFR 60.8(f), unless otherwise specified in the applicable subpart of 40 CFR Part 60, each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard under 40 CFR Part 60. For the purpose of determining compliance with an applicable standard under 40 CFR Part 60, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond the owner or operator's control, compliance may, upon the Illinois EPA's or USEPA's approval, be determined using the arithmetic mean of the results of the two other runs.
- g. Pursuant to 40 CFR 60.11(e)(2), except as provided in 40 CFR 60.11(e)(3), the owner or operator of an affected facility to which an opacity standard in 40 CFR Part 60 applies shall conduct opacity observations in accordance with 40 CFR 60.11(b), shall record the opacity of emissions, and shall report to the Illinois EPA or USEPA the opacity results along with the results of the initial performance test required under 40 CFR 60.8. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.
- 21a. Pursuant to 40 CFR 60.44c(g), for oil-fired affected facilities where the owner or operator seeks to demonstrate compliance with the fuel oil sulfur limits under 40 CFR 60.42c based on shipment fuel sampling, the initial performance test shall consist of sampling and analyzing the oil in the initial tank of oil to be fired in the steam generating unit to demonstrate that the oil contains 0.5 weight percent sulfur or less. Thereafter, the owner or operator of the affected facility shall sample the oil in the fuel tank after each new shipment of oil is received, as described under 40 CFR 60.46c(d)(2).
- b. Pursuant to 40 CFR 60.44c(h), for affected facilities subject to 40 CFR 60.42c(h)(1), (2), or (3) where the owner or operator seeks to demonstrate compliance with the SO₂ standards based on fuel supplier certification, the performance test shall consist of the certification, the certification from the fuel supplier, as described under 40 CFR 60.48c(f), as applicable.
- c. Pursuant to 40 CFR 60.45c(a)(8), the owner or operator of an affected facility subject to the PM and/or opacity standards under 40 CFR 60.43c shall conduct an initial performance test as required under 40 CFR 60.8, and shall conduct subsequent performance tests as requested by the Illinois EPA or USEPA, to determine compliance with the standards

using the following procedures and reference methods, except as specified in 40 CFR 60.45c(c).

Method 9 of appendix A-4 of 40 CFR Part 60 shall be used for determining the opacity of stack emissions.

- 22a. Pursuant to 40 CFR 60.485a(a), in conducting the performance test required in 40 CFR 60.8 the owner or operator shall use as reference methods and procedures the test methods in Appendix A of 40 CFR Part 60 or other methods and procedures as specified in 40 CFR 60.485a, except as provided in 40 CFR 60.8(b).
- b. Pursuant to 40 CFR 60.485a(b), the owner or operator shall determine compliance with the standards in 40 CFR 60.482-1a through 60.482-11a, 60.483a, and 60.484a as follows:
- i. Method 21 shall be used to determine the presence of leaking sources. The instrument shall be calibrated before use each day of its use in the procedures specified in Method 21 of Appendix A-7 of 40 CFR Part 60. The following calibration gas shall be used:
- A. Zero air (less than 10 ppm of hydrocarbon in air); and
- B. Mixture of methane or n-hexane and air at a concentration no more than 2,000 ppm greater than the leak definition concentration of the equipment monitored. If the monitoring instrument's design allows for multiple calibration scales, then the lower scale shall be calibrated with a calibration gas that is no higher than 2,000 ppm above the concentration specified as a leak, and the highest scale shall be calibrated with a calibration gas that is approximately equal to 10,000 ppm. If only one scale on an instrument will be used during monitoring, the owner or operator need not calibrate the scales that will not be used during that day's monitoring.
- ii. A calibration drift assessment shall be performed, at a minimum, at the end of each monitoring day. Check the instrument using the same calibration gas(es) that were used to calibrate the instrument before use. Follow the procedures specified in Method 21 of Appendix A-7 of 40 CFR Part 60, Section 10.1, except do not adjust the meter readout to correspond to the calibration gas value. Record the instrument reading for each scale used as specified in 40 CFR 60.486a(e)(7). Calculate the average algebraic difference between the three meter readings and the most recent calibration value. Divide this algebraic difference by the initial calibration value and multiply by 100 to express the calibration drift as a percentage. If any calibration drift assessment shows a negative drift of more than 10 percent from the initial calibration value, then all equipment monitored since the last calibration with instrument readings below the appropriate leak definition and above the leak definition multiplied by (100 minus the percent of negative drift/divided by 100) must be re-monitored. If any calibration drift assessment

shows a positive drift of more than 10 percent from the initial calibration value, then, at the owner/operator's discretion, all equipment since the last calibration with instrument readings above the appropriate leak definition and below the leak definition multiplied by (100 plus the percent of positive drift/divided by 100) may be re-monitored.

- c. Pursuant to 40 CFR 60.485a(c), the owner or operator shall determine compliance with the no detectable emission standards in 40 CFR 60.482-2a(e), 60.482-3a(i), 60.482-4a, 60.482-7a(f), and 60.482-10a(e) as follows:
 - i. The requirement of 40 CFR 60.485a(b) shall apply.
 - ii. Method 21 of Appendix A-7 of 40 CFR Part 60 shall be used to determine the background level. All potential leak interfaces shall be traversed as close to the interface as possible. The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.
- d. Pursuant to 40 CFR 60.485a(d), the owner or operator shall test each piece of equipment unless he demonstrates that a process unit is not in VOC service i.e., that the VOC content would never be reasonably expected to exceed 10 percent by weight. For purposes of this demonstration, the following methods and procedures shall be used:
 - i. Procedures that conform to the general methods in ASTM E260-73, 91, or 96, E168-67, 77, or 92, E169-63, 77, or 93 shall be used to determine the percent VOC content in the process fluid that is contained in or contacts a piece of equipment.
 - ii. Organic compounds that are considered by the Illinois EPA or USEPA to have negligible photochemical reactivity may be excluded from the total quantity of organic compounds in determining the VOC content of the process fluid.
 - iii. Engineering judgment may be used to estimate the VOC content, if a piece of equipment had not been shown previously to be in service. If the Illinois EPA or USEPA disagrees with the judgment, 40 CFR 60.485a(d)(1) and (2) shall be used to resolve the disagreement.
- e. Pursuant to 40 CFR 60.485a(e), the owner or operator shall demonstrate that a piece of equipment is in light liquid service by showing that all the following conditions apply:
 - i. The vapor pressure of one or more of the organic components is greater than 0.3 kPa at 20°C (1.2 in H₂O at 68°F). Standard reference tests or ASTM D2879-83, 96, or 97 shall be used to determine the vapor pressures.
 - ii. The total concentration of the pure organic components having vapor pressure greater than 0.3 kPa at 20°C (1.2 in H₂O at 68°F) is equal to or greater than 20 percent by weight.

- iii. The fluid is a liquid at operating conditions.
- f. Pursuant to 40 CFR 60.485a(f), samples used in conjunction with 40 CFR 60.485a(d), (e), and (g) shall be representative of the process fluid that is contained in or contacts the equipment or the gas being combusted in the flare.
- 23a. Pursuant to 40 CFR 60.664(a) for the purpose of demonstrating compliance with 40 CFR 60.662, all affected facilities shall be run at full operating conditions and flow rates during any performance test.
- b. Pursuant to 40 CFR 60.664(e), the following test methods in appendix A to 40 CFR Part 60, except as provided under 40 CFR 60.8(b), shall be used for determining the net heating value of the gas combusted to determine compliance under 40 CFR 60.662(b) and for determining the process vent stream TRE index value to determine compliance under 49 CFR 60.662(c).
 - i. A. Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flow rate and molar composition determination prescribed in 40 CFR 60.664(e)(2) and (3) shall be, except for the situations outlined in 40 CFR 60.664(e)(1)(ii), prior to the inlet of any control device, prior to any post-distillation dilution of the stream with air, and prior to any post-distillation introduction of halogenated compounds into the process vent stream. No transverse site selection method is needed for vents smaller than 10 centimeters (4 inches) in diameter.
 - B. If any gas stream other than the distillation vent stream from the affected facility is normally conducted through the final recovery device.
 - I. The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which the nondistillation stream is introduced.
 - II. The efficiency of the final recovery device is determined by measuring the TOC concentration using Method 18 at the inlet to the final recovery device after the introduction of any nondistillation vent stream and at the outlet of the final recovery device.
 - III. This efficiency is applied to the TOC concentration measured prior to the final recovery device and prior to the introduction of the nondistillation stream to determine the concentration of TOC in the distillation vent stream from the final recovery device. This concentration of TOC is then used to perform the calculations outlined in 40 CFR 60.664(e)(4) and (5).

- ii. The molar composition of the process vent stream shall be determined as follows:
 - A. Method 18 to measure the concentration of TOC including those containing halogens.
 - B. ASTM D1946-77 or 90 (Reapproved 1994) to measure the concentration of carbon monoxide and hydrogen.
 - C. Method 4 to measure the content of water vapor.
- iii. The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, as appropriate.
- iv. The net heating value of the vent stream shall be calculated using the following equation:

$$H_T = K_1 \left(\sum_{j=1}^n C_j H_j \right)$$

where:

H_T = Net heating value of the sample, MJ/scm (Btu/scf), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg (77 °F and 30 in. Hg), but the standard temperature for determining the volume corresponding to one mole is 20 °C (68 °F).

K_1 = 1.74×10^{-7} (1/ppm) (g-mole/scm) (MJ/kcal) (metric units), where standard temperature for (g-mole/scm) is 20 °C.

= 1.03×10^{-11} (1/ppm) (lb-mole/scf) (Btu/kcal) (English units) where standard temperature for (lb/mole/scf) is 68 °F.

C_j = concentration on a wet basis of compound j in ppm, as measured for organics by Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-77 or 90 (Reapproved 1994) as indicated in 40 CFR 60.664(e)(2).

H_j = Net heat of combustion of compound j, kcal/(g-mole) [kcal/(lb-mole)], based on combustion at 25 °C and 760 mm Hg (77 °F and 30 in. Hg).

The heats of combustion of vent stream components would be required to be determined using ASTM D2382-76 if published values are not available or cannot be calculated.

- v. The emission rate of TOC in the vent stream shall be calculated using the following equation:

$$E_{TOC} = K_2 \left[\sum_{j=1}^n C_j M_j \right] Q,$$

where:

E_{TOC} = Measured emission rate of TOC, kg/hr (lb/hr).

K_2 = 2.494×10^{-6} (1/ppm) (g-mole/scm) (kg/g) (min/hr) (metric units), where standard temperature for (g-mole/scm) is 20 °C.

= 1.557×10^{-7} (1/ppm) (lb-mole/scf) (min/hr) (English units), where standard temperature for (lb-mole/scf) is 68 °F.

C_j = Concentration on a wet basis of compound j in ppm, as measured by Method 18 as indicated in 40 CFR 60.664(e)(2).

M_j = Molecular weight of sample j, g/g-mole (lb/lb-mole).

Q_s = Vent stream flow rate, scm/min (scf/min), at a temperature of 20 °C (68 °F).

- vi. The total process vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Method 18.
- c. Pursuant to 40 CFR 60.664(f), for purposes of complying with 40 CFR 60.662(c) the owner or operator of a facility affected by 40 CFR 60 Subpart NNN shall calculate the TRE index value of the vent stream using the equation for incineration in 40 CFR 60.664(e)(1) for halogenated vent streams. The owner or operator of an affected facility with a nonhalogenated vent stream shall determine the TRE index value by calculating values using both the incinerator equation in 40 CFR 60.664(e)(1) and the flare equation in 40 CFR 60.664(e)(2) and selecting the lower of the two values.
- i. The equation for calculating the TRE index value of a vent stream controlled by an incinerator is as follows:

$$TRE = \frac{1}{E_{TOC}} \left[a + b(Q_s) + c(Q_s)^{0.88} + d(Q_s)(H_T) + e(Q_s)^{0.88}(H_T)^{0.88} + f(Y_s)^{0.5} \right]$$

- A. Where for a vent stream flow rate that is greater than or equal to 14.2 scm/min (501 scf/min) at a standard temperature of 20 °C (68 °F):

TRE = TRE index value.

Q_s = Vent stream flow rate, scm/min (scf/min), at a temperature of 20 °C (68 °F).

H_T = Vent stream net heating value, MJ/scm (Btu/scf), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg (68 °F and 30 in. Hg), but the standard temperature for

determining the volume corresponding to one mole is 20 °C (68 °F) as in the definition of Q_s .

$Y_s = Q_s$ for all vent stream categories listed in table 1 of 40 CFR 60 Subpart NNN except for Category E vent streams where $Y_s = Q_s H_T / 3.6$.

E_{TOC} = Hourly emissions of TOC, kg/hr (lb/hr).

a, b, c, d, e, and f are coefficients.

The set of coefficients that apply to a vent stream can be obtained from table 1 of 40 CFR 60 Subpart NNN.

- B. Where for a vent stream flow rate that is less than 14.2 scm/min (501 scf/min) at a standard temperature of 20 °C (68 °F):

TRE = TRE index value.

$Q_s = 14.2$ scm/min (501 scf/min).

$H_T = (\text{FLOW}) (HVAL) / Q_s$.

Where the following inputs are used:

FLOW = Vent stream flow rate, scm/min (scf/min), at a temperature of 20 °C (68 °F).

HVAL = Vent stream net heating value, MJ/scm (Btu/scf), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg (68 °F and 30 in. Hg), but the standard temperature for determining the volume corresponding to one mole is 20 °C (68 °F) as in the definition of Q_s .

$Y_s = Q_s$ for all vent stream categories listed in table 1 of 40 CFR 60 Subpart NNN except for Category E vent streams where $Y_s = Q_s H_T / 3.6$.

E_{TOC} = Hourly emissions of TOC, kg/hr (lb/hr).

a, b, c, d, e, and f are coefficients

The set of coefficients that apply to a vent stream can be obtained from table 1 of 40 CFR 60 Subpart NNN.

- ii. The equation for calculating the TRE index value of a vent stream controlled by a flare is as follows:

$$TRE = \frac{1}{E_{TOC}} \left[a(Q_s) + b(Q_s)^{0.8} + c(Q_s)(H_T) + d(E_{TOC}) + e \right]$$

where:

TRE = TRE index value.

E_{TOC} = Hourly emissions of TOC, kg/hr (lb/hr).

Q_s = Vent stream flow rate, scm/min (scf/min), at a standard temperature of 20 °C (68 °F).

H_T = Vent stream net heating value, MJ/scm (Btu/scf), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg (68 °F and 30 in. Hg), but the standard temperature for determining the volume corresponding to one mole is 20 °C (68 °F) as in the definition of Q_s .

a, b, c, d, and e are coefficients.

The set of coefficients that apply to a vent stream shall be obtained from table 2 of 40 CFR 60 Subpart NNN.

- d. Pursuant to 40 CFR 60.664(g), each owner or operator of an affected facility seeking to comply with 40 CFR 60.660(c)(4) or 40 CFR 60.662(c) shall recalculate the TRE index value for that affected facility whenever process changes are made. Examples of process changes include changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the recovery system.
- i. Where the recalculated TRE index value is less than or equal to 1.0, the owner or operator shall notify the Illinois EPA or USEPA within 1 week of the recalculation and shall conduct a performance test according to the methods and procedures required by 40 CFR 60.664 in order to determine compliance with 40 CFR 60.662(a). Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.
- ii. Where the initial TRE index value is greater than 8.0 and the recalculated TRE index value is less than or equal to 8.0 but greater than 1.0, the owner or operator shall conduct a performance test in accordance with 40 CFR 60.8 and 60.664 and shall comply with 40 CFR 60.663, 60.664 and 60.665. Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.
- 24a. Pursuant to 40 CFR 60.704(a), for the purpose of demonstrating compliance with 40 CFR 60.702, all affected facilities shall be run at full operating conditions and flow rates during any performance test.
- b. Pursuant to 40 CFR 60.704(d), the following test methods in appendix A to 40 CFR Part 60, except as provided under 40 CFR 60.8(b), shall be

used for determining the net heating value of the gas combusted to determine compliance under 40 CFR 60.702(b) and for determining the process vent stream TRE index value to determine compliance under 40 CFR 60.700(c)(2) and §60.702(c).

- i. A. Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flow rate and molar composition determination prescribed in 40 CFR 60.704 (d)(2) and (d)(3) shall be, except for the situations outlined in 40 CFR 60.704(d)(1)(ii), prior to the inlet of any control device, prior to any postreactor dilution of the stream with air, and prior to any postreactor introduction of halogenated compounds into the process vent stream. No traverse site selection method is needed for vents smaller than 4 inches in diameter.
- B. If any gas stream other than the reactor vent stream is normally conducted through the final recovery device:
 - I. The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which any nonreactor stream or stream from a nonaffected reactor process is introduced.
 - II. The efficiency of the final recovery device is determined by measuring the TOC concentration using Method 18 at the inlet to the final recovery device after the introduction of any vent stream and at the outlet of the final recovery device.
 - III. This efficiency of the final recovery device shall be applied to the TOC concentration measured prior to the final recovery device and prior to the introduction of any nonreactor stream or stream from a nonaffected reactor process to determine the concentration of TOC in the reactor process vent stream from the final recovery device. This concentration of TOC is then used to perform the calculations outlined in 40 CFR 60.704(d)(4) and (5).
- ii. The molar composition of the process vent stream shall be determined as follows:
 - A. Method 18 to measure the concentration of TOC including those containing halogens.
 - B. ASTM D1946-77 or 90 (Reapproved 1994) to measure the concentration of carbon monoxide and hydrogen.
 - C. Method 4 to measure the content of water vapor.
- iii. The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, as appropriate.

- iv. The net heating value of the vent stream shall be calculated using the following equation:

$$E_{TOC} = K_2 \sum_{j=1}^n C_j M_j Q_s$$

where:

E_{TOC} = Emission rate of TOC in the sample, kg/hr.

K_2 = Constant, 2.494×10^{-6} (l/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20 °C.

C_j = Concentration on a dry basis of compound j in ppm as measured by Method 18 as indicated in 40 CFR 60.704(d)(2).

M_j = Molecular weight of sample j, g/g-mole.

Q_s = Vent stream flow rate (dscm/min) at a temperature of 20 °C.

- v. The total vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Method 18.
- c. Pursuant to 40 CFR 60.704(e), for purposes of complying with 40 CFR 60.700(c)(2) and 40 CFR 60.702(c), the owner or operator of a facility affected by 40 CFR 60 Subpart RRR shall calculate the TRE index value of the vent stream using the equation for incineration in 40 CFR 60.704(e)(1) for halogenated vent streams. The owner or operator of an affected facility with a nonhalogenated vent stream shall determine the TRE index value by calculating values using both the incinerator equation in 40 CFR 60.704(e)(1) and the flare equation in 40 CFR 60.704(e)(2) and selecting the lower of the two values.
- i. The equation for calculating the TRE index value of a vent stream controlled by an incinerator is as follows:

$$TRE = \frac{1}{E_{TOC}} \left[a + b(Q_s)^{0.88} + c(Q_s) + d(Q_s)(H_T) + e(Q_s)^{0.88}(H_T)^{0.88} + f(Y_s)^{0.5} \right]$$

- A. Where for a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is greater than or equal to 14.2 scm/min:

TRE = TRE index value.

Q_s = Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard

temperature for determining the volume corresponding to one mole is 20 °C as in the definition of Q_s .

$Y_s = Q_s$ for all vent stream categories listed in table 1 except for Category E vent streams where $Y_s = (Q_s)(H_T)/3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients. The set of coefficients that apply to a vent stream can be obtained from table 1 of 40 CFR 60 Subpart RRR.

- B. For a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is less than 14.2 scm/min:

TRE = TRE index value.

$Q_s = 14.2$ scm/min.

$H_T = (FLOW)(HVAL)/14.2$

where the following inputs are used:

FLOW = Vent stream flow rate (scm/min), at a standard temperature of 20 °C.

HVAL = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in definition of Q_s .

$Y_s = 14.2$ scm/min for all vent streams except for Category E vent streams, where $Y_s = (14.2)(H_T)/3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients. The set of coefficients that apply to a vent stream can be obtained from table 1 of 40 CFR 60 Subpart RRR.

- ii. The equation for calculating the TRE index value of a vent stream controlled by a flare is as follows:

$$TRE = \frac{1}{E_{TOC}} \left[a(Q_s) + b(Q_s)^{0.8} + c(Q_s)(H_T) + d(E_{TOC}) + e \right]$$

where:

TRE = TRE index value.

E_{TOC} = Hourly emission rate of TOC reported in kg/hr.

Q_s = Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm) where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in the definition of Q_s .

a, b, c, d, and e are coefficients. The set of coefficients that apply to a vent stream can be obtained from table 2 of 40 CFR 60 Subpart RRR.

- d. Pursuant to 40 CFR 60.704(f), each owner or operator of an affected facility seeking to comply with 40 CFR 60.700(c)(2) or 40 CFR 60.702(c) shall recalculate the TRE index value for that affected facility whenever process changes are made. Examples of process changes include changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change on the recovery system.
- i. Where the recalculated TRE index value is less than or equal to 1.0, the owner or operator shall notify the Illinois EPA or USEPA within 1 week of the recalculation and shall conduct a performance test according to the methods and procedures required by 40 CFR 60.704 in order to determine compliance with 40 CFR 60.702(a) or (b). Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.
- ii. Where the recalculated TRE index value is less than or equal to 8.0 but greater than 1.0, the owner or operator shall conduct a performance test in accordance with 40 CFR 60.8 and 40 CFR 60.704 and shall comply with 40 CFR 60.703, 40 CFR 60.704 and 40 CFR 60.705. Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.
- 25a. i. Pursuant to 40 CFR 60.482-2a(a)(1), each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in 40 CFR 60.485a(b), except as provided in 40 CFR 60.482-1a(c) and (f) and 40 CFR 60.482-2a(d), (e), and (f). A pump that begins operation in light liquid service after the initial startup date for the process unit must be monitored for the first time within 30 days after the end of its startup period, except for a pump that replaces a leaking pump and except as provided in 40 CFR 60.482-1a(c) and 40 CFR 60.482-2a(d), (e), and (f).
- ii. Pursuant to 40 CFR 60.482-2a(a)(2), each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal, except as provided in 40 CFR 60.482-1a(f).

- b. i. Pursuant to 40 CFR 60.482-2a(b)(1), the instrument reading that defines a leak is specified in 40 CFR 60.482-2a(b)(1)(i) and (ii).
 - A. 5,000 parts per million (ppm) or greater for pumps handling polymerizing monomers;
 - B. 2,000 ppm or greater for all other pumps.
- ii. Pursuant to 40 CFR 60.482-2a(b)(2), if there are indications of liquids dripping from the pump seal, the owner or operator shall follow the procedure specified in either 40 CFR 60.482-2a(b)(2)(i) or (ii). This requirement does not apply to a pump that was monitored after a previous weekly inspection and the instrument reading was less than the concentration specified in 40 CFR 60.482-2a(b)(1)(i) or (ii), whichever is applicable.
 - A. Monitor the pump within 5 days as specified in §60.485a(b). A leak is detected if the instrument reading measured during monitoring indicates a leak as specified in 40 CFR 60.482-2a(b)(1)(i) or (ii), whichever is applicable. The leak shall be repaired using the procedures in 40 CFR 60.482-2a(c).
 - B. Designate the visual indications of liquids dripping as a leak, and repair the leak using either the procedures in 40 CFR 60.482-2a(c) of this section or by eliminating the visual indications of liquids dripping.
- c. i. Pursuant to 40 CFR 60.482-2a(c)(1), when a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in 40 CFR 60.482-9a.
- ii. Pursuant to 40 CFR 60.482-2a(c)(2), a first attempt at repair shall be made no later than 5 calendar days after each leak is detected. First attempts at repair include, but are not limited to, the practices described in 40 CFR 60.482-2a(c)(2)(i) and (ii), where practicable.
 - A. Tightening the packing gland nuts;
 - B. Ensuring that the seal flush is operating at design pressure and temperature.
- d. Pursuant to 40 CFR 60.482-2a(d), each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of 40 CFR 60.482-2a(a), provided the requirements specified in 40 CFR 60.482-2a(d)(1) through (6) are met.
 - i. Each dual mechanical seal system is:
 - A. Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure; or

- B. Equipped with a barrier fluid degassing reservoir that is routed to a process or fuel gas system or connected by a closed vent system to a control device that complies with the requirements of 40 CFR 60.482-10a; or
 - C. Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.
- ii. The barrier fluid system is in heavy liquid service or is not in VOC service.
 - iii. Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.
 - iv.
 - A. Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.
 - B. If there are indications of liquids dripping from the pump seal at the time of the weekly inspection, the owner or operator shall follow the procedure specified in either 40 CFR 60.482-2a(d)(4)(ii)(A) or (B) prior to the next required inspection.
 - I. Monitor the pump within 5 days as specified in 40 CFR 60.485a(b) to determine if there is a leak of VOC in the barrier fluid. If an instrument reading of 2,000 ppm or greater is measured, a leak is detected.
 - II. Designate the visual indications of liquids dripping as a leak.
 - v.
 - A. Each sensor as described in 40 CFR 60.482-2a(d)(3) is checked daily or is equipped with an audible alarm.
 - B. The owner or operator determines, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.
 - C. If the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion established in 40 CFR 60.482-2a(d)(5)(ii), a leak is detected.
 - vi.
 - A. When a leak is detected pursuant to 40 CFR 60.482-2a(d)(4)(ii)(A), it shall be repaired as specified in 40 CFR 60.482-2a(c).
 - B. A leak detected pursuant to 40 CFR 60.482-2a(d)(5)(iii) shall be repaired within 15 days of detection by eliminating the conditions that activated the sensor.

- C. A designated leak pursuant to 40 CFR 60.482-2a(d)(4)(ii)(B) shall be repaired within 15 days of detection by eliminating visual indications of liquids dripping.
- e. Pursuant to 40 CFR 60.482-2a(e), any pump that is designated, as described in 40 CFR 60.486a(e)(1) and (2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of 40 CFR 60.482-2a(a), (c), and (d) if the pump:
 - i. Has no externally actuated shaft penetrating the pump housing;
 - ii. Is demonstrated to be operating with no detectable emissions as indicated by an instrument reading of less than 500 ppm above background as measured by the methods specified in 40 CFR 60.485a(c); and
 - iii. Is tested for compliance with 40 CFR 60.482-2a(e)(2) initially upon designation, annually, and at other times requested by the Illinois EPA or USEPA.
- f. Pursuant to 40 CFR 60.482-2a(g), any pump that is designated, as described in 40 CFR 60.486a(f)(1), as an unsafe-to-monitor pump is exempt from the monitoring and inspection requirements of 40 CFR 60.482-2a(a) and (d)(4) through (6) if:
 - i. The owner or operator of the pump demonstrates that the pump is unsafe-to-monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with 40 CFR 60.482-2a(a); and
 - ii. The owner or operator of the pump has a written plan that requires monitoring of the pump as frequently as practicable during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in 40 CFR 60.482-2a(c) if a leak is detected.
- g. Pursuant to 40 CFR 60.482-3a(d), each barrier fluid system as described in 40 CFR 60.482-3a(a) shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.
- h.
 - i. Pursuant to 40 CFR 60.482-3a(e)(1), each sensor as required in 40 CFR 60.482-3a(d) shall be checked daily or shall be equipped with an audible alarm.
 - ii. Pursuant to 40 CFR 60.482-3a(e)(2), the owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.
- i. Pursuant to 40 CFR 60.482-3a(f), if the sensor indicates failure of the seal system, the barrier system, or both based on the criterion determined under 40 CFR 60.482-3a(e)(2), a leak is detected.

- j. i. Pursuant to 40 CFR 60.482-3a(g)(1), when a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in 40 CFR 60.482-9a.
- ii. Pursuant to 40 CFR 60.482-3a(g)(2), a first attempt at repair shall be made no later than 5 calendar days after each leak is detected.
- k. i. Pursuant to 40 CFR 60.482-4a(b)(1), after each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after the pressure release, except as provided in 40 CFR 60.482-9a.
- ii. Pursuant to 40 CFR 60.482-4a(b)(2), no later than 5 calendar days after the pressure release, the pressure relief device shall be monitored to confirm the conditions of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, by the methods specified in 40 CFR 60.485a(c).
- l. i. Pursuant to 40 CFR 60.482-7a(a)(1) Each valve shall be monitored monthly to detect leaks by the methods specified in 40 CFR 60.485a(b) and shall comply with 40 CFR 60.482-7a(b) through (e), except as provided in 40 CFR 60.482-7a(f), (g), and (h), 40 CFR 60.482-1a(c) and (f), and 40 CFR 60.483-1a and 60.483-2a.
- ii. Pursuant to 40 CFR 60.482-7a(a)(2), a valve that begins operation in gas/vapor service or light liquid service after the initial startup date for the process unit must be monitored according to 40 CFR 60.482-7a(a)(2)(i) or (ii), except for a valve that replaces a leaking valve and except as provided in 40 CFR 60.482-7a(f), (g), and (h), 40 CFR 60.482-1a(c), and 40 CFR 60.483-1a and 60.483-2a.
 - A. Monitor the valve as in 40 CFR 60.482-7a(a)(1). The valve must be monitored for the first time within 30 days after the end of its startup period to ensure proper installation.
 - B. If the existing valves in the process unit are monitored in accordance with 40 CFR 60.483-1a or 40 CFR 60.483-2a, count the new valve as leaking when calculating the percentage of valves leaking as described in 40 CFR 60.483-2a(b)(5). If less than 2.0 percent of the valves are leaking for that process unit, the valve must be monitored for the first time during the next scheduled monitoring event for existing valves in the process unit or within 90 days, whichever comes first.
- m. Pursuant to 40 CFR 60.482-7a(b), if an instrument reading of 500 ppm or greater is measured, a leak is detected.

- n. i. A. Pursuant to 40 CFR 60.482-7a(c)(1)(i) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.
- n. i. B. Pursuant to 40 CFR 60.482-7a(c)(1)(ii) As an alternative to monitoring all of the valves in the first month of a quarter, an owner or operator may elect to subdivide the process unit into two or three subgroups of valves and monitor each subgroup in a different month during the quarter, provided each subgroup is monitored every 3 months. The owner or operator must keep records of the valves assigned to each subgroup.
- n. ii. Pursuant to 40 CFR 60.482-7a(c)(2), if a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months.
- o. i. Pursuant to 40 CFR 60.482-7a(d)(1), when a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in 40 CFR 60.482-9a.
- o. ii. Pursuant to 40 CFR 60.482-7a(d)(2), a first attempt at repair shall be made no later than 5 calendar days after each leak is detected.
- p. Pursuant to 40 CFR 60.482-7a(e), first attempts at repair include, but are not limited to, the following best practices where practicable:
 - i. Tightening of bonnet bolts;
 - ii. Replacement of bonnet bolts;
 - iii. Tightening of packing gland nuts;
 - iv. Injection of lubricant into lubricated packing.
- q. Pursuant to 40 CFR 60.482-7a(f), any valve that is designated, as described in 40 CFR 60.486a(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of 40 CFR 60.482-7a(a) if the valve:
 - i. Has no external actuating mechanism in contact with the process fluid,
 - ii. Is operated with emissions less than 500 ppm above background as determined by the method specified in 40 CFR 60.485a(c), and
 - iii. Is tested for compliance with 40 CFR 60.482-7a(f)(2) initially upon designation, annually, and at other times requested by the Illinois EPA or USEPA.

- r. Pursuant to 40 CFR 60.482-7a(g), any valve that is designated, as described in 40 CFR 60.486a(f)(1), as an unsafe-to-monitor valve is exempt from the requirements of 40 CFR 60.482-7a(a) if:
 - i. The owner or operator of the valve demonstrates that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with 40 CFR 60.482-7a(a), and
 - ii. The owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.
- s. Pursuant to 40 CFR 60.482-7a(h), any valve that is designated, as described in 40 CFR 60.486a(f)(2), as a difficult-to-monitor valve is exempt from the requirements of 40 CFR 60.482-7a(a) if:
 - i. The owner or operator of the valve demonstrates that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.
 - ii. The process unit within which the valve is located either:
 - A. Becomes an affected facility through 40 CFR 60.14 or 40 CFR 60.15 and was constructed on or before January 5, 1981; or
 - B. Has less than 3.0 percent of its total number of valves designated as difficult-to-monitor by the owner or operator.
 - iii. The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.
- t. Pursuant to 40 CFR 60.482-8a(a), if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method at pumps, valves, and connectors in heavy liquid service and pressure relief devices in light liquid or heavy liquid service, the owner or operator shall follow either one of the following procedures:
 - i. The owner or operator shall monitor the equipment within 5 days by the method specified in 40 CFR 60.485a(b) and shall comply with the requirements of 40 CFR 60.482-8a(b) through (d).
 - ii. The owner or operator shall eliminate the visual, audible, olfactory, or other indication of a potential leak within 5 calendar days of detection.
- u. Pursuant to 40 CFR 60.482-8a(b), if an instrument reading of 10,000 ppm or greater is measured, a leak is detected.
- v. i. Pursuant to 40 CFR 60.482-8a(c)(1), when a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in 40 CFR 60.482-9a.

- ii. Pursuant to 40 CFR 60.482-8a(c)(2), the first attempt at repair shall be made no later than 5 calendar days after each leak is detected.
- w. Pursuant to 40 CFR 60.482-8a(d), first attempts at repair include, but are not limited to, the best practices described under 40 CFR 60.482-2a(c)(2) and 60.482-7a(e).
- x. Pursuant to 40 CFR 60.482-10a(e), owners or operators of control devices used to comply with the provisions of 40 CFR 60 Subpart VVa shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs.
- y. Pursuant to 40 CFR 60.482-10a(f), except as provided in 40 CFR 60.482-10a(i) through (k), each closed vent system shall be inspected according to the procedures and schedule specified in 40 CFR 60.482-10a(f)(1) and (f)(2).
 - i. If the vapor collection system or closed vent system is constructed of hard-piping, the owner or operator shall comply with the requirements specified in 40 CFR 60.482-10a(f)(1)(i) and (ii):
 - A. Conduct an initial inspection according to the procedures in 40 CFR 60.485a(b); and
 - B. Conduct annual visual inspections for visible, audible, or olfactory indications of leaks.
 - ii. If the vapor collection system or closed vent system is constructed of ductwork, the owner or operator shall:
 - A. Conduct an initial inspection according to the procedures in 40 CFR 60.485a(b); and
 - B. Conduct annual inspections according to the procedures in 40 CFR 60.485a(b).
- z. Pursuant to 40 CFR 60.482-10a(g), leaks, as indicated by an instrument reading greater than 500 ppmv above background or by visual inspections, shall be repaired as soon as practicable except as provided in 40 CFR 60.482-10a(h).
 - i. A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.
 - ii. Repair shall be completed no later than 15 calendar days after the leak is detected.
- aa. Pursuant to 40 CFR 60.482-10a(h), delay of repair of a closed vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown or if the owner or operator determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from

delay of repair. Repair of such equipment shall be complete by the end of the next process unit shutdown.

- bb. Pursuant to 40 CFR 60.482-10a(i), if a vapor collection system or closed vent system is operated under a vacuum, it is exempt from the inspection requirements of 40 CFR 60.482-10a(f)(1)(i) and (f)(2).
- cc. Pursuant to 40 CFR 60.482-10a(j), any parts of the closed vent system that are designated, as described in 40 CFR 60.482-10a(l)(1), as unsafe to inspect are exempt from the inspection requirements of 40 CFR 60.482-10a(f)(1)(i) and (f)(2) if they comply with the requirements specified in 40 CFR 60.482-10a(j)(1) and (2):
 - i. The owner or operator determines that the equipment is unsafe to inspect because inspecting personnel would be exposed to an imminent or potential danger as a consequence of complying with 40 CFR 60.482-10a(f)(1)(i) or (f)(2); and
 - ii. The owner or operator has a written plan that requires inspection of the equipment as frequently as practicable during safe-to-inspect times.
- dd. Pursuant to 40 CFR 60.482-10a(k), any parts of the closed vent system that are designated, as described in 40 CFR 60.482-10a(l)(2), as difficult to inspect are exempt from the inspection requirements of 40 CFR 60.482-10a(f)(1)(i) and (f)(2) if they comply with the requirements specified in 40 CFR 60.482-10a(k)(1) through (3):
 - i. The owner or operator determines that the equipment cannot be inspected without elevating the inspecting personnel more than 2 meters above a support surface; and
 - ii. The process unit within which the closed vent system is located becomes an affected facility through 40 CFR 60.14 or 60.15, or the owner or operator designates less than 3.0 percent of the total number of closed vent system equipment as difficult to inspect; and
 - iii. The owner or operator has a written plan that requires inspection of the equipment at least once every 5 years. A closed vent system is exempt from inspection if it is operated under a vacuum.
- 26a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:
 - i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or

operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.

- ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.
- b. Testing required by Condition 27 shall be performed upon a written request from the Illinois EPA by a qualified independent testing service.
- 27. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.
- 28a. Pursuant to 40 CFR 60.46c(d)(2), as an alternative fuel sampling procedure for affected facilities combusting oil, oil samples may be collected from the fuel tank for each steam generating unit immediately after the fuel tank is filled and before any oil is combusted. The owner or operator of the affected facility shall analyze the oil sample to determine the sulfur content of the oil. If a partially empty fuel tank is refilled, a new sample and analysis of the fuel in the tank would be required upon filling. Results of the fuel analysis taken after each new shipment of oil is received shall be used as the daily value when calculating the 30-day rolling average until the next shipment is received. If the fuel analysis shows that the sulfur content in the fuel tank is greater than 0.5 weight percent sulfur, the owner or operator shall ensure that the sulfur content of subsequent oil shipments is low enough to cause the 30-day rolling average sulfur content to be 0.5 weight percent sulfur or less.
- b. Pursuant to 40 CFR 60.46c(e), the monitoring requirements of 40 CFR 60.46c(a) and (d) shall not apply to affected facilities subject to 40 CFR 60.42c(h)(1), (2), or (3) where the owner or operator of the affected facility seeks to demonstrate compliance with the SO₂ standards based on fuel supplier certification, as described under 40 CFR 60.48c(f), as applicable.

- c. Pursuant to 40 CFR 60.47c(c), owners and operators of an affected facilities that burn only distillate oil that contains no more than 0.5 weight percent sulfur and/or liquid or gaseous fuels with potential sulfur dioxide emission rates of 26 ng/J (0.060 lbs/mmBtu) heat input or less and that do not use a post-combustion technology to reduce SO₂ or PM emissions and that are subject to an opacity standard in 40 CFR 60.43c(c) are not required to operate a COMS if they follow the applicable procedures in 40 CFR 60.48c(f).

- 29a. Pursuant to 40 CFR 60.663(e), the owner or operator of an affected facility that seeks to comply with the TRE index value limit specified under 40 CFR 60.662(c) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Illinois EPA or USEPA:
 - i. Where an absorber is the final recovery device in the recovery system:
 - A. A scrubbing liquid temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^{\circ}\text{C}$, whichever is greater, and a specific gravity monitoring device having an accuracy of ± 0.02 specific gravity units, each equipped with a continuous recorder, or
 - B. An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infrared, photoionization, or thermal conductivity, each equipped with a continuous recorder.
 - ii. Where a condenser is the final recovery device in the recovery system:
 - A. A condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^{\circ}\text{C}$, whichever is greater, or
 - B. An organic monitoring device used to monitor organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

- 30a. Pursuant to 40 CFR 60.703(d), the owner or operator of an affected facility that seeks to demonstrate compliance with the TRE index value limit specified under 40 CFR 60.702(c) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Illinois EPA or USEPA:

- i. Where an absorber is the final recovery device in the recovery system:
 - A. A scrubbing liquid temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater, and a specific gravity monitoring device having an accuracy of ± 0.02 specific gravity units, each equipped with a continuous recorder; or
 - B. An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.
 - ii. Where a condenser is the final recovery device in the recovery system:
 - A. A condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater; or
 - B. An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.
- 31a. Pursuant to 35 Ill. Adm. Code 215.422, the owner or operator of a synthetic organic chemical or polymer manufacturing plant subject to 35 Ill. Adm. Code 215.421 shall prepare an inspection program plan which contains, at a minimum:
- i. An identification of all components and the period in which each will be monitored pursuant to 35 Ill. Adm. Code 215.423;
 - ii. The format for the monitoring log required by 35 Ill. Adm. Code 215.424;
 - iii. A description of the monitoring equipment to be used pursuant to 35 Ill. Adm. Code 215.423; and
 - iv. A description of the methods to be used to identify all pipeline valves, pressure relief valves in gaseous service, all leaking components, and the ball and plug valves and pumps exempted under 35 Ill. Adm. Code 215.423(h) such that they are obvious and can be located by both plant personnel performing monitoring and Illinois EPA personnel performing inspections.
- b. Pursuant to 35 Ill. Adm. Code 215.423, the owner or operator of a synthetic organic chemical or polymer manufacturing plant subject to 35 Ill Adm. Code 215.420 shall, for the purposes of detecting leaks,

conduct a component inspection program consistent with the following provisions.

- i. Test annually those components operated near extreme temperature or pressure such that they would be unsafe to routinely monitor, and those components located more than two meters above or away from permanent worker access structures or surfaces;
 - ii. Test all other pressure relief valves in gaseous service, pump seals, pipeline valves, process drains and compressor seals not earlier than March 1 or later than June 1 of each year;
 - iii. If more than 2 percent of the components tested pursuant to 35 Ill. Adm. Code 215.423(b) are found to leak, again test all pressure relief valves in gaseous service, pipeline valves in gaseous service and compressor seals by methods and procedures approved by the Illinois EPA not earlier than June 1 or later than September 1 of each year;
 - iv. Observe visually all pump seals weekly;
 - v. Test immediately any pump seal from which liquids are observed dripping;
 - vi. Test any relief valve within 24 hours after it has vented to the atmosphere; and
 - vii. Test immediately after repair any component that was found leaking.
 - viii. Ball and plug valves, inaccessible valves, storage tank valves, pumps equipped with mechanical seals, pressure relief devices connected to an operating flare header or vapor recovery device are exempt from the monitoring requirements in 35 Ill. Adm. Code 215.423.
- c. Pursuant to 35 Ill. Adm. Code 215.424, all leaking components must be repaired and retested as soon as practicable but no later than 21 days after the leak is found unless the leaking component cannot be repaired until the process unit is shutdown or the repair part is received. Records of repairing and retesting must be maintained in accordance with 35 Ill. Adm. Code 215.425 and 215.426.
- 32a. Pursuant to 40 CFR 60.7(b), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.
 - b. Pursuant to 40 CFR 60.7(f), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring

device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows:

The Illinois EPA or USEPA, upon notification to the source, may require the owner or operator to maintain all measurements as required by 40 CFR 60.7(f), if the Illinois EPA or USEPA determines these records are required to more accurately assess the compliance status of the affected source.

- 33a. Pursuant to 40 CFR 60.48c(c)(1), in addition to the applicable requirements in 40 CFR 60.7, the owner or operator of an affected facility subject to the opacity limits in 40 CFR 60.43c(c) shall submit excess emission reports for any excess emissions from the affected facility that occur during the reporting period and maintain records according to the requirements specified in 40 CFR 60.48c(c)(1) through (3), as applicable to the visible emissions monitoring method used.

For each performance test conducted using Method 9 of appendix A-4 of 40 CFR Part 60, the owner or operator shall keep the records including the information specified in 40 CFR 60.48c(c)(1)(i) through (iii).

- i. Dates and time intervals of all opacity observation periods;
 - ii. Name, affiliation, and copy of current visible emission reading certification for each visible emission observer participating in the performance test; and
 - iii. Copies of all visible emission observer opacity field data sheets;
- b. Pursuant to 40 CFR 60.48c(e), the owner or operator of each affected facility subject to the SO₂ emission limits, fuel oil sulfur limits, or percent reduction requirements under 40 CFR 60.42c shall keep records and submit reports as required under 40 CFR 60.48c(d), including the following information, as applicable.
- i. Calendar dates covered in the reporting period.
 - ii. Identification of the F factor used in calculations, method of determination, and type of fuel combusted.
 - iii. If fuel supplier certification is used to demonstrate compliance, records of fuel supplier certification is used to demonstrate compliance, records of fuel supplier certification as described under 40 CFR 60.48c(f)(1), (2), (3), or (4), as applicable. In addition to records of fuel supplier certifications, the report shall include a certified statement signed by the owner or operator of the affected facility that the records of fuel supplier certifications submitted represent all of the fuel combusted during the reporting period.
- c. Pursuant to 40 CFR 60.48c(f)(1), fuel supplier certification shall

include the following information for distillate oil:

- i. The name of the oil supplier;
 - ii. A statement from the oil supplier that the oil complies with the specifications under the definition of distillate oil in 40 CFR 60.41c; and
 - iii. The sulfur content of the oil.
- d.
- i. Pursuant to 40 CFR 60.48c(g)(1), except as provided under 40 CFR 60.48c(g)(2) and (g)(3), the owner or operator of each affected facility shall record and maintain records of the amounts of each fuel combusted during each operating day.
 - ii. Pursuant to 40 CFR 60.48c(g)(2), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility that combusts only natural gas, wood, fuels using fuel certification in 40 CFR 60.48c(f) to demonstrate compliance with the SO₂ standard, fuels not subject to an emissions standard (excluding opacity), or a mixture of these fuels may elect to record and maintain records of the amount of each fuel combusted during each calendar month.
 - iii. Pursuant to 40 CFR 60.48c(g)(3), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility or multiple affected facilities located on a contiguous property unit where the only fuels combusted in any steam generating unit (including steam generating units not subject to 40 CFR 60 Subpart Dc) at that property are natural gas, wood, distillate oil meeting the most current requirements in 40 CFR 60.42c to use fuel certification to demonstrate compliance with the SO₂ standard, and/or fuels, excluding coal and residual oil, not subject to an emissions standard (excluding opacity) may elect to record and maintain records of the total amount of each steam generating unit fuel delivered to that property during each calendar month.
- e. Pursuant to 40 CFR 60.48c(i), all records required under 40 CFR 60.48c shall be maintained by the owner or operator of the affected facility for a period of two years following the date of such record.
- 34a. Pursuant to 40 CFR 60.482-10a(1), the owner or operator shall record the information specified in 40 CFR 60.482-10a(1)(1) through (5).
- i. Identification of all parts of the closed vent system that are designated as unsafe to inspect, an explanation of why the equipment is unsafe to inspect, and the plan for inspecting the equipment.
 - ii. Identification of all parts of the closed vent system that are designated as difficult to inspect, an explanation of why the equipment is difficult to inspect, and the plan for inspecting the equipment.

- iii. For each inspection during which a leak is detected, a record of the information specified in 40 CFR 60.486a(c).
 - iv. For each inspection conducted in accordance with 40 CFR 60.485a(b) during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.
 - v. For each visual inspection conducted in accordance with 40 CFR 60.482-10a(f)(1)(ii) during which no leaks are detected, a record that the inspection was performed, the date of the inspection, and a statement that no leaks were detected.
- b.
- i. Pursuant to 40 CFR 60.486a(a)(1), each owner or operator subject to the provisions of 40 CFR 60 Subpart VVa shall comply with the recordkeeping requirements of 40 CFR 60.486a.
 - ii. An owner or operator of more than one affected facility subject to the provisions of 40 CFR 60 Subpart VVa may comply with the recordkeeping requirements for these facilities in one recordkeeping system if the system identifies each record by each facility.
 - iii. The owner or operator shall record the information specified in 40 CFR 60.486a(a)(3)(i) through (v) for each monitoring event required by 40 CFR 60.482-2a, 60.482-3a, 60.482-7a, 60.482-8a, 60.482-11a, and 60.483-2a.
 - A. Monitoring instrument identification.
 - B. Operator identification.
 - C. Equipment identification.
 - D. Date of monitoring.
 - E. Instrument reading.
- c. Pursuant to 40 CFR 60.486a(b), when each leak is detected as specified in 40 CFR 60.482-2a, 60.482-3a, 60.482-7a, 60.482-8a, 60.482-11a, and 60.483-2a, the following requirements apply:
- i. A weatherproof and readily visible identification, marked with the equipment identification number, shall be attached to the leaking equipment.
 - ii. The identification on a valve may be removed after it has been monitored for 2 successive months as specified in 40 CFR 60.482-7a(c) and no leak has been detected during those 2 months.
 - iii. The identification on a connector may be removed after it has been monitored as specified in 40 CFR 60.482-11a(b)(3)(iv) and no leak has been detected during that monitoring.

- iv. The identification on equipment, except on a valve or connector, may be removed after it has been repaired.
- d. Pursuant to 40 CFR 60.486a(c), when each leak is detected as specified in 40 CFR 60.482-2a, 60.482-3a, 60.482-7a, 60.482-8a, 60.482-11a, and 60.483-2a, the following information shall be recorded in a log and shall be kept for 2 years in a readily accessible location:
 - i. The instrument and operator identification numbers and the equipment identification number, except when indications of liquids dripping from a pump are designated as a leak.
 - ii. The date the leak was detected and the dates of each attempt to repair the leak.
 - iii. Repair methods applied in each attempt to repair the leak.
 - iv. Maximum instrument reading measured by Method 21 of appendix A-7 of 40 CFR Part 60 at the time the leak is successfully repaired or determined to be nonrepairable, except when a pump is repaired by eliminating indications of liquids dripping.
 - v. "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.
 - vi. The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a process shutdown.
 - vii. The expected date of successful repair of the leak if a leak is not repaired within 15 days.
 - viii. Dates of process unit shutdowns that occur while the equipment is unrepaired.
 - ix. The date of successful repair of the leak.
- e. Pursuant to 40 CFR 60.486a(d), the following information pertaining to the design requirements for closed vent systems and control devices described in 40 CFR 60.482-10a shall be recorded and kept in a readily accessible location:
 - i. Detailed schematics, design specifications, and piping and instrumentation diagrams.
 - ii. The dates and descriptions of any changes in the design specifications.
 - iii. A description of the parameter or parameters monitored, as required in 40 CFR 60.482-10a(e), to ensure that control devices are operated and maintained in conformance with their design and an explanation of why that parameter (or parameters) was selected for the monitoring.

- iv. Periods when the closed vent systems and control devices required in 40 CFR 60.482-2a, 60.482-3a, 60.482-4a, and 60.482-5a are not operated as designed, including periods when a flare pilot light does not have a flame.
 - v. Dates of startups and shutdowns of the closed vent systems and control devices required in 40 CFR 60.482-2a, 60.482-3a, 60.482-4a, and 60.482-5a.
- f. Pursuant to 40 CFR 60.486a(e), the following information pertaining to all equipment subject to the requirements in 40 CFR 60.482-1a to 60.482-11a shall be recorded in a log that is kept in a readily accessible location:
- i. A list of identification numbers for equipment subject to the requirements of 40 CFR 60 Subpart VVa.
 - ii. A. A list of identification numbers for equipment that are designated for no detectable emissions under the provisions of 40 CFR 60.482-2a(e), 60.482-3a(i) and 60.482-7a(f).
B. The designation of equipment as subject to the requirements of 40 CFR 60.482-2a(e), 40 CFR 60.482-3a(i), or 40 CFR 60.482-7a(f) shall be signed by the owner or operator.
 - iii. A list of equipment identification numbers for pressure relief devices required to comply with 40 CFR 60.482-4a.
 - iv. A. The dates of each compliance test as required in 40 CFR 60.482-2a(e), 60.482-3a(i), 60.482-4a, and 60.482-7a(f).
B. The background level measured during each compliance test.
C. The maximum instrument reading measured at the equipment during each compliance test.
 - v. A list of identification numbers for equipment in vacuum service.
 - vi. A list of identification numbers for equipment that the owner or operator designates as operating in VOC service less than 300 hr/yr in accordance with 40 CFR 60.482-1a(e), a description of the conditions under which the equipment is in VOC service, and rationale supporting the designation that it is in VOC service less than 300 hr/yr.
 - vii. The date and results of the weekly visual inspection for indications of liquids dripping from pumps in light liquid service.
 - viii. Records of the information specified in 40 CFR 60.486a(e)(8)(i) through (vi) for monitoring instrument calibrations conducted according to sections 8.1.2 and 10 of Method 21 of Appendix A-7 of 40 CFR Part 60 and 40 CFR 60.485a(b).

- A. Date of calibration and initials of operator performing the calibration.
 - B. Calibration gas cylinder identification, certification date, and certified concentration.
 - C. Instrument scale(s) used.
 - D. A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value in accordance with section 10.1 of Method 21 of appendix A-7 of 40 CFR Part 60.
 - E. Results of each calibration drift assessment required by 40 CFR 60.485a(b)(2) (i.e., instrument reading for calibration at end of monitoring day and the calculated percent difference from the initial calibration value).
 - F. If an owner or operator makes their own calibration gas, a description of the procedure used.
- ix. The connector monitoring schedule for each process unit as specified in 40 CFR 60.482-11a(b)(3)(v).
 - x. Records of each release from a pressure relief device subject to 40 CFR 60.482-4a.
- g. Pursuant to 40 CFR 60.486a(f), the following information pertaining to all valves subject to the requirements of 40 CFR 60.482-7a(g) and (h), and pumps subject to the requirements of 40 CFR 60.482-2a(g) and all connectors subject to the requirements of 40 CFR 60.482-11a(e) shall be recorded in a log that is kept in a readily accessible location:
- i. A list of identification numbers for valves, pumps, and connectors that are designated as unsafe-to-monitor, an explanation for each valve, pump, or connector stating why the valve, pump, or connector is unsafe-to-monitor, and the plan for monitoring each valve, pump, or connector.
 - ii. A list of identification numbers for valves that are designated as difficult-to-monitor, an explanation for each valve stating why the valve is difficult-to-monitor, and the schedule for monitoring each value.
- h. Pursuant to 40 CFR 60.486a(g), the following information shall be recorded for valves complying with 40 CFR 60.483-2a:
- i. A schedule of monitoring.
 - ii. The percent of valves found leaking during each monitoring period.
- i. Pursuant to 40 CFR 60.486a(h), the following information shall be recorded in a log that is kept in a readily accessible location:

- i. Design criterion required in 40 CFR 60.482-2a(d)(5) and 60.482-3a(e)(2) and explanation of the design criterion; and
 - ii. Any changes to this criterion and the reasons for the changes.
- j. Pursuant to 40 CFR 60.486a(i), the following information shall be recorded in a log that is kept in a readily accessible location for use in determining exemptions as provided in 40 CFR 60.480a(d):
 - i. An analysis demonstrating the design capacity of the affected facility,
 - ii. A statement listing the feed or raw materials and products from the affected facilities and an analysis demonstrating whether these chemicals are heavy liquids or beverage alcohol, and
 - iii. An analysis demonstrating that equipment is not in VOC service.
- k. Pursuant to 40 CFR 60.486a(j), information and data used to demonstrate that a piece of equipment is not in VOC service shall be recorded in a log that is kept in a readily accessible location.
- l. Pursuant to 40 CFR 60.486a(k), the provisions of 40 CFR 60.7(b) and (d) do not apply to affected facilities subject to 40 CFR 60 Subpart VVa.
- 35a. Pursuant to 40 CFR 60.665(b)(4), each owner or operator subject to the provisions of 40 CFR 60 Subpart NNN shall keep an up-to-date, readily accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under 40 CFR 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with 40 CFR 60.662(a), a report containing performance test data need not be submitted, but a report containing the information in 40 CFR 60.665(b)(2)(i) is required. The same data specified in 40 CFR 60.665 shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a control device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined:

Where an owner or operator subject to the provisions of 40 CFR 60 Subpart NNN seeks to demonstrate compliance with 40 CFR 60.662(c):

- i. Where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Illinois EPA or USEPA), and average exit temperature, of the absorbing liquid measured at least every 15 minutes and averaged over the same time period of the performance testing (both measured while the vent stream is normally routed and constituted), or
- ii. Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period of

the performance testing while the vent stream is routed and constituted normally, or

- iii. As an alternative to 40 CFR 60.665(b)(4)(i), (ii) or (iii), the concentration level or reading indicated by the organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber, measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is normally routed and constituted
 - iv. All measurements and calculations performed to determine the TRE index value of the vent stream.
- b. Pursuant to 40 CFR 60.665(g), each owner or operator subject to the provisions of 40 CFR 60 Subpart NNN shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under 40 CFR 60.663(e), as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Illinois EPA or USEPA may at any time require a report of these data. Where an owner or operator seeks to comply with 40 CFR 60.662(c), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:
- i. Where an absorber is the final recovery device in a recovery system, and where an organic compound monitoring device is not used:
 - A. All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11 °C (20 °F) above the average absorbing liquid temperature during the most recent performance test, or
 - B. All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Illinois EPA or USEPA, in which case he will define appropriate parameter boundaries and periods of operation during which they are exceeded).
 - ii. Where a condenser is the final recovery device in a system, and where an organic compound monitoring device is not used, all 3-hour periods of operation during which the average exit (product side) condenser operating temperature was more than 6 °C (11 °F) above the average exit (product side) operating temperature during the most recent performance test.
 - iii. Where an absorber, condenser, or carbon adsorber is the final recovery device in the recovery system and where an organic compound monitoring device is used, all 3-hour periods of operation during which the average organic compound concentration

level or reading of organic compounds in the exhaust gases is more than 20 percent greater than the exhaust gas organic compound concentration level or reading measured by the monitoring device during the most recent performance test.

- 36a. Pursuant to 40 CFR 60.705(b)(4), each owner or operator subject to the provisions of 40 CFR 60 Subpart RRR shall keep an up-to-date, readily accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under 40 CFR 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used or where the reactor process vent stream is introduced as the primary fuel to any size boiler or process heater to comply with 40 CFR 60.702(a), a report containing performance test data need not be submitted, but a report containing the information in 40 CFR 60.705(b)(2)(i) is required. The same data specified in this section shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a combustion device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

Where an owner or operator subject to the provisions of 40 CFR 60 Subpart RRR seeks to demonstrate compliance with 40 CFR 60.702(c):

- i. Where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Illinois EPA or USEPA), and average exit temperature, of the absorbing liquid measured at least every 15 minutes and averaged over the same time period of the performance testing (both measured while the vent stream is normally routed and constituted); or
 - ii. Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is routed and constituted normally; or
 - iii. As an alternative to 40 CFR 60.705(b)(4)(i), (ii) or (iii), the concentration level or reading indicated by the organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber, measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is normally routed and constituted.
 - iv. All measurements and calculations performed to determine the TRE index value of the vent stream.
- b. Pursuant to 40 CFR 60.705(f), each owner or operator subject to the provisions of 40 CFR 60 Subpart RRR shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under 40 CFR 60.703(d), as well as up-to-date, readily accessible records of periods of operation during which

the parameter boundaries established during the most recent performance test are exceeded. The Illinois EPA or USEPA may at any time require a report of these data. Where an owner or operator seeks to comply with 40 CFR 60.702(c), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

- i. Where an absorber is the final recovery device in a recovery system, and where an organic compound monitoring device is not used:
 - A. All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11 °C (20 °F) above the average absorbing liquid temperature during the most recent performance test, or
 - B. All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Illinois EPA or USEPA, in which case he will define appropriate parameter boundaries and periods of operation during which they are exceeded).
 - ii. Where a condenser is the final recovery device in a system, and where an organic compound monitoring device is not used, all 3-hour periods of operation during which the average exit (product side) condenser operating temperature was more than 6 °C (11 °F) above the average exit (product side) operating temperature during the most recent performance test.
 - iii. Where an absorber, condenser, or carbon adsorber is the final recovery device in the recovery system and where an organic compound monitoring device is used, all 3-hour periods of operation during which the average organic compound concentration level or reading of organic compounds in the exhaust gases is more than 20 percent greater than the exhaust gas organic compound concentration level or reading measured by the monitoring device during the most recent performance test.
- c. Pursuant to 40 CFR 60.705(g), each owner or operator of an affected facility subject to the provisions of 40 CFR 60 Subpart RRR and seeking to demonstrate compliance with 40 CFR 60.702(c) shall keep up-to-date, readily accessible records of:
- i. Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of recovery equipment or reactors;
 - ii. Any recalculation of the TRE index value performed pursuant to 40 CFR 60.704(f); and

- iii. The results of any performance test performed pursuant to the methods and procedures required by 40 CFR 60.704(d).
37. Pursuant to 40 CFR 63.10(b)(3), if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to Section 112(d) or (f) of the Clean Air Act, and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under 40 CFR Part 63) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the USEPA and/or Illinois EPA to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of 40 CFR Part 63 for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with USEPA guidance materials published to assist sources in making applicability determinations under Section 112 of the Clean Air Act, if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under 40 CFR 63.10(b)(3) shall not by themselves create an obligation for the owner or operator to obtain a Title V permit.
38. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- 39a. Pursuant to 35 Ill. Adm. Code 214.122(b)(2)(C), On and after January 1, 2017, the owner or operator of a new fuel combustion emission source with actual heat input smaller than, or equal to, 73.2 MW (250 mmBtu/hr), burning liquid fuel exclusively, must comply with the following:
- The owner or operator must:
- i. Maintain records demonstrating that the fuel oil used by the fuel combustion emission source complies with the requirements in 35 Ill. Adm. Code 214.122(b)(2)(A) and (b)(2)(B), such as records from the fuel supplier indicating the sulfur content of the fuel oil; and

- ii. Retain the records for at least 5 years, and provide copies of the records to the Illinois EPA within 30 days after receipt of a request by the Illinois EPA.
- 40a. Pursuant to 35 Ill. Adm. Code 215.425(a), the owner or operator of a synthetic organic chemical or polymer manufacturing plant shall maintain a leaking components monitoring log which shall contain, at a minimum, the following information:
- i. The name of the process unit where the component is located;
 - ii. The type of component (e.g., valve, seal);
 - iii. The identification number of the component;
 - iv. The date on which a leaking component is discovered;
 - v. The date on which a leaking component is repaired;
 - vi. The date and instrument reading of the recheck procedure after a leaking component is repaired;
 - vii. A record of the calibration of the monitoring instrument;
 - viii. The identification number of leaking components which cannot be repaired until process unit shutdown; and
 - ix. The total number of components inspected and the total number of components found leaking during that monitoring period.
- b. Pursuant to 35 Ill. Adm. Code 215.425(b), copies of the monitoring log shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report prepared.
- c. Pursuant to 35 Ill. Adm. Code 215.425(c), copies of the monitoring log shall be made available to the Illinois EPA, upon verbal or written request, at any reasonable time.
- 41a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:
- i. Records addressing use of good operating practices for the Condenser/Chiller/Absorber associate with the Biodiesel Process, Methanol Tanks, Sodium Methoxide Tank, and Biodiesel Distillation Column:
 - A. Records for periodic inspection of the Condenser/Chiller/Absorber with date, individual performing the inspection, and nature of inspection; and
 - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.

- ii. The Permittee shall keep a copy of the Fugitive Particulate Operating Program, any amendments or revisions to the Fugitive Particulate Operating Program, and the Permittee shall also keep a record of activities completed according to the Fugitive Particulate Operating Program.
 - iii. Biodiesel production (gallons/month and gallons/year);
 - iv. Amount of raw material used in process (ton/month and tons/year);
 - v. Natural gas usage for Boiler B-1 (mmscf/month and mmscf/year);
 - vi. Biodiesel usage for Boiler B-1 (gallons/month and gallons/year);
 - vii. The number of hours Boiler B-1 operated using biodiesel as the fuel (hours/month and hours/year);
 - viii. Natural gas usage for Boiler B-3 and Hot Oil Heater HO-1 (mmscf/month and mmscf/year); and
 - ix. Monthly and annual emissions of CO, NO_x, PM, SO₂, VOM, and HAPs from the source with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Condition 41(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.
42. Pursuant to 40 CFR 60.7(a)(4), any owner or operator subject to the provisions of 40 CFR Part 60 shall furnish the Illinois EPA or USEPA written notification or, if acceptable to both the Illinois EPA and USEPA and the owner or operator of a source, electronic notification, as follows:
- A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Illinois EPA or USEPA may request additional relevant information subsequent to this notice.
- 43a. Pursuant to 40 CFR 60.48c(b), the owner or operator of each affected facility subject to the SO₂ emission limits of 40 CFR 60.42c, or the PM or opacity limits of 40 CFR 60.43c, shall submit to the Illinois EPA or USEPA the performance test data from the initial and any subsequent

performance tests and, if applicable, the performance evaluation of the CEMS and/or COMS using the applicable performance specifications in Appendix B of 40 CFR Part 60.

- b. Pursuant to 40 CFR 60.48c(d), the owner or operator of each affected facility subject to the SO₂ emission limits, fuel oil sulfur limits, or percent reduction requirements under 40 CFR 60.42c shall submit reports to the Illinois EPA or USEPA.
- c. Pursuant to 40 CFR 60.48c(j), the reporting period for the reports required under 40 CFR 60 Subpart Dc is each six-month period. All reports shall be submitted to the Illinois EPA or USEPA and shall be postmarked by the 30th day following the end of the reporting period.
- 44a. Pursuant to 40 CFR 60.487a(a), each owner or operator subject to the provisions of 40 CFR 60 Subpart VVa shall submit semiannual reports to the Illinois EPA or USEPA beginning 6 months after the initial start up date.
- b. Pursuant to 40 CFR 60.487a(c), all semiannual reports to the Illinois EPA or USEPA shall include the following information, summarized from the information in 40 CFR 60.486a:
 - i. Process unit identification.
 - ii. For each month during the semiannual reporting period,
 - A. Number of valves for which leaks were detected as described in 40 CFR 60.482-7a(b) or 40 CFR 60.483-2a;
 - B. Number of valves for which leaks were not repaired as required in 40 CFR 60.482-7a(d)(1);
 - C. Number of pumps for which leaks were detected as described in 40 CFR 60.482-2a(b), (d)(4)(ii)(A) or (B), or (d)(5)(iii);
 - D. Number of pumps for which leaks were not repaired as required in 40 CFR 60.482-2a(c)(1) and (d)(6);
 - E. Number of compressors for which leaks were detected as described in 40 CFR 60.482-3a(f);
 - F. Number of compressors for which leaks were not repaired as required in 40 CFR 60.482-3a(g)(1);
 - G. Number of connectors for which leaks were detected as described in 40 CFR 60.482-11a(b);
 - H. Number of connectors for which leaks were not repaired as required in 40 CFR 60.482-11a(d); and
 - I. The facts that explain each delay of repair and, where appropriate, why a process unit shutdown was technically infeasible.

- iii. Dates of process unit shutdowns which occurred within the semiannual reporting period.
 - iv. Revisions to items reported according to 40 CFR 60.487a(b) if changes have occurred since the initial report or subsequent revisions to the initial report.
- c. Pursuant to 40 CFR 60.487a(e), an owner or operator shall report the results of all performance tests in accordance with 40 CFR 60.8 of the General Provisions. The provisions of 40 CFR 60.8(d) do not apply to affected facilities subject to the provisions of 40 CFR 60 Subpart VVa except that an owner or operator must notify the Illinois EPA or USEPA of the schedule for the initial performance tests at least 30 days before the initial performance tests.
- 45a. Pursuant to 40 CFR 60.665(k), each owner and operator subject to the provisions of 40 CFR 60 Subpart NNN is exempt from the quarterly reporting requirements contained in 40 CFR 60.7(c) of the General Provisions.
- b. Pursuant to 40 CFR 60.665(l), each owner or operator that seeks to comply with the requirements of 40 CFR 60 Subpart NNN by complying with the requirements of 40 CFR 60.662 shall submit to the Illinois EPA or USEPA semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.
- i. Exceedances of monitored parameters recorded under 40 CFR 60.665(c) and (g).
 - ii. All periods recorded under 40 CFR 60.665(d) when the vent stream is diverted from the control device or has no flow rate.
- 46a. Pursuant to 40 CFR 60.705(k), each owner or operator subject to the provisions of 40 CFR 60 Subpart RRR is exempt from the quarterly reporting requirements contained in 40 CFR 60.7(c) of the General Provisions.
- b. Pursuant to 40 CFR 60.705(l), each owner or operator that seeks to comply with the requirements of 40 CFR 60 Subpart RRR by complying with the requirements of 40 CFR 60.700 (c)(2), (c)(3), or (c)(4) or 40 CFR 60.702 shall submit to the Illinois EPA or USEPA semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.
- i. Exceedances of monitored parameters recorded under 40 CFR 60.705(c), (f), and (g).
 - ii. Any recalculation of the TRE index value, as recorded under 40 CFR 60.705(g).
47. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the

initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.

48. Pursuant to 35 Ill. Adm. Code 214.122(b)(2)(C)(iii), on and after January 1, 2017, the owner or operator of a new fuel combustion emission source with actual heat input smaller than, or equal to, 73.2 MW (250 mmBtu/hr), burning liquid fuel exclusively, must comply with the following:

The owner or operator must notify the Illinois EPA within 30 days after discovery of deviations from any of the requirements in this 35 Ill. Adm. Code 214.122(b)(2). At minimum, and in addition to any permitting obligations, the notification must include a description of the deviations, a discussion of the possible cause of the deviations, any corrective actions taken, and any preventative measures taken.

- 49a. Pursuant to 35 Ill. Adm. Code 215.426, the owner or operator of a synthetic organic chemical or polymer manufacturing plant subject to 35 Ill. Adm. Code 215.420 shall:

- i. Submit a report to the Illinois EPA prior to the 1st day of July and October listing all leaking components identified pursuant to 35 Ill. Adm. Code 215.423 but not repaired within 21 days, all leaking components awaiting process unit shutdown, the total number of components inspected and the total number of components found leaking;
- ii. Submit a signed statement with the report attesting that all monitoring and repairs were performed as required under 35 Ill. Adm. Code 215.421 through 215.427.

- 50a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.

- b. One (1) copy of required reports and notifications shall be sent to:

Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276

It should be noted that the small natural gas-fired boiler is exempt from permitting, pursuant to 35 Ill. Adm. Code 201.146(d).

If you have any questions on this permit, please call Jocelyn Stakely at 217/785-1705.

Sincerely,

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:JRS:tan

Attachment A - Emission Summary

This attachment provides a summary of the maximum emissions from the Biodiesel Plant operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from such a plant. The resulting maximum emissions are below the levels, (e.g., 10 tons/year for any single HAP and 25 tons/year for any combination of such HAP!) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled, and control measures are more effective than required in this permit.

<u>Emission Unit</u>	E M I S S I O N S (Tons/Year)					Single	Combined
	<u>CO</u>	<u>NO_x</u>	<u>PM</u>	<u>SO₂</u>	<u>VOM</u>	<u>HAP</u>	<u>HAPs</u>
Biodiesel Process, Methanol Tanks, and Sodium Methoxide Tank					10.80	2.20	10.80
Boiler B-1							
Natural Gas	12.51	14.89	1.13	0.09	0.82		
Biodiesel	0.03	0.12	0.02	0.01	0.01		
Boiler B-3 and Hot Oil Heater HO-1	15.78	18.78	1.43	0.11	1.03		
Biodiesel Loadout Racks					3.60	0.10	0.20
Feedstock Pre-treat System					0.44	0.44	0.44
Support Equipment			0.44		0.44	0.44	0.44
Fugitive emissions from Pumps, Valves, and Flanges	--	--	--	--	16.30	5.70	7.90
Totals	28.32	33.79	3.02	0.21	33.44	8.88	19.78

JRS:tan



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

STANDARD CONDITIONS
FOR
OPERATING PERMITS

May, 1993

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. The issuance of this permit does not release the Permittee from compliance with state and federal regulations which are part of the Illinois State Implementation Plan, as well as with other applicable statutes and regulations of the United States or the State of Illinois or with applicable local laws, ordinances and regulations.
2. The Illinois EPA has issued this permit based upon the information submitted by the Permittee in the permit application. Any misinformation, false statement or misrepresentation in the application shall be grounds for revocation under 35 Ill. Adm. Code 201.166.
3.
 - a. The Permittee shall not authorize, cause, direct or allow any modification, as defined in 35 Ill. Adm. Code 201.102, of equipment, operations or practices which are reflected in the permit application as submitted unless a new application or request for revision of the existing permit is filed with the Illinois EPA and unless a new permit or revision of the existing permit(s) is issued for such modification.
 - b. This permit only covers emission sources and control equipment while physically present at the indicated plant location(s). Unless the permit specifically provides for equipment relocation, this permit is void for an item of equipment on the day it is removed from the permitted location(s) or if all equipment is removed, notwithstanding the expiration date specified on the permit.
4. The Permittee shall allow any duly authorized agent of the Illinois EPA, upon the presentation of credentials, at reasonable times:
 - a. To enter the Permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. To have access to and to copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. To obtain and remove samples of any discharge or emission of pollutants; and
 - e. To enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring or recording any activity, discharge or emission authorized by this permit.
5. The issuance of this permit:
 - a. Shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are located;

- b. Does not release the Permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the facilities;
 - c. Does not take into consideration or attest to the structural stability of any unit or part of the project; and
 - d. In no manner implies or suggests that the Illinois EPA (or its officers, agents, or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. The facilities covered by this permit shall be operated in such a manner that the disposal of air contaminants collected by the equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 7. The Permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 8. The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.
 9. No person shall cause or allow continued operation during malfunction, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur, which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:
 - a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
 - b. Maintain the following records for a period of no less than two (2) years:
 - i. Date and duration of malfunction, breakdown, or startup,
 - ii. Full and detailed explanation of the cause,
 - iii. Contaminants emitted and an estimate of quantity of emissions,
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup, and
 - v. Measures taken to reduce future occurrences and frequency of incidents.
 10. If the permit application contains a compliance program and project completion schedule, the Permittee shall submit a project completion status report within thirty (30) days of any date specified in the compliance program and project completion schedule or at six month intervals, whichever is more frequent.
 11. The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT

PERMITTEE

The Maschhoffs, LLC.
Attn: Patrick Maschhoff
7475 State Highway 127
Carlyle, Illinois 62231

Application No.: 21020025

I.D. No.: 027807AAE

Applicant's Designation:

Date Received: February 22, 2021

Subject: Feed Mill

Date Issued:

Expiration Date: See Condition 1.

Location: 6996 State Highway 127, Carlyle, Clinton County

This permit is hereby granted to the above-designated Permittee to OPERATE emission unit(s) and/or air pollution control equipment consisting of:

Grain Side:

Three (3) Truck Dump Pits Uncontrolled;
Enclosed Internal Transfer (North & South);
Two (2) Column Dryers (North & South);
One (1) 40,000 Bushel Ingredient Receiving Storage Bin with Bin vents;
Four (4) 356,391 Bushel Ingredient Receiving Storage Bin with Bin vents;

Mill Side:

One (1) Corn Enclosed Internal Transfer system;
One (1) Ingredients Enclosed Internal Transfer system;
Corn Cleaning Operation;
Corn Milling Operation;
Seven (7) 225,599 Bushel Milled Corn Storage Bin with Vents;
One (1) 20,000 Bushel Milled Corn Storage Bin with Vents;
One (1) Scale Hopper;
Mixer;
One (1) Feed Cleaner;
Storage Bins - Clean;
Pelletizer;
One (1) Pellet Cooler Controlled by Cyclone;
Storage Bins - Feed;
Feed Loadout/Bagging; and

One (1) 10.21 mmBtu/hour Propane/LNG/Natural Gas Fired Boiler;

pursuant to the above-referenced application. This permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This Federally Enforceable State Operating Permit (FESOP) is issued to limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 100 tons/year for Particulate Matter

less than 10 microns (PM₁₀)). As a result, the source is excluded from the requirements to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit, are described in Attachment A.

- b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.
 - c. This permit supersedes all operating permit(s) for this location.
2. The boiler is subject to the New Source Performance Standard (NSPS) for Small Industrial - Commercial - Institutional Steam Generating Units, 40 CFR Part 60 Subparts A and Dc. The Illinois EPA is administering the NSPS in Illinois on behalf of the United States Environmental Protection Agency (USEPA) under a delegation agreement. Pursuant to 40 CFR 60.40c(a), except as provided in 40 CFR 60.40c(d), (e), (f), and (g), the affected facility to which 40 CFR 60 Subpart Dc applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million British thermal units per hour (mmBtu/hr)) or less, but greater than or equal to 2.9 MW (10 mmBtu/hr).
- 3a. The truck dump pits, internal transfer, column dryers, roller mill, hammer mill, grain mixers, grain cleaners, storage bins, boiler, pellet cooler, and bulk loadout are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
 - b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.
 - c. The source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally overhead at a point beyond the property line of the source unless the wind speed is greater than 40.2 kilometers per hour (25 miles per hour), pursuant to 35 Ill. Adm. Code 212.301 and 212.314, except as provided as in 35 Ill. Adm. Code 212.314.
 - d. The roller mill, hammer mill, mixer, feed cleaners, pelletizer, pellet cooler, and feed loadout/bagging are subject to 35 Ill. Adm. Code Part

212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).

- e. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
 E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

- f. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units for Which Construction or Modification Commenced on or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

- g. The truck dump pits, internal transfer, column dryers, and grain storage bins are subject to 35 Ill. Adm. Code Part 212 Subpart S (Agriculture).
- 4. The boiler is subject to 35 Ill. Adm. Code Part 216 Subpart B (Fuel Combustion Emissions Sources). Pursuant to 35 Ill. Adm. Code 216.121, no person shall cause or allow the emission of carbon monoxide (CO) into the atmosphere from any fuel combustion emission source with actual heat input greater than 2.9 MW (10 mmBtu/hr) to exceed 200 ppm, corrected to 50 percent excess air.
- 5. This permit is issued based on the source not being subject to the NSPS for Grain Elevators, 40 CFR 60 Subpart DD because the source has a permanent storage capacity of less than 88,100 m³ (2.5 million U.S. bushels) does not meet the definition of "Grain Terminal Elevator", as defined under 40 CFR 60.301.
- 6a. This permit is issued based on boiler at the source not being subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63 Subpart DDDDD. This is because the source is not a major source of HAP emissions as defined in 40 CFR 63.2.
- b. This permit is issued based on the boiler at this source not being subject to the NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources, 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11195(e), a gas-fired boiler as defined in 40 CFR 63 Subpart JJJJJJ are not subject to 40 CFR 63 Subpart JJJJJJ and to any requirements in 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11237, gas-fired

boiler includes any boiler that burns gaseous fuels not combined with any solid fuels, burns liquid fuel only during periods of gas curtailment, gas supply emergencies, or periodic testing on liquid fuel. Periodic testing of liquid fuel shall not exceed a combined total of 48 hours during any calendar year.

- c. This permit is issued based on the source not being subject to the NESHAP for Area Sources: Prepared Feeds Manufacturing, 40 CFR 63 Subpart DDDDDDD because the source does not use a containing chromium or a material containing manganese in the manufacturing of prepared feeds.
- 7a. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of 35 Ill. Adm. Code 212.314 shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to 35 Ill. Adm. Code 212.314 is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.
 - b. This permit is issued based on the truck dump pits, internal transfer, column dryers, and grain storage bins at this source not being subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.461(a), 35 Ill. Adm. Code 212.302(a), 212.321, and 212.322 shall not apply to grain-handling and grain-drying operations, portable grain-handling equipment and one-turn storage space.
 - c. This permit is issued based on the truck dump pits, internal transfer, column dryers, and grain storage bins at this source not being subject to 35 Ill. Adm. Code 212.462 (Grain Handling Operations). Pursuant to Section 9(f) of the Illinois Environmental Protection Act (Act), any grain elevator located outside of a major population area, as defined in 35 Ill. Adm. Code 211.3610, shall be exempt from the requirements of 35 Ill. Adm. Code 212.462 provided that the elevator:
 - i. Does not violate the prohibitions of Section 9(a) of the Act or have a certified investigation, as defined in 35 Ill. Adm. Code 211.970, on file with the Illinois EPA; and
 - ii. Is not required to obtain a CAAPP permit pursuant to Section 39.5 of the Act. Notwithstanding the above exemption, new stationary source performance standards for grain elevators, established pursuant to Section 9.1 of the Act and Section 111 of the federal Clean Air Act, shall continue to apply to grain elevators.
- 8. Pursuant to 35 Ill. Adm. Code 215.541, the provisions of 35 Ill. Adm. Code 215.301 and 215.302 shall not apply to the spraying or use of insecticides, herbicides or other pesticides.

9. Pursuant to 40 CFR 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Illinois EPA or USEPA which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
- 10a. Housekeeping Practices. Pursuant to 35 Ill. Adm. Code 212.461(b), all grain-handling and grain-drying operations, regardless of size, must implement and use the following housekeeping practices:
 - i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
 - ii. Cleaning and Maintenance.
 - A. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
 - B. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
 - C. The yard and surrounding open area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.
 - iii. Dump Pit.
 - A. Aspiration equipment shall be maintained and operated.
 - B. Dust control devices shall be maintained and operated.
 - iv. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.
 - v. Property. The yard and driveway of any source shall be asphalted, oiled or equivalently treated to control dust.
 - vi. Housekeeping Check List. Housekeeping check lists to be approved by the Illinois EPA shall be completed by the manager or his designee and maintained on the premises for inspection by Illinois EPA personnel.
- 11a. In the event that the operation of these emission units results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in raw material or installation of controls, in order to eliminate the odor nuisance.

- b. The cyclone shall be in operation at all times when the associated pellet cooler is in operation and emitting air contaminants.
 - c. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic inspection and maintenance on the cyclone associated with the pellet cooler such that the equipment are kept in proper working condition and not cause a violation of the Environmental Protection Act or regulations promulgated therein.
 - d. Each dump pit shall be inspected for proper operation while receiving is occurring, at least once each week (Monday through Sunday) when grain/ingredients are received.
 - e. Each such dryer shall be inspected for any leaks in enclosures and proper condition of the external sheeting, on at least an annual basis prior to the harvest season.
 - f. The grain transfer (internal transfer) and any grain cleaning shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed.
 - g. Truck loadout shall employ socks, sleeves or equivalent devices, which extend at least 6 inches below the sides of the receiving vehicle, except for topping off. Choke loading may be performed as an equivalent method.
 - h. Grain/feed loadout socks, sleeves or equivalent devices shall be inspected for proper operation while loadout is occurring, at least once during any week when grain loadout is performed.
 - i. The Boiler and Column Dryers shall only be operated with Natural Gas, Liquefied Petroleum Gas (LPG), or Liquefied Natural Gas (LNG) as the fuel. The use of any other fuel in the Boiler or Column Dryers requires that the Permittee first obtain a construction permit from the Illinois EPA and then perform stack testing to verify compliance with all applicable requirements.
- 12a. Emissions from and operation of the source shall not exceed the following limits:

Emission Unit	Throughput		Emission Factor		Emissions			
	(T/Mo)	(T/Yr)	PM (lb/Ton)	PM ₁₀ (lb/Ton)	PM (T/Mo)	PM (T/Yr)	PM ₁₀ (T/Mo)	PM ₁₀ (T/Yr)
<u>Grain Side:</u>								
Dump Pits truck	50,000	400,000	0.017	0.0039	0.43	3.40	0.10	0.78
Enclosed Internal Transfer	50,000	400,000	0.061	0.034	0.02	0.12	0.01	0.07
Column Drying	25,000	200,000	0.220	0.055	2.75	22.00	0.69	5.50
Storage Bin Vents	50,000	400,000	0.025	0.0063	0.63	5.00	0.16	1.26
Ingredient Receiving	24,040	192,397	0.025	0.0063	0.30	2.40	0.08	0.61
<u>Mill Side:</u>								
Enclosed Internal Transfer	56,250	450,000	0.061	0.034	0.02	0.14	0.01	0.08

Emission Unit	Throughput		Emission Factor		Emissions			
	(T/Mo)	(T/Yr)	PM (lb/Ton)	PM ₁₀ (lb/Ton)	PM (T/Mo)	PM (T/Yr)	PM ₁₀ (T/Mo)	PM ₁₀ (T/Yr)
Cleaning	28,125	225,000	0.075	0.019	0.01	0.08	0.01	0.02
Milling	28,125	225,000	0.067	0.0335	0.94	7.54	0.47	3.77
Storage Bin Vents	28,125	225,000	0.025	0.0063	0.01	0.03	0.01	0.01
Scale Hopper	56,250	450,000	0.025	0.0063	0.01	0.06	0.01	0.01
Mixer	56,250	450,000	0.025	0.0063	0.70	0.06	0.18	1.42
Feed Cleaner	56,250	450,000	0.025	0.0063	0.01	0.06	0.01	0.01
Storage Bins - Clean	56,250	450,000	0.025	0.0063	0.01	0.06	0.01	0.01
Pelletizer	56,250	450,000	0.025	0.0063	0.01	0.06	0.01	0.01
Pellet Cooler	56,250	450,000	0.150	0.075	4.22	33.75	2.11	16.88
Storage Bins - Feed	56,250	450,000	0.025	0.0063	0.01	0.06	0.01	0.01
Feed Loadout/Bagging	56,250	450,000	0.003	0.0008	0.05	0.37	0.02	0.18
					Total:	75.25		30.63

* One bushel equals 56 pounds

These limits are based on AP-42 emission factors from Table 9.9.1-1 and Table 9.9.1-2, 99% control efficiency for enclosed internal transfer, 90 % control efficiency for cyclone for pellet cooler, and 50% control efficiency for choke or sock/sleeve truck load-out.

b. Combustion emissions of the boiler and two (2) dryers (combined) shall not exceed the following limits:

i. Natural gas/LNG usage: 56.37 mmscf/month, 563.70 mmscf/year.

ii. Emissions from the combustion of natural gas:

Pollutant	Emission Factor (lbs/mmscf)	Emissions	
		(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	84.0	2.31	23.21
Nitrogen Oxides (NO _x)	100.0	2.76	27.63
Particulate Matter (PM)	7.6	0.21	2.10
Sulfur Dioxide (SO ₂)	0.6	0.02	0.17
Volatile Organic Material (VOM)	5.5	0.15	1.52

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

iii. Propane usage: 616.06 10³ gallons/month, 6160.63 10³ gallons/year.

iv. Emissions from the combustion of propane:

Pollutant	Emission Factor (lbs/1,000 gal)	Emissions	
		(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	7.5	2.31	23.10
Nitrogen Oxides (NO _x)	13.0	4.01	40.04

Particulate Matter (PM)	0.7	0.22	2.16
Sulfur Dioxide (SO ₂)	0.054	0.02	0.17
Volatile Organic Material (VOM)	1.0	0.31	3.08

These limits are based on the maximum fuel usage, and standard emission factors (Tables 1.5-1 and 1.5-2, AP-42, Fifth Edition, Volume I, July 2008), continuous operations (8,760 hours/yr).

- c. Compliance with the annual limits of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).
- 13. This permit is issued based on the Potential to Emit (PTE) for Hazardous Air Pollutants (HAP) as listed in Section 112(b) of the Clean Air Act from the source being less than 10 tons/year of any single HAP and 25 tons/year of any combination of such HAPs. As a result, this permit is issued based on the emissions of all HAPs from this source not triggering the requirements to obtain a Clean Air Act Permit Program (CAAPP) Permit.
- 14a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:
 - i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.
 - ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.
- b. Testing required by Condition 15 shall be performed upon a written request from the Illinois EPA by a qualified independent testing service.

15. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.

16a. Pursuant to 40 CFR 60.7(b), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

b. Pursuant to 40 CFR 60.7(f), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows:

The Illinois EPA or USEPA, upon notification to the source, may require the owner or operator to maintain all measurements as required by 40 CFR 60.7(f), if the Illinois EPA or USEPA determines these records are required to more accurately assess the compliance status of the affected source.

17a. i. Pursuant to 40 CFR 60.48c(g)(1), except as provided under 40 CFR 60.48c(g)(2) and (g)(3), the owner or operator of each affected facility shall record and maintain records of the amounts of each fuel combusted during each operating day.

ii. Pursuant to 40 CFR 60.48c(g)(2), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility that combusts only natural gas, wood, fuels using fuel certification in 40 CFR 60.48c(f) to demonstrate compliance with the SO₂ standard, fuels not subject to an emissions standard (excluding opacity), or a mixture of these fuels may elect to record and maintain records of the amount of each fuel combusted during each calendar month.

iii. Pursuant to 40 CFR 60.48c(g)(2), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility or multiple affected facilities located on a contiguous property unit where the only fuels combusted in any steam generating unit (including steam generating units not subject to 40 CFR 60 Subpart Dc) at that property are natural gas, wood, distillate oil meeting the most current requirements in 40 CFR 60.42c to use fuel certification to demonstrate

compliance with the SO₂ standard, and/or fuels, excluding coal and residual oil, not subject to an emissions standard (excluding opacity) may elect to record and maintain records of the total amount of each steam generating unit fuel delivered to that property during each calendar month.

- b. Pursuant to 40 CFR 60.48c(i), all records required under 40 CFR 60.48 shall be maintained by the owner or operator of the affected facility for a period of two years following the date of such record.
18. Pursuant to 40 CFR 63.10(b)(3), if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to section 112(d) or (f) of the Clean Air Act, and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under 40 CFR Part 63) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the USEPA and/or Illinois EPA to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of 40 CFR Part 63 for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with USEPA guidance materials published to assist sources in making applicability determinations under Section 112 of the Clean Air Act, if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under 40 CFR 63.10(b)(3) shall not by themselves create an obligation for the owner or operator to obtain a Title V permit.
 19. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
 - 20a. The Permittee shall maintain records of the following items, so as to demonstrate compliance with the conditions of this permit:
 - i. Records of housekeeping check lists completed by the source manager.
 - ii. Vendor recommendations at the facility and be available for inspection and copying by the Illinois EPA.

- iii. Records addressing use of good operating practices for the cyclone associated with the pellet cooler:
 - A. Records for periodic inspection of the cyclone with date, individual performing the inspection, and nature of inspection; and
 - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
 - iv. Total grain/ingredients received, tons/month and tons/year;
 - v. Total grain dried, tons/month and tons/year;
 - vi. Total feed produced, feed pelletized, and shipped (tons/month and tons/year);
 - vii. Amount of natural gas, LNG, LPG, and propane burned in the boiler and dryers (mmscf/month and mmscf/year);
 - viii. Monthly and annual emissions of CO, NO_x, PM, PM₁₀, SO₂, and VOM, from the source, with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Condition 20(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to the Illinois EPA or USEPA request for records during the course of a source inspection.
21. Pursuant to 40 CFR 60.7(a)(4), any owner or operator subject to the provisions of 40 CFR Part 60 shall furnish the Illinois EPA or USEPA written notification or, if acceptable to both the Illinois EPA and USEPA and the owner or operator of a source, electronic notification, as follows:
- A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Illinois EPA or USEPA may request additional relevant information subsequent to this notice.
22. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such

notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.

- 23a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.
- b. One (1) copy of required reports and notifications shall be sent to:

Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276

If you have any questions on this permit, please contact Joseph Odele at 217/785-1705.

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:JBO:tan

Attachment A - Emission Summary

This attachment provides a summary of the maximum emissions from the feed mill operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from such a plant. The resulting maximum emissions are below the levels (e.g., 100 tons/year for PM₁₀) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled and control measures are more effective than required in this permit.

<u>Emission Unit</u>	E M I S S I O N S (Tons/Year)					
	<u>CO</u>	<u>NO_x</u>	<u>PM</u>	<u>PM₁₀</u>	<u>SO₂</u>	<u>VOM</u>
<u>Grain Side:</u>						
Dump Pits truck			3.40	0.78		
Enclosed Internal Transfer			0.12	0.07		
Column Drying			22.00	5.50		
Receiving Storage Bins with Vents			5.00	1.26		
Ingredient Receiving			2.40	0.61		
<u>Mill Side:</u>						
Enclosed Internal Transfer			0.14	0.08		
Cleaning			0.08	0.02		
Milling			7.54	3.77		
Milled Corn Storage Bin with Vents			0.03	0.01		
Scale Hopper			0.06	0.01		
Mixer			0.06	0.01		
Feed Cleaner			0.06	0.01		
Storage Bins - Clean			0.06	0.01		
Pelletizer			0.06	0.01		
Pellet Cooler			33.75	16.88		
Storage Bins - Feed			0.06	0.01		
Feed Loadout/Bagging			0.37	0.18		
Boiler/Dryers (Natural Gas/LNG)	23.21	27.63	2.10	2.10	0.17	1.52
Boiler/Column Dryers (Propane)	23.10	40.04	2.16	2.16	0.17	3.08
Totals:	46.31	67.67	79.51	33.48	0.34	4.60

JBO:tan



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

STANDARD CONDITIONS
FOR
OPERATING PERMITS

May, 1993

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. The issuance of this permit does not release the Permittee from compliance with state and federal regulations which are part of the Illinois State Implementation Plan, as well as with other applicable statutes and regulations of the United States or the State of Illinois or with applicable local laws, ordinances and regulations.
2. The Illinois EPA has issued this permit based upon the information submitted by the Permittee in the permit application. Any misinformation, false statement or misrepresentation in the application shall be grounds for revocation under 35 Ill. Adm. Code 201.166.
3.
 - a. The Permittee shall not authorize, cause, direct or allow any modification, as defined in 35 Ill. Adm. Code 201.102, of equipment, operations or practices which are reflected in the permit application as submitted unless a new application or request for revision of the existing permit is filed with the Illinois EPA and unless a new permit or revision of the existing permit(s) is issued for such modification.
 - b. This permit only covers emission sources and control equipment while physically present at the indicated plant location(s). Unless the permit specifically provides for equipment relocation, this permit is void for an item of equipment on the day it is removed from the permitted location(s) or if all equipment is removed, notwithstanding the expiration date specified on the permit.
4. The Permittee shall allow any duly authorized agent of the Illinois EPA, upon the presentation of credentials, at reasonable times:
 - a. To enter the Permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. To have access to and to copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. To obtain and remove samples of any discharge or emission of pollutants; and
 - e. To enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring or recording any activity, discharge or emission authorized by this permit.
5. The issuance of this permit:
 - a. Shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are located;

- b. Does not release the Permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the facilities;
 - c. Does not take into consideration or attest to the structural stability of any unit or part of the project; and
 - d. In no manner implies or suggests that the Illinois EPA (or its officers, agents, or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. The facilities covered by this permit shall be operated in such a manner that the disposal of air contaminants collected by the equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 7. The Permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 8. The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.
 9. No person shall cause or allow continued operation during malfunction, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur, which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:
 - a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
 - b. Maintain the following records for a period of no less than two (2) years:
 - i. Date and duration of malfunction, breakdown, or startup,
 - ii. Full and detailed explanation of the cause,
 - iii. Contaminants emitted and an estimate of quantity of emissions,
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup, and
 - v. Measures taken to reduce future occurrences and frequency of incidents.
 10. If the permit application contains a compliance program and project completion schedule, the Permittee shall submit a project completion status report within thirty (30) days of any date specified in the compliance program and project completion schedule or at six month intervals, whichever is more frequent.
 11. The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, ACTING DIRECTOR

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT -- REVISED

PERMITTEE

Gavilon Grain, LLC
Attn: Brian Wanzenried
1331 Capitol Avenue
Omaha, Nebraska 68102

Application No.: 17100026

I.D. No.: 077802AAC

Applicant's Designation:

Date Received: February 15, 2019

Subject: Grain Elevator

Date Issued: April 25, 2019

Expiration Date: April 13, 2028

Location: 2130 Little Levee Road, Rockwood, Jackson County, 62280

This permit is hereby granted to the above-designated Permittee to OPERATE emission unit(s) and/or air pollution control equipment consisting of:

Truck Receiving Pit(s):

- Two (2) 25,000 bushel/hour Truck Dump Pits [East Pit (Pit 1) and Middle Pit (Pit 2)] - Controlled by Dust Collector (CE-1);
Only East Pit (Pit 1) will receive Frac Sand - No Control
- One (1) 60,000 bushel/hour Truck Dump Pit/Barge Loadout Belt [West Pit (Pit 3)] - Controlled by Dust Collector (CE-1); and
- One (1) 685 bushel/hour Barge Receiving (Clamshell);

Internal Transfer - Enclosed:

- Two (2) 25,000 bushel/hour Drag Conveyors (Conveyors 1 and 2);
- One (1) 60,000 bushel/hour Barge Belt Conveyor;
- Two (2) 25,000 bushel/hour Receiving Legs (Leg 1 and 2);
- One (1) 12,000 bushel/hour Receiving Dry Leg;
- Two (2) 25,000 bushel/hour Fill Drag Conveyors (3 and 4);
- One (1) 60,000 bushel/hour Belt Conveyor;
- One (1) 12,000 bushel/hour Wet Drag Conveyor;
- One (1) 12,000 bushel/hour Wet Leg;
- One (1) 12,000 bushel/hour Drag Conveyor (at dryer);
- One (1) 20,000 bushel/hour Drag Conveyor (truck loadout);

Grain Storage Bin(s) (921,500 Bushel Capacity):

- One (1) 12,000-bushel Storage Bin (Bin 1);
- One (1) 12,000-bushel Storage Bin (Bin 2);
- One (1) 10,000-bushel Storage Bin (Bin 3);
- Two (2) 100,000-bushel Storage Bins (Bins 4 and 5);
- One (1) 25,000-bushel Storage Bin (Bin 6);
- Two (2) 100,000-bushel Storage Bins (Bins 7 and 8);
- One (1) 6,500-bushel Storage Bin (Bin 9);
- One (1) 450,000-bushel Storage Bin (Bin 10);

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Grain Screening:

One (1) 15,000 bushel/hour Texas Shaker Grain Screening Unit

Grain Drying:

One (1) 7,000 bushel/hour Propane-fired (72.9 mmBtu/Hr) Column Grain Dryer;

Grain Shipping Operation(s):

One (1) 20,000 bushel/hour Bay Truck Loadout - With Drop Socks;

Two (2) 18,000 bushel/hour Truck Loadouts - With Drop Socks (Bin 8 and Bin 10 Side Draw Spouts)

One (1) 60,000 bushel/hour Drag Conveyor (barge loadout) - With Telescoping Spout - Frac Sand will be loaded at 750 tons/hour (25,000 bushel/hour);

pursuant to the above-referenced application. This permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This federally enforceable state operating permit is issued to limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 100 tons/year for Particulate Matter less than 10 microns (PM₁₀)). As a result, the source is excluded from the requirements to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit, are described in Attachment A.
- b. Prior to initial issuance, a draft of this permit has undergone a public notice and comment period.
- c. This permit supersedes all operating permit(s) for this location.
- 2a. The Grain Screening Unit, Truck Receiving Pit(s), Barge Receiving (Clamshell), Enclosed Internal Transfer, Grain Storage Bin(s), Grain Drying, and Grain Shipping Operation(s) are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
- b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from the Grain Screening Unit(s), Truck Receiving Pit(s), Enclosed Internal Transfer, Grain Storage Bin(s), Grain Drying Unit(s), and Grain Shipping Operation(s) may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.
- c. This source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301,

no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.

- d. The handling of Frac Sand in Truck Dump Pit 1, Enclosed Internal Transfer, and Barge Load-out is subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).
- e. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
 E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

- f. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units for Which Construction of Modification Commenced On or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

- g. The Grain Screening, Truck Receiving Pit(s), Barge Receiving (Clamshell), Enclosed Internal Transfer, Grain Storage Bin(s), Grain Drying, and Grain Shipping Operation(s) are subject to 35 Ill. Adm. Code Part 212 Subpart S (Agriculture).
- h. Pursuant to 35 Ill. Adm. Code 212.463(a), unless otherwise exempted pursuant to 35 Ill. Adm. Code 212.461(c) or (d) or allowed to use alternate control according to 35 Ill. Adm. Code 212.461(g), grain-drying operations for which construction or modification commenced prior to June 30, 1975, with a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity (using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers) shall be operated in such a fashion as to preclude the emission of particulate matter larger than 300 microns mean particle diameter, shall apply for an operating permit pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the following:

Column Dryers. The largest effective circular diameter of transverse perforations in the external sheeting of a column dryer shall not exceed 0.094 inch, and the grain inlet and outlet shall be enclosed.

- i. Pursuant to 35 Ill. Adm. Code 212.463(d), grain-drying operations constructed or modified on or after June 30, 1975, shall file applications for construction and operating permits pursuant to 35 Ill. Adm. Code Part 201, and shall comply with the control equipment requirements of 35 Ill. Adm. Code 212.463, except for new and modified grain-drying operations which do not result in a total grain-drying capacity in excess of 750 bushels per hour for 5 percent moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineer Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers.
3. The Column Grain Dryer is subject to 35 Ill. Adm. Code Part 214 Subpart K (Process Emission Sources). Pursuant to 35 Ill. Adm. Code 214.301, except as further provided by 35 Ill. Adm. Code Part 214, no person shall cause or allow the emission of sulfur dioxide into the atmosphere from any process emission source to exceed 2000 ppm.
- 4a. This permit is issued based on the source not being subject to the New Source Performance Standards (NSPS) for Grain Elevators, 40 CFR 60 Subpart DD, because the permanent storage capacity is less than 88,100 m³ (ca. 2.5 million U.S. bushels).
- b. This permit is issued based on the source not being subject to the New Source Performance Standards (NSPS) for Nonmetallic Mineral Processing Plants, 40 CFR 60 Subpart 000, because the source does not meet the definition of nonmetallic mineral processing plant pursuant to 40 CFR 60.671.
5. This permit is issued based on the source not being subject to the National Emission Standards (NESHAP) for Area Sources: Prepared Feeds Manufacturing, 40 CFR 63 Subpart DDDDDDD because the source does not use a material containing chromium or a material containing manganese in the manufacturing of prepared feeds.
- 6a. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of this rule shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to this rule is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.
- b. This permit is issued based on the handling of grain in the Grain Screening Unit, Truck Dump Pits, Barge Receiving (Clamshell), Enclosed Internal Transfer, Column Grain Dryer, Truck Loadout, and Barge Loadout at this source not being subject to 35 Ill. Adm. Code Part 212 Subpart

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- L. Pursuant to 35 Ill. Adm. Code 212.461(a), 35 Ill. Adm. Code 212.302(a), 212.321, and 212.322 shall not apply to grain-handling and grain-drying operations, portable grain-handling equipment and one-turn storage space.
- c. This permit is issued based on the handling of grain in the Grain Screening Unit, Barge Receiving (Clamshell), Truck Dump Pits, Enclosed Internal Transfer, Truck Loadout, and Barge Loadout at this source not being subject to 35 Ill. Adm. Code 212.462 (Grain Handling Operations). Pursuant to Section 9(f) of the Illinois Environmental Protection Act (Act), any grain elevator located outside of a major population area, as defined in Section 211.3610 of Title 35 of the Illinois Administrative Code, shall be exempt from the requirements of 35 Ill. Adm. Code 212.462 provided that the elevator:
- i. Does not violate the prohibitions of Section 9(a) of the Act or have a certified investigation, as defined in 35 Ill. Adm. Code 211.970, on file with the Illinois EPA; and
 - ii. Is not required to obtain a Clean Air Act Permit Program permit pursuant to Section 39.5 of the Act. Notwithstanding the above exemption, new stationary source performance standards for grain elevators, established pursuant to Section 9.1 of the Act and Section 111 of the federal Clean Air Act, shall continue to apply to grain elevators.
- 7a. Housekeeping Practices. Pursuant to 35 Ill. Adm. Code 212.461(b), all grain-handling and grain-drying operations, regardless of size, must implement and use the following housekeeping practices:
- i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.
 - ii. Cleaning and Maintenance.
 - A. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
 - B. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
 - C. The yard and surrounding open area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.
 - iii. Dump Pit.
 - A. Aspiration equipment shall be maintained and operated.
 - B. Dust control devices shall be maintained and operated.

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- iv. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.
 - v. Property. The yard and driveway of any source shall be asphalted, oiled or equivalently treated to control dust.
 - vi. Housekeeping Check List. Housekeeping check lists to be developed by the Illinois EPA shall be completed by the manager and maintained on the premises for inspection by Illinois EPA personnel.
- 8a. The unloading, transferring, handling, and loading of frac sand shall only be done through Dump Pit 1 and associated equipment.
- b. This permit does not authorize physical changes to the facility to handle bulk materials. Any such physical change shall require a construction permit from the Illinois EPA.
 - c. This permit does not excuse the Permittee from obtaining other approvals that may be required from the Illinois EPA, Bureau of Land, or other state or federal agencies to handle a new dry bulk material.
 - d. The Permittee shall obtain a construction permit from the Illinois EPA prior to receipt and handling of a new bulk material. The application shall include, but not be limited to:
 - i. A description of the material to be handled;
 - ii. The estimated annual amount of material to be handled;
 - iii. Any additional work practices or control devices used to reduce emissions;
 - iv. A copy of a Material Safety Data Sheet (MSDS) for the material to be handled, if available;
 - v. Type(s) and description of emission control method(s) to be used, if any; and
 - vi. The estimated potential emissions from the receipt, storage, and handling of the proposed new material including an indication whether the receipt, storage and handling of the proposed new material will result in an exceedance of the throughput or emission limits in Condition 11 of this permit. If the throughput or emission limits in Condition 11 will be exceeded by the receipt of a new material, the construction permit application shall request new emission limits for the new material.
- 9a. In the event that the operation of this source results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in material or

- installation of controls, in order to eliminate the odor nuisance.
- b. The dust collector shall be in operation at all times when grain is received at the associated truck dump pits.
 - c. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the baghouses (CE-1, CE-2, CE-3, and CE-4) associated with Truck Dump Pits, Barge Unloading/Loadout, Internal Transfer, and Truck Loadout such that the baghouses (CE-1, CE-2, CE-3, and CE-4) are kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.
 - d. Each dump pit shall be inspected for proper operation while receiving is occurring, at least once each week (Monday through Sunday) when grain is received.
 - e. The column grain dryer shall only be operated with propane as the fuel. The use of any other fuel in the column grain dryer may require that the Permittee first obtain a construction permit from the Illinois EPA.
 - f. The column dryer shall be inspected for any leaks in the enclosures and proper condition of the external sheeting, on at least an annual basis prior to the harvest season.
 - g. The column dryer shall be inspected for visible emissions in the exhaust while drying is occurring, at least once each week when a dryer is operated.
 - h. The grain elevator shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed.
 - i. The grain screening unit shall be inspected for excessive discharge of material from the feed and discharge openings, at least once each week when the screener is operated.
 - j. Grain load-out socks, sleeves or equivalent devices shall be inspected for proper operation while load-out and receiving is occurring, at least once each week when grain load-out and receiving is performed.
- 10a. The amount of material handled by the source shall not exceed the following limits:
- i. The amount of grain received, that is, unloaded in the dump pit areas at the terminal shall not exceed 1,923,000 tons per year.
 - ii. The amount of grain shipped, that is, loaded into a vehicle in the load-out areas at the elevator shall not exceed 1,923,000 tons per year.
 - iii. The amount of grain dried shall not exceed 960,000 tons per year.

iv. The amount of grain received via barge shall not exceed 3,000 tons per year.

b. Emissions from and operation of the grain handling shall not exceed the following limits:

Emission Units	Grain Throughput		Emission Factor		Emissions			
	(T/Mo)	(T/Yr)	PM (lb/T)	PM ₁₀ (lb/T)	PM (T/Mo)	PM (T/Yr)	PM ₁₀ (T/Mo)	PM ₁₀ (T/Yr)
Truck Receiving Pits	243,000	1,923,000	0.18	0.059	2.19	17.31	0.72	5.67
Barge Receiving	3,000	3,000	0.15	0.038	0.23	0.23	0.06	0.06
Truck/Barge Load-out	243,000	1,923,000	0.086	0.029	5.22	41.34	1.76	13.94
Column Dryer	120,000	960,000	0.075	0.055	4.50	36.02	3.30	26.40
Grain Screening	240,000	1,920,000	0.061	0.034	0.81	6.44	0.45	3.59
Storage Bin Vents	603,000	3,843,000	0.025	0.0063	7.54	48.04	1.90	12.11
Enclosed Internal Transfer	963,000	7,683,000	0.061	0.034	2.94	<u>23.43</u>	1.64	<u>13.06</u>
Total:						172.81		74.83

These limits, with exception to the PM emissions factor for the column dryer, are based on standard emission factors (Table 9.9.1-9, AP-42, Fifth Edition, Volume 1, Update 2003, May 2003) and a control efficiency of 90% for the dust collector-controlled truck receiving dump pits, a control efficiency of 90% for the enclosed internal transfer, a control efficiency of 90% for the grain screening unit, and a control efficiency of 50% for truck load-outs with socks, and 50 percent efficiency for barge load-out with telescoping spout. The limit for PM for the column dryer is based on the manufacturer's emission factor. The throughputs are based on a weight of 60 pounds per bushel.

c. Emissions from and operation of the frac sand handling shall not exceed the following limits:

Emission Units	Frac Sand Throughput		Emission Factor		Emissions			
	(Ton/Mo)	(Ton/Yr)	PM* (lb/Ton)	PM ₁₀ ** (lb/Ton)	PM (Ton/Mo)	PM (Ton/Yr)	PM ₁₀ (Ton/Mo)	PM ₁₀ (Ton/Yr)
Truck Unloading (Pit 1)	43,750	350,000	0.013	0.0065	0.28	2.28	0.14	1.14
Barge Loading	43,750	350,000	0.013	0.0065	0.14	1.14	0.07	0.57
Material Handling	43,750	350,000	0.013	0.0065	0.03	<u>0.23</u>	0.01	<u>0.11</u>
Total:						3.65		1.82

These limits are based on a frac sand throughput of 350,000 tons per year received.

* Standard emission factor from AP-42, Fifth Edition, Volume I, Table

11.19.1-1 (sand handling, transfer, and storage with wet scrubber), Supplement A, November 1995.

** Emission factor scaled with CEIDARS PM2.5 Scaling Fraction Table for Mineral Process Loss, Loading and Unloading Bulk Materials. PM₁₀ fraction of Total PM is 0.5.

CEIDARS = California Emission Inventory Data and Reporting System

d. Emissions from and operation of the column grain dryer shall not exceed the following limits:

- i. Total Maximum Firing Rate: 72.9 mmBtu/hour
- ii. Propane Usage: 4,030,000 gallons/year
- iii. Emissions from the combustion of propane gas:

<u>Pollutant</u>	<u>Emission Factor (lbs/10³ gal)</u>	<u>E M I S S I O N S (lbs/Hr)</u>	<u>(Tons/Yr)</u>
Carbon Monoxide (CO)	7.5	6.05	15.11
Nitrogen Oxides (NO _x)	13.0	10.48	26.20
Particulate Matter (PM)	0.7	0.56	1.41
Particulate Matter (PM ₁₀)	0.7	0.56	1.41
Sulfur Dioxide (SO ₂)	0.054	0.04	0.11
Volatile Organic Matter (VOM)	1.0	0.81	2.02

iv. These limits are based on the maximum fuel usage of 4,030,000 gallons per year, 5,000 hours per year of operation, and standard emission factors (Table 1.5-1, AP-42, Fifth Edition, Volume 1, Updated, July 2008).

e. Compliance with the annual limits of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12-month total).

11a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:

i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective

until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.

- ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.
- b. Testing required by Condition 12 shall be performed upon a written request from the Illinois EPA by a qualified independent testing service.
- 12. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA, pursuant to 35 Ill. Adm. Code 212.110(c).
- 13. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- 14a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:
 - i. Records addressing use of good operating practices for the and column grain dryer and baghouses (CE-1, CE-2, CE-3, and CE-4) associated with Truck Dump Pits, Barge Unloading/Loadout, Internal Transfer, and Truck Loadout:
 - A. Records for periodic inspection of the baghouses (CE-1, CE-2, CE-3, and CE-4) and column grain dryer with date, individual performing the inspection, and nature of inspection; and
 - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
 - ii. Records of housekeeping check lists completed by the elevator

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manager.

- iii. Vendor recommendations at the facility and be available for inspection and copying by the Illinois EPA.
 - iv. Records for the inspections required by Conditions 9(d), (f), (g), (h), (i), and (j) with date, time and observations if such information is not incorporated in the housekeeping check list.
 - v. Amount of grain received in the Truck Dump Pits (tons/month and tons/year) running total of 12 months of data;
 - vi. Amount of frac sand received in Truck Dump Pit 1 (tons/month and tons/year) running total of 12 months of data;
 - vii. Grain dried, (tons/month and tons/year) running total of 12 months of data;
 - viii. Grain shipped, (tons/month and tons/year) running total of 12 months of data;
 - ix. Amount of grain screened (tons/month and tons/year) running total of 12 months of data;
 - x. Amount of grain received via barge (tons/month and tons/year);
 - xi. Frac sand shipped from the Barge Load-out, (tons/month and tons/year) running total of 12 months of data;
 - xii. Propane consumption of the column grain dryer (gallons/month and gallons/year); and
 - xiii. Monthly and annual CO, NO_x, PM and PM₁₀, SO₂, and VOM emissions from the source with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Condition 14(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be available for inspections and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.
15. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.

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- 16a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.
- b. One (1) copy of required reports and notifications shall be sent to:

Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276

Please note that this Permit has been revised so as to include the changes to Construction Permit #15070018 to address the addition of a grain screening unit, the addition of barge receiving operation, the increase of throughput for the enclosed internal transfer and storage bin vents, and the revision of the PM emission factor for the column dryer (manufacturer's emissions factor replacing AP-42 emissions factor).

If you have any questions on this permit, please contact Muhiedin Itani at 217/785-1705.

Raymond E. Pilapil
Manager, Permit Section
Bureau of Air

REP:MI:mlm

Attachment A - Emission Summary

This attachment provides a summary of the maximum emissions from the Grain Elevator operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from such a plant. The resulting maximum emissions are below the levels, (e.g., 100 tons/year for PM₁₀) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled, and control measures are more effective than required in this permit.

Emission Unit	E M I S S I O N S (Tons/Year)					
	CO	NO _x	PM	PM ₁₀	SO ₂	VOM
Truck Receiving Pits			17.31	5.67		
Barge Receiving			0.23	0.06		
Truck/Barge Load-out			41.34	13.94		
Column Dryer	15.11	26.20	37.43	27.81	0.11	2.02
Grain Screening Unit			6.44	3.59		
Storage Bin Vents			48.04	12.11		
Enclosed Internal Transfer			23.43	13.06		
Frac Sand Handling	--	--	3.65	1.82	--	--
Totals	15.11	26.20	177.87	78.06	0.11	2.02

REP:MI:mlm



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

STANDARD CONDITIONS
FOR
OPERATING PERMITS

May, 1993

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. The issuance of this permit does not release the Permittee from compliance with state and federal regulations which are part of the Illinois State Implementation Plan, as well as with other applicable statutes and regulations of the United States or the State of Illinois or with applicable local laws, ordinances and regulations.
2. The Illinois EPA has issued this permit based upon the information submitted by the Permittee in the permit application. Any misinformation, false statement or misrepresentation in the application shall be grounds for revocation under 35 Ill. Adm. Code 201.166.
3.
 - a. The Permittee shall not authorize, cause, direct or allow any modification, as defined in 35 Ill. Adm. Code 201.102, of equipment, operations or practices which are reflected in the permit application as submitted unless a new application or request for revision of the existing permit is filed with the Illinois EPA and unless a new permit or revision of the existing permit(s) is issued for such modification.
 - b. This permit only covers emission sources and control equipment while physically present at the indicated plant location(s). Unless the permit specifically provides for equipment relocation, this permit is void for an item of equipment on the day it is removed from the permitted location(s) or if all equipment is removed, notwithstanding the expiration date specified on the permit.
4. The Permittee shall allow any duly authorized agent of the Illinois EPA, upon the presentation of credentials, at reasonable times:
 - a. To enter the Permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. To have access to and to copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. To obtain and remove samples of any discharge or emission of pollutants; and
 - e. To enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring or recording any activity, discharge or emission authorized by this permit.
5. The issuance of this permit:
 - a. Shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are located;

- b. Does not release the Permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the facilities;
 - c. Does not take into consideration or attest to the structural stability of any unit or part of the project; and
 - d. In no manner implies or suggests that the Illinois EPA (or its officers, agents, or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. The facilities covered by this permit shall be operated in such a manner that the disposal of air contaminants collected by the equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 7. The Permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 8. The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.
 9. No person shall cause or allow continued operation during malfunction, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur, which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:
 - a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
 - b. Maintain the following records for a period of no less than two (2) years:
 - i. Date and duration of malfunction, breakdown, or startup,
 - ii. Full and detailed explanation of the cause,
 - iii. Contaminants emitted and an estimate of quantity of emissions,
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup, and
 - v. Measures taken to reduce future occurrences and frequency of incidents.
 10. If the permit application contains a compliance program and project completion schedule, the Permittee shall submit a project completion status report within thirty (30) days of any date specified in the compliance program and project completion schedule or at six month intervals, whichever is more frequent.
 11. The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT -- RENEWAL

PERMITTEE

Honeywell Analytics, Inc.
Attn: John Tiwet
405 Barclay Boulevard
Lincolnshire, Illinois 60069-3609

<u>Application No.:</u> 05110015	<u>I.D. No.:</u> 097095AAD
<u>Applicant's Designation:</u>	<u>Date Received:</u> August 12, 2022
<u>Subject:</u> Analytical Tape and Testing Materials for Employee Exposure Monitors	
<u>Date Issued:</u> January 26, 2023	<u>Expiration Date:</u> January 26, 2033
<u>Location:</u> 405 Barclay Boulevard, Lincolnshire, Lake County	

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of:

Twelve (12) Tape Processing Machines controlled by a Regenerative Thermal Oxidizer (RTO);
Solvent Mixing (uncontrolled);
Seven (7) Dravo Unit Heaters (0.2 or 0.15 mmBtu/hour);
Service Assembly Area (touch-up paint, cleaning solvent and adhesive); and
R & D Lab Hoods, Calibration Lab Hoods and Calibration Process

pursuant to the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This Federally Enforceable State Operating Permit (FESOP) is issued:
 - i. To limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 50 tons/year for Volatile Organic Material (VOM), 10 tons/year for any single Hazardous Air Pollutant (HAP), and 25 tons/year of any combination of such HAPs). As a result, the source is excluded from the requirement to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit, are described in Attachment A.
 - ii. To establish federally enforceable production and operating limitations, which restrict the potential to emit to less than 10 tons/year for any individual Hazardous Air Pollutant (HAP) and 25 tons/year of any combination of such HAPs so that the source is not subject to the requirements of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Paper and Other Web Coating, 40 CFR 63 Subpart JJJJ.
- b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.

- c. This permit supersedes all operating permit(s) for this location.
- 2a. The RTO associated with the Tape Processing Machines and Dravo Unit Heaters are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
- b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.
- c. This source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.
- d. The Tape Processing Machines are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).
- e. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

Metric

English

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	11.42	24.8
B	0.16	0.16

f. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units for Which Construction of Modification Commenced On or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

3. The RTO associated with the Tape Processing Machines and the Dravo Unit Heaters are subject to 35 Ill. Adm. Code Part 214 Subpart K (Process Emission Sources). Pursuant to 35 Ill. Adm. Code 214.301, except as further provided by 35 Ill. Adm. Code Part 214, no person shall cause or allow the emission of sulfur dioxide into the atmosphere from any process emission source to exceed 2000 ppm.
- 4a. The Tape Processing Machines are subject to 35 Ill. Adm. Code Part 218 Subpart F (Coating Operations). Pursuant to 35 Ill. Adm. Code 218.204(c)(2), except as provided in 35 Ill. Adm. Code 218.205, 218.207, 218.208, 218.212, 218.215 and 218.216, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for Paper Coating. Except as otherwise provided in 35 Ill. Adm. Code 218.204(a), (c), (g), (h), (j), (l), (n), (p), and (q), compliance with the emission limitations is required on and after March 15, 1996. The following emission limitations are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied at each coating applicator, except where noted. Compounds which are specifically exempted from the definition of VOM should be treated as water for the purpose of calculating the "less water" part of the coating composition. Compliance with 35 Ill. Adm. Code Part 218 Subpart F must be demonstrated through the applicable coating analysis test methods and procedures specified in 35 Ill. Adm. Code 218.105(a) and the recordkeeping and reporting requirements specified in 35 Ill. Adm. Code 218.211(c) except where noted. (Note: The equation presented in 35 Ill. Adm. Code 218.206 shall be used to calculate emission limitations for determining compliance by add on controls, credits for transfer efficiency, emissions trades and cross line averaging.) The emission limitations are as follows:

On and after May 1, 2011:	kg VOM/kg (lb VOM/lb)	kg VOM/kg (lb VOM/lb)
	solids applied	coatings applied

- | | | | |
|-----|--|------|---------|
| i. | Pressure sensitive tape and label surface coatings | 0.20 | (0.067) |
| ii. | All other paper coatings | 0.40 | (0.08) |
- b. Pursuant to 35 Ill. Adm. Code 218.207(a), any owner or operator of a coating line subject to 35 Ill. Adm. Code 218.204, except coating lines subject to 35 Ill. Adm. Code 218.204(q)(6), may comply with 35 Ill. Adm. Code 218.207, rather than with 35 Ill. Adm. Code 218.204, if a capture system and control device are operated at all times the coating line is in operation and the owner or operator demonstrates compliance with 35 Ill. Adm. Code 218.204(c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), or (n) (depending upon the source category) through the applicable coating analysis and capture system and control device efficiency test methods and procedures specified in 35 Ill. Adm. Code 218.105 and the recordkeeping and reporting requirements specified in 35 Ill. Adm. Code 218.211(e); and the control device is equipped with

the applicable monitoring equipment specified in 35 Ill. Adm. Code 218.105(d) and the monitoring equipment is installed, calibrated, operated and maintained according to vendor specifications at all times the control device is in use. A capture system and control device, which does not demonstrate compliance with 35 Ill. Adm. Code 218.204(c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), or (n) may be used as an alternative to compliance with 35 Ill. Adm. Code 218.204 only if the alternative is approved by the Illinois EPA and approved by the USEPA as a SIP revision.

- c. Pursuant to 35 Ill. Adm. Code 218.207(l), on and after May 1, 2011, no owner or operator of a paper coating line, metal furniture coating line, or large appliance coating line that is equipped with a capture system and control device shall operate the subject coating line unless either:
 - i. The capture system and control device provide at least 90 percent reduction in the overall emissions of VOM from the coating line; or
 - ii. The owner or operator complies with the applicable limitation set forth in 35 Ill. Adm. Code 218.204 by utilizing a combination of low-VOM coatings and a capture system and control device.
- d. The Solvent Mixing, Service Assembly Area, R & D Lab Hoods, Calibration Lab Hoods, and Calibration Process are subject to 35 Ill. Adm. Code Part 218 Subpart G (Use of Organic Material). Pursuant to 35 Ill. Adm. Code 218.301, no person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission source, except as provided in 35 Ill. Adm. Code 218.302, 218.303, or 218.304 and the following exception: If no odor nuisance exists the limitation of 35 Ill. Adm. Code Part 218 Subpart G shall apply only to photochemically reactive material.
5. This permit is issued based on the Tape Processing Machine at this source not being subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Paper and Other Web Coating, 40 CFR Part 63, Subpart JJJJ because this source is not a major source of HAP, as defined in 40 CFR 63.2. This is a result of the federally enforceable production and operating limitations, which restrict the potential to emit to less than 10 tons/year for any individual Hazardous Air Pollutant (HAP) and 25 tons/year of any combination of such HAPs.
6. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of 35 Ill. Adm. Code 212.314 shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to 35 Ill. Adm. Code Part 212 Subpart K is less than one hour, wind speed may be

averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.

- 7a. This permit is issued based on the use of cleaning solvents associated with the Solvent Mixing at this source not being subject to the material and control requirements under 35 Ill. Adm. Code 218.187 (Other Industrial Solvent Cleaning Operations). Pursuant to 35 Ill. Adm. Code 218.187(a)(1), on and after January 1, 2012:

Except as provided in 35 Ill. Adm. Code 218.187(a)(2), the requirements of 35 Ill. Adm. Code 218.187 shall apply to all cleaning operations that use organic materials at sources that emit a total of 226.8 kg per calendar month (500 lbs per calendar month) or more of VOM, in the absence of air pollution control equipment, from cleaning operations at the source other than cleaning operations identified in 35 Ill. Adm. Code 218.187(a)(2). For purposes of 35 Ill. Adm. Code 218.187, "cleaning operation" means the process of cleaning products, product components, tools, equipment, or general work areas during production, repair, maintenance, or servicing, including but not limited to spray gun cleaning, spray booth cleaning, large and small manufactured components cleaning, parts cleaning, equipment cleaning, line cleaning, floor cleaning, and tank cleaning, at sources with emission units.

- b. This permit is issued based on the use of cleaning solvents associated with the Tape Processing Machines, Service Assembly Area, R & D Lab Hoods, Calibration Lab Hoods and Calibration Process at this source not being subject to the material and control requirements under 35 Ill. Adm. Code 218.187 (Other Industrial Solvent Cleaning Operations). Pursuant to 35 Ill. Adm. Code 218.187(a)(2), On and after January 1, 2012:

Notwithstanding 35 Ill. Adm. Code 218.187(a)(1):

- i. The following cleaning operations shall be exempt from the requirements of 35 Ill. Adm. Code 218.187(b), (c), (d), (e), (f), and (g):
- A. Janitorial cleaning;
 - B. Stripping of cured coatings, inks, or adhesives;
- ii. Cleaning operations for emission units within the following categories shall be exempt from the requirements of 35 Ill. Adm. Code 218.187(b), (c), (d), (e), (f), and (g):
- Paper, film, and foil coating;
- iii. The following cleaning operations shall be exempt from the requirements of 35 Ill. Adm. Code 218.187(b), (c), (f), and (g):
- Cleaning conducted as part of performance laboratory tests on coatings, adhesives, or inks; research and development operations; or laboratory tests in quality assurance laboratories;

- c. This permit is issued based on the touch-up painting associated with the Service Assembly Area not being subject to 35 Ill. Adm. Code Part 218 Subpart F. Pursuant to 35 Ill. Adm. Code 218.204(q)(2), the limitations in 35 Ill. Adm. Code 218.204(q)(2) shall not apply to touch-up and repair coatings; stencil coats applied on clear or transparent substrates; clear or translucent coatings; coatings applied at a paint manufacturing facility while conducting performance tests on the coatings; any individual coating category used in volumes less than 189.2 liters (50 gallons) in any one calendar year, if the total usage of all such coatings does not exceed 756.9 liters (200 gallons) per calendar year per source and substitute compliant coatings are not available.
- d. This permit is issued based on the Tape Processing Machines at this source not being subject to 35 Ill. Adm. Code Part 218 Subpart G. Pursuant to 35 Ill. Adm. Code 218.209, no owner or operator of a coating line subject to the limitations of 35 Ill. Adm. Code 218.204 is required to meet the limitations of 35 Ill. Adm. Code Part 218 Subpart G (35 Ill. Adm. Code 218.301 or 218.302), after the date by which the coating line is required to meet 35 Ill. Adm. Code 218.204.
- e. The permit is issued based on the Solvent Mixing at this source not being subject to 35 Ill. Adm. Code Part 218 Subpart AA (Paint and Ink Manufacturing). Pursuant to 35 Ill. Adm. Code 218.620(b), 35 Ill. Adm. Code Part 218 Subpart AA shall also apply to all paint and ink manufacturing sources which:
 - i. Have the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from process emission units that are not regulated by 35 Ill. Adm. Code Part 218 Subparts B, E, F, H, Q, R, S, T (excluding 35 Ill. Adm. Code 218.486), V, X, Y, Z, or BB, or
 - ii. Produce more than 1,892,705 l (500,000 gal) per calendar year of paint or ink formulations which contain less than 10% (by weight) water, and ink formulations not containing as the primary solvents water, Magie oil or glycol.
- f. This permit is issued based on the Service Assembly Area at this source not being subject to 35 Ill. Adm. Code Part 218 Subpart JJ (Miscellaneous Industrial Adhesives). Pursuant to 35 Ill. Adm. Code 218.900(a), except as provided in 35 Ill. Adm. Code 218.900(b), on and after May 1, 2012, the requirements of 35 Ill. Adm. Code Part 218 Subpart JJ shall apply to miscellaneous industrial adhesive application operations at sources where the total actual VOM emissions from all such operations, including related cleaning activities, equal or exceed 6.8 kg/day (15 lbs/day), calculated in accordance with 35 Ill. Adm. Code 218.904(a)(1)(B), in the absence of air pollution control equipment
- g. The permit is issued based on the Solvent Mixing at this source not being subject to 35 Ill. Adm. Code Part 218 Subpart QQ (Miscellaneous Formulation Manufacturing Process) because the potential to emit of the emission units not regulated by 35 Ill. Adm. Code Part 218 Subpart F at

this source are less than 25 tons of VOM per year. Pursuant to 35 Ill. Adm. Code 218.940(b)(1)(A), a source is subject to 35 Ill. Adm. Code Part 218 Subpart QQ if it has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from emission units that are:

Not regulated by 35 Ill. Adm. Code Part 218 Subparts B, E, F, H, Q, R, S, T (excluding 35 Ill. Adm. Code 218.486), V, X, Y, Z, or BB .

- h. The permit is issued based on the Solvent Mixing at this source not being subject to 35 Ill. Adm. Code Part 218 Subpart RR (Miscellaneous Organic Chemical Manufacturing Processes) because the potential to emit of the emission units not regulated by 35 Ill. Adm. Code Part 218 Subpart F at this source are less than 25 tons of VOM per year. Pursuant to 35 Ill. Adm. Code 218.960(b)(1)(A), a source is subject to 35 Ill. Adm. Code Part 218 Subpart RR if it has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from emission units other than VOM leaks from components that are:

Not regulated by 35 Ill. Adm. Code Part 218 Subparts B, E, F, H, Q, R, S, T (excluding 35 Ill. Adm. Code 218.486), V, X, Y, Z, or BB.

- i. This permit is issued based on Solvent Mixing, Service Assembly Area, R & D Lab Hoods, Calibration Lab Hoods, and Calibration Process at this source not being subject to 35 Ill. Adm. Code 218 Subpart TT (Other Emission Units) because the potential to emit of the emission units not regulated by 35 Ill. Adm. Code Part 218 Subpart F at this source are less than 25 tons of VOM per year. Pursuant to 35 Ill. Adm. Code 218.980(b)(1)(A), a source is subject to 35 Ill. Adm. Code Part 218 Subpart TT if it has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from emission units, other than furnaces at glass container manufacturing sources and VOM leaks from components, that are:

Not regulated by 35 Ill. Adm. Code Part 218 Subparts B, E, F, H, Q, R, S, T, (excluding 35 Ill. Adm. Code 218.486), V, X, Y, Z, or BB.

- 8a. Pursuant to 35 Ill. Adm. Code 218.206, limitations in terms of kg (lbs) of VOM emissions per l (gal) of solids as applied at each coating applicator shall be determined by the following equation:

$$S = \frac{C}{1 - (C/D)}$$

where:

S = The limitation on VOM emissions in terms of kg VOM/l (lbs VOM/gal) of solids;

C = The limitation on VOM emissions in terms of kg/l (lbs/gal) of coating (minus water and any compounds which are specifically excluded from the definition of VOM) specified in 35 Ill. Adm. Code 218.204;

- D = The density of VOM in the coating. For the purposes of calculating S, the density is 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM)
- b. Pursuant to 35 Ill. Adm. Code 218.210(g), no owner or operator of a coating line subject to the emission limitations in 35 Ill. Adm. Code 218.204(c)(2), (g)(2), or (h)(2) shall operate that coating line on or after a date consistent with 35 Ill. Adm. Code 218.106(e), unless the owner or operator has complied with, and continues to comply with, 35 Ill. Adm. Code 218.204(c)(2), (g)(2), or (h)(2), as applicable, or the alternative control options in 35 Ill. Adm. Code 218.205 or 218.207, and all applicable requirements in 35 Ill. Adm. Code 218.211 and 218.218.
- c. Pursuant to 35 Ill. Adm. Code 218.218(a), on and after May 1, 2011, every owner or operator of a source subject to the requirements of 35 Ill. Adm. Code 218.204(c) shall:
- i. Store all VOM-containing cleaning materials in closed containers;
 - ii. Ensure that mixing and storage containers used for VOM-containing materials are kept closed at all times except when depositing or removing those materials;
 - iii. Minimize spills of VOM-containing cleaning materials;
 - iv. Convey VOM-containing cleaning materials from one location to another in closed containers or pipes; and
 - v. Minimize VOM emissions from the cleaning of storage, mixing, and conveying equipment.
- 9a. In the event that the operation of this emission unit results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in material or installation of controls, in order to eliminate the odor nuisance.
- b. The Regenerative Thermal Oxidizer (RTO) shall be in operation at all times when the associated dryers are in operation and emitting air contaminants.
- c. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the RTO associated with the Tape Processing Machines such that the RTO is kept in proper working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.
- d. The RTO combustion chamber shall be preheated to at least the manufacturer's recommended temperature but no less than the temperature at which compliance was demonstrated during the most recent performance test (1600°F). The 3-hour block average temperature shall be maintained at or above this level during operation of the associated tape processing machines.

- e. The RTO and Dravo Unit Heaters shall only be operated with natural gas as the fuel. The use of any other fuel in the RTO or the Dravo Unit Heaters may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.
- 10a. Emissions from and operation of the 12 Tape Processing Machines, including clean-up, with RTO control, shall not exceed the following limits:

VOM/HAP Material Usage		VOM Emissions		Single HAP Emissions (Methanol)		Combined HAPs Emissions	
(Tons/Mo)	(Tons/Yr)	(Tons/Mo)	(Tons/Yr)	(Tons/Mo)	(Tons/Yr)	(Tons/Mo)	(Tons/Yr)
20.5	205	0.41	4.10	0.41	4.10	0.41	4.10

These limits are based on the maximum operating rate, overall reduction of VOM emissions 98% (100% capture of the permanent total enclosure and 98% destruction of VOM which enters the oxidizer), and the 12 tape machine's clean-up solvents being applied within the permanent total enclosure, controlled by the RTO, and associated emissions are included in the limit above.

- b. Emissions from the combustion of natural gas for the RTO and Dravo Unit Heaters shall not exceed the following limits (combined):
 - i. Natural Gas Combusted: 2.58 mmscf/mo and 25.8 mmscf/yr
 - ii. Emissions from the combustion of natural gas:

<u>Pollutant</u>	Emission Factor (lbs/mmscf)	Emissions	
		(Tons/Mo)	(Tons/Yr)
Carbon Monoxide (CO)	84	0.11	1.08
Nitrogen Oxides (NO _x)	100	0.13	1.29
Particulate Matter (PM)	7.6	0.01	0.10
Sulfur Dioxide (SO ₂)	0.6	0.01	0.01
Volatile Organic Material (VOM)	5.5	0.01	0.07

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

- c. This permit is issued based on negligible emissions of Volatile Organic material (VOM) from the Service Assembly Area. For this purpose, VOM emissions shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 tons/year.
- d. This permit is issued based on negligible emissions of Volatile Organic Material (VOM) from the R&D Lab Hoods. For this purpose, VOM emissions shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 tons/year.

e. This permit is issued based on negligible emissions of Volatile Organic Material (VOM) from the Calibration Lab Hoods and Calibration Process. For this purpose, VOM emissions shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 tons/year from all such emission units combined.

f. Solvent mixing (uncontrolled) shall not exceed the following limits:

Solvent Mixed		Emission Factor (lb/lb)	VOM/Total HAP/Single HAP Emissions (Methanol)	
(Tons/Mo)	(Tons/Yr)		(Tons/Mo)	(Tons/Yr)
8.0	80.00	0.034	0.27	2.72

These limits are based on the maximum amount of solvent mixed and emission factors for Paint, Ink, and Other Coating Manufacturing from Emission Inventory Improvement Program (EIIP), Vol. II, Ch. 8 (February 1, 2005).

g. Compliance with the annual limits of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).

11a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:

i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.

ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.

- b. Testing required by Conditions 12 and 13 shall be performed upon a written request from the Illinois EPA by a qualified independent testing service.
- 12. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.
- 13. Pursuant to 35 Ill. Adm. Code 218.211(a), the VOM content of each coating and the efficiency of each capture system and control device shall be determined by the applicable test methods and procedures specified in 35 Ill. Adm. Code 218.105 to establish the records required under 35 Ill. Adm. Code 218.211.
- 14a. Pursuant to 35 Ill. Adm. Code 218.105(d)(2)(A)(i), an owner or operator:

That uses an afterburner or carbon adsorber to comply with any Section of 35 Ill. Adm. Code Part 218 shall use Illinois EPA and USEPA approved continuous monitoring equipment which is installed, calibrated, maintained, and operated according to vendor specifications at all times the control device is in use except as provided in 35 Ill. Adm. Code 218.105(d)(3). The continuous monitoring equipment must monitor the following parameters:

For each afterburner which does not have a catalyst bed, the combustion chamber temperature of each afterburner.

- b. Pursuant to 35 Ill. Adm. Code 218.105(d)(2)(B), an owner or operator:

Must install, calibrate, operate and maintain, in accordance with manufacturer's specifications, a continuous recorder on the temperature monitoring device, such as a strip chart, recorder or computer, having an accuracy of ± 1 percent of the temperature measured in degrees Celsius or $\pm 0.5^{\circ}\text{C}$, whichever is greater.
- 15. Pursuant to 40 CFR 63.10(b)(3), if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to section 112(d) or (f) of the Clean Air Act, and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under 40 CFR Part 63) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person

making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the USEPA and/or Illinois EPA to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of 40 CFR Part 63 for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with USEPA guidance materials published to assist sources in making applicability determinations under Section 112 of the Clean Air Act, if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under 40 CFR 63.10(b)(3) shall not by themselves create an obligation for the owner or operator to obtain a Title V permit.

16. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- 17a. Pursuant to 35 Ill. Adm. Code 218.187(e)(1)(B), the owner or operator of a source exempt from the limitations of 35 Ill. Adm. Code 218.187 because of the criteria in 35 Ill. Adm. Code 218.187(a)(1) shall comply with the following:

On and after January 1, 2012, collect and record the following information each month for each cleaning operation, other than cleaning operations identified in 35 Ill. Adm. Code 218.187(a)(2):

 - i. The name and identification of each VOM-containing cleaning solution as applied in each cleaning operation;
 - ii. The VOM content of each cleaning solution as applied in each cleaning operation;
 - iii. The weight of VOM per volume and the volume of each as-used cleaning solution; and
 - iv. The total monthly VOM emissions from cleaning operations at the source;
- b. Pursuant to 35 Ill. Adm. Code 218.187(e)(10), all records required by 35 Ill. Adm. Code 218.187(e) shall be retained by the source for at least three years and shall be made available to the Illinois EPA upon request.
- c. Pursuant to 35 Ill. Adm. Code 218.211(c)(2), any owner or operator of a coating line subject to the limitations of 35 Ill. Adm. Code 218.204 other than 35 Ill. Adm. Code 218.204(a)(1)(B), (a)(1)(C), (a)(2)(B), (a)(2)(C), or (a)(2)(D) and complying by means of 35 Ill. Adm. Code 218.204 shall comply with the following:

On and after a date consistent with 35 Ill. Adm. Code 218.106, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day, unless otherwise specified, for each coating line and maintain the information at the source for a period of three years:

- i. The name and identification number of each coating as applied on each coating line;
 - ii. The weight of VOM per volume of each coating (minus water and any compounds that are specifically exempted from the definition of VOM) as applied each day on each coating line;
 - iii. For coating lines subject to the limitations of 35 Ill. Adm. Code 218.204(c)(2), the weight of VOM per volume of each coating, or the weight of VOM per volume of solids in each coating, as applicable, as applied each day on each coating line, and certified product data sheets for each coating.
- d. Pursuant to 35 Ill. Adm. Code 218.211(e)(2), any owner or operator of a coating line subject to the limitations of 35 Ill. Adm. Code 218.207 and complying by means of 35 Ill. Adm. Code 218.207(c), (d), (e), (f), (g), (h), (l), (m), or (n) shall comply with the following:

On and after a date consistent with 35 Ill. Adm. Code 218.106, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:

- i. The weight of VOM per volume of coating solids as applied each day on each coating line, if complying pursuant to 35 Ill. Adm. Code 218.207(b)(2).
 - ii. Control device monitoring data.
 - iii. A log of the operating time for the capture system, control device, monitoring equipment and the associated coating line.
 - iv. A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.
- e. Pursuant to 35 Ill. Adm. Code 218.211(g)(3), on and after a date consistent with 35 Ill. Adm. Code 218.106(e), or on and after the initial startup date, whichever is later, the owner or operator of a coating line subject to the requirements of 35 Ill. Adm. Code 218.218 shall comply with the following:

Maintain at the source all records required by 35 Ill. Adm. Code 218.211(g) for a minimum of three years from the date the document was created and make those records available to the Illinois EPA upon request.

- f. Pursuant to 35 Ill. Adm. Code 218.904(a)(1)(B), the owner or operator of a source exempt from the limitations of 35 Ill. Adm. Code Part 218 Subpart JJ because of the criteria in 35 Ill. Adm. Code 218.900(a) shall comply with the following:

Collect and record the following information each month for each miscellaneous industrial adhesive application operation, maintain the information at the source for a period of three years, and provide the information to the Illinois EPA upon request:

- i. The name and identification number of each adhesive as applied by each miscellaneous industrial adhesive application operation; and
 - ii. The weight of VOM per volume and the volume of each adhesive (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each month by each miscellaneous industrial adhesive application operation;
- 18a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:
- i. Records addressing use of good operating practices for the RTO associated with the Tape Processing Machines:
 - A. Records for periodic inspection of the RTO with date, individual performing the inspection, and nature of inspection; and
 - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
 - ii. The total weight, and VOM and HAP content of material consumed by the tape processing machines for paper coating and clean-up operations (tons/month and tons/year).
 - iii. The total weight, and VOM and HAP content of uncontrolled solvent mixed (tons/month and tons/year).
 - iv. Natural gas usage for the RTO and Dravo Unit Heaters (mmscf/month and mmscf/year); and
 - v. Monthly and annual CO, NO_x, PM, SO₂, VOM, and HAP emissions from the source, with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Condition 18(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to the Illinois

EPA or USEPA request for records during the course of a source inspection.

19. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.
- 20a. Pursuant to 35 Ill. Adm. Code 218.187(e)(1)(C), the owner or operator of a source exempt from the limitations of 35 Ill. Adm. Code 218.187 because of the criteria in 35 Ill. Adm. Code 218.187(a)(1) shall comply with the following:

Notify the Illinois EPA of any record that shows that the combined emissions of VOM from cleaning operations at the source, other than cleaning operations identified in 35 Ill. Adm. Code 218.187(a)(2), ever equal or exceed 226.8 kg/month (500 lbs/month), in the absence of air pollution control equipment, within 30 days after the event occurs.

- b. Pursuant to 35 Ill. Adm. Code 218.211(c), any owner or operator of a coating line subject to the limitations of 35 Ill. Adm. Code 218.204 other than 35 Ill. Adm. Code 218.204(a)(1)(B), (a)(1)(C), (a)(2)(B), (a)(2)(C), or (a)(2)(D) and complying by means of 35 Ill. Adm. Code 218.204 shall comply with the following:
 - i. By a date consistent with 35 Ill. Adm. Code 218.106, or upon initial start-up of a new coating line, or upon changing the method of compliance from an existing subject coating line from 35 Ill. Adm. Code 218.205, 35 Ill. Adm. Code 218.207, 35 Ill. Adm. Code 218.215, or 35 Ill. Adm. Code 218.216 to 35 Ill. Adm. Code 218.204; the owner or operator of a subject coating line shall certify to the Illinois EPA that the coating line will be in compliance with 35 Ill. Adm. Code 218.204 on and after a date consistent with 35 Ill. Adm. Code 218.106, or on and after the initial start-up date. The certification shall include:
 - A. The name and identification number of each coating as applied on each coating line;
 - B. The weight of VOM per volume of each coating (minus water and any compounds that are specifically exempted from the definition of VOM) as applied each day on each coating line;
 - C. For coating lines subject to the limitations of 35 Ill. Adm. Code 218.204(c)(2), the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line;

- ii. On and after a date consistent with 35 Ill. Adm. Code 218.106, the owner or operator of a subject coating line shall notify the Illinois EPA in the following instances:
 - A. Any record showing violation of 35 Ill. Adm. Code 218.204 shall be reported by sending a copy of such record to the Illinois EPA within 30 days following the occurrence of the violation.
 - B. At least 30 calendar days before changing the method of compliance from 35 Ill. Adm. Code 218.204 to 35 Ill. Adm. Code 218.205 or 35 Ill. Adm. Code 218.207, the owner or operator shall comply with all requirements of 35 Ill. Adm. Code 218.211(d)(1) or (e)(1), as applicable. Upon changing the method of compliance from 35 Ill. Adm. Code 218.204 to 35 Ill. Adm. Code 218.205 or 35 Ill. Adm. Code 218.207, the owner or operator shall comply with all requirements of 35 Ill. Adm. Code 218.211(d) or (e), as applicable.
- c. Pursuant to 35 Ill. Adm. Code 218.211(e), any owner or operator of a coating line subject to the limitations of 35 Ill. Adm. Code 218.207 and complying by means of 35 Ill. Adm. Code 218.207(c), (d), (e), (f), (g), (h), (l), (m), or (n) shall comply with the following:
 - i. By a date consistent with 35 Ill. Adm. Code 218.106, or upon initial start-up of a new coating line, or upon changing the method of compliance for an existing coating line from 35 Ill. Adm. Code 218.204 or 35 Ill. Adm. Code 218.205 to 35 Ill. Adm. Code 218.207, the owner or operator of the subject coating line shall perform all tests and submit to the Illinois EPA the results of all tests and calculations necessary to demonstrate that the subject coating line will be in compliance with 35 Ill. Adm. Code 218.207 on and after a date consistent with 35 Ill. Adm. Code 218.106, or on and after the initial start-up date.
 - ii. On and after a date consistent with 35 Ill. Adm. Code 218.106, the owner or operator of a subject coating line shall notify the Illinois EPA in the following instances:
 - A. Any record showing violation of 35 Ill. Adm. Code 218.207 shall be reported by sending a copy of such record to the Illinois EPA within 30 days following the occurrence of the violation.
 - B. At least 30 calendar days before changing the method of compliance with 35 Ill. Adm. Code Part 218 Subpart F from 35 Ill. Adm. Code 218.207 to 35 Ill. Adm. Code 218.204 or 35 Ill. Adm. Code 218.205, the owner or operator shall comply with all requirements of 35 Ill. Adm. Code 218.211(c)(1) or (d)(1), respectively. Upon changing the method of compliance with 35 Ill. Adm. Code Part 218 Subpart F from 35 Ill. Adm. Code 218.207 to 35 Ill. Adm. Code 218.204 or 35 Ill. Adm. Code 218.205, the owner or

operator shall comply with all requirements of 35 Ill. Adm. Code 218.211(c) or (d), respectively.

- d. Pursuant to 35 Ill. Adm. Code 218.211(g)(2), on and after a date consistent with 35 Ill. Adm. Code 218.106(e), or on and after the initial startup date, whichever is later, the owner or operator of a coating line subject to the requirements of 35 Ill. Adm. Code 218.218 shall comply with the following:

Notify the Illinois EPA of any violation of 35 Ill. Adm. Code 218.218 by providing a description of the violation and copies of records documenting the violation to the Illinois EPA within 30 days following the occurrence of the violation;

- e. Pursuant to 35 Ill. Adm. Code 218.637(a), upon request by the Illinois EPA, the owner or operator of an emission source which claims to be exempt from the requirements of 35 Ill. Adm. Code Part 218 Subpart AA shall submit records to the Illinois EPA within 30 calendar days from the date of the request which document that the emission source is in fact exempt from 35 Ill. Adm. Code Part 218 Subpart AA. These records shall include (but are not limited to) the percent water (by weight) in the paint or ink being produced and the quantity of Magie oil, glycol and other solvents in the ink being produced.
- f. Pursuant to 35 Ill. Adm. Code 218.904(a)(3), the owner or operator of a source exempt from the limitations of 35 Ill. Adm. Code Part 218 Subpart JJ because of the criteria in 35 Ill. Adm. Code 218.900(a) shall comply with the following:

Notify the Illinois EPA of any record that shows that the combined emissions of VOM from miscellaneous industrial adhesive application operations at the source, including related cleaning activities, ever equal or exceed 6.8 kg/day (15 lbs/day), in the absence of air pollution control equipment, within 30 days after the event occurs, and provide copies of those records upon request by the Illinois EPA.

- g. Pursuant to 35 Ill. Adm. Code 218.990, upon request by the Illinois EPA, the owner or operator of an emission unit which is exempt from the requirements of 35 Ill. Adm. Code Part 218 Subparts PP, QQ, RR, TT or 35 Ill. Adm. Code 218.208(b) shall submit records to the Illinois EPA within 30 calendar days from the date of the request that document that the emission unit is exempt from those requirements.
- 21a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.

b. One (1) copy of required reports and notifications shall be sent to:

i. Via mail or overnight delivery:

Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276

ii. and electronically:

epa.boa.smu@illinois.gov

It should be noted that the 0.6 mmBtu/hour Natural Gas-Fired Boiler (Multi-Temp) and the 1.2 mmBtu/hour Natural Gas-Fired Boiler (Rite) are exempt from permitting, pursuant to 35 Ill. Adm. Code 201.146(d).

If you have any questions on this permit, please call Mohamed Otry at 217/785-1705.

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:MIO:tan

Attachment A - Emission Summary

This attachment provides a summary of the maximum emission of manufacturing of Analytical Tape and Testing Materials for Employee Exposure Monitors operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from the plant. The resulting maximum emissions are below the threshold levels (e.g., 50 tons/year for VOM, 10 tons/year for any single HAP, and 25 tons/year for any combination of such HAPs) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled, and control measures are more effective than required in this permit.

<u>Emission Unit</u>	E M I S S I O N S (Tons/Year)					Single	Combined
	<u>CO</u>	<u>NO_x</u>	<u>PM</u>	<u>SO₂</u>	<u>VOM</u>	<u>HAP</u>	<u>HAPs</u>
12 Tape Processing Machines					4.10	4.10	4.10
Natural Gas Combustion	1.08	1.29	0.10	0.01	0.07		
Service Assembly Area					0.44		
R & D Lab Hoods					0.44		
Calibration Lab Hood & Calibration Process					0.44		
Solvent Mixing	--	--	--	--	2.72	2.72	2.72
Totals	1.08	1.29	0.10	0.01	8.21	6.82	6.82

MIO:tan



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

STANDARD CONDITIONS
FOR
OPERATING PERMITS

May, 1993

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. The issuance of this permit does not release the Permittee from compliance with state and federal regulations which are part of the Illinois State Implementation Plan, as well as with other applicable statutes and regulations of the United States or the State of Illinois or with applicable local laws, ordinances and regulations.
2. The Illinois EPA has issued this permit based upon the information submitted by the Permittee in the permit application. Any misinformation, false statement or misrepresentation in the application shall be grounds for revocation under 35 Ill. Adm. Code 201.166.
3.
 - a. The Permittee shall not authorize, cause, direct or allow any modification, as defined in 35 Ill. Adm. Code 201.102, of equipment, operations or practices which are reflected in the permit application as submitted unless a new application or request for revision of the existing permit is filed with the Illinois EPA and unless a new permit or revision of the existing permit(s) is issued for such modification.
 - b. This permit only covers emission sources and control equipment while physically present at the indicated plant location(s). Unless the permit specifically provides for equipment relocation, this permit is void for an item of equipment on the day it is removed from the permitted location(s) or if all equipment is removed, notwithstanding the expiration date specified on the permit.
4. The Permittee shall allow any duly authorized agent of the Illinois EPA, upon the presentation of credentials, at reasonable times:
 - a. To enter the Permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. To have access to and to copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. To obtain and remove samples of any discharge or emission of pollutants; and
 - e. To enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring or recording any activity, discharge or emission authorized by this permit.
5. The issuance of this permit:
 - a. Shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are located;

- b. Does not release the Permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the facilities;
 - c. Does not take into consideration or attest to the structural stability of any unit or part of the project; and
 - d. In no manner implies or suggests that the Illinois EPA (or its officers, agents, or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. The facilities covered by this permit shall be operated in such a manner that the disposal of air contaminants collected by the equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 7. The Permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 8. The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.
 9. No person shall cause or allow continued operation during malfunction, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur, which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:
 - a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
 - b. Maintain the following records for a period of no less than two (2) years:
 - i. Date and duration of malfunction, breakdown, or startup,
 - ii. Full and detailed explanation of the cause,
 - iii. Contaminants emitted and an estimate of quantity of emissions,
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup, and
 - v. Measures taken to reduce future occurrences and frequency of incidents.
 10. If the permit application contains a compliance program and project completion schedule, the Permittee shall submit a project completion status report within thirty (30) days of any date specified in the compliance program and project completion schedule or at six month intervals, whichever is more frequent.
 11. The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.

217/785-1705

FEDERALLY ENFORCEABLE STATE OPERATING PERMIT - NSPS SOURCE -- RENEWAL

PERMITTEE

Ferrara Candy Company
Attn: Cesare Montefusco
2945 W 31st Street
Chicago, Illinois 60623

<u>Application No.:</u> 07080078	<u>I.D. No.:</u> 031600CAC
<u>Applicant's Designation:</u>	<u>Date Received:</u> July 22, 2022
<u>Subject:</u> Candy Production Plant	
<u>Date Issued:</u> January 18, 2023	<u>Expiration Date:</u> January 18, 2033
<u>Location:</u> 2945 W 31st Street, Chicago, Cook County, 60623	

Permit is hereby granted to the above-designated Permittee to OPERATE emission source(s) and/or air pollution control equipment consisting of:

Two (2) Stretched Fruit Lines (Lines 1 and 2);
Sugar pneumatic Conveying System;
Equipment and Working Areas Cleaning Operations;
Equipment and Working Areas Sanitizing Operations;
Sugar Bin Controlled by a Baghouse;
Sugar Bag Dump Controlled by a Baghouse;
Makat Mogul Controlled by a Baghouse;
Makat Dryer Controlled by a Baghouse;
Makat Cooler Controlled by a Filter;
NID1 Mogul Controlled by a Filter;
NID1 Dryer with Cooler Controlled by a Baghouse;
NID2 Mogul and Dryer with Cooler Controlled by Baghouse;
Sugar Storage Silo Controlled by a Dust Collector;
Delivery Hopper Controlled by a Dust Collector; and
Two (2) Natural Gas Fired Boilers (22.5 and 24.5 mmBtu/hour),

as described in the above-referenced application. This Permit is subject to standard conditions attached hereto and the following special condition(s):

- 1a. This Federally Enforceable State Operating Permit (FESOP) is issued:
 - i. To limit the emissions of air pollutants from the source to less than major source thresholds (i.e., 50 tons/year for Volatile Organic Material (VOM)). As a result, the source is excluded from requirements to obtain a Clean Air Act Permit Program (CAAPP) permit. The maximum emissions of this source, as limited by the conditions of this permit are described in Attachment A.

- ii. To establish federally enforceable production and operating limitations, which restrict the potential to emit for VOM to less than 25 tons per year so that the source is not subject to the requirements of 35 Ill. Adm. Code Part 218 Subpart TT (Other Emission Units).
 - b. Prior to issuance, a draft of this permit has undergone a public notice and comment period.
 - c. This permit supersedes all operating permit(s) for this location.
2. The two natural gas-fired boilers are subject to the New Source Performance Standard (NSPS) for Small Industrial-Commercial-Institutional Steam Generating Units, 40 CFR Part 60 Subparts A and Dc. The Illinois EPA is administering the NSPS in Illinois on behalf of the United States Environmental Protection Agency (USEPA) under a delegation agreement. Pursuant to 40 CFR 60.40c(a), except as provided in 40 CFR 60.40c(d), (e), (f), and (g), the affected facility to which 40 CFR 60 Subpart Dc applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million British thermal units per hour (mmBtu/hr)) or less, but greater than or equal to 2.9 MW (10 mmBtu/hr).
- 3a. The Stretched Fruit Lines 1 and 2, Sugar Pneumatic Conveying System, Sugar Bin, Sugar Bag Dump, Makat Mogul, Makat Dryer, Makat Cooler, NID1 Mogul, NID1 Dryer with Cooler, NID2 Mogul and Dryer with Cooler, Sugar Storage Silo, Delivery Hopper, and boilers are subject to 35 Ill. Adm. Code Part 212 Subpart B (Visible Emissions). Pursuant to 35 Ill. Adm. Code 212.123(a), no person shall cause or allow the emission of smoke or other particulate matter, with an opacity greater than 30 percent, into the atmosphere from any emission unit other than those emission units subject to 35 Ill. Adm. Code 212.122.
- b. Pursuant to 35 Ill. Adm. Code 212.123(b), the emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period.
 - c. The source is subject to 35 Ill. Adm. Code Part 212 Subpart K (Fugitive Particulate Matter). Pursuant to 35 Ill. Adm. Code 212.301, no person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.

- d. Pursuant to 35 Ill. Adm. Code 212.302(a), 35 Ill. Adm. Code 212.304 through 212.310 and 212.312 shall apply to all mining operations (SIC major groups 10 through 14), manufacturing operations (SIC major groups 20 through 39 except for those operations subject to 35 Ill. Adm. Code Part 212 Subpart S (Grain-Handling and Grain-Drying Operations) that are outside the areas defined in 35 Ill. Adm. Code 212.324(a)(1)), and electric generating operations (SIC group 491), which are located in the areas defined by the boundaries of the following townships, notwithstanding any political subdivisions contained therein, as the township boundaries were defined on October 1, 1979, in the following counties:

Cook: All townships

- e. The Stretched Fruit Lines, Sugar pneumatic Conveying System, Sugar Bin, Sugar Bag Dump, Makat Mogul, Makat Dryer, Makat Cooler, NID1 Mogul, NID1 Dryer with Cooler, NID2 Mogul and Dryer with Cooler, Sugar Storage Silo, and Delivery Hopper are subject to 35 Ill. Adm. Code Part 212 Subpart L (Particulate Matter Emissions from Process Emission Units). Pursuant to 35 Ill. Adm. Code 212.321(a), except as further provided in 35 Ill. Adm. Code Part 212, no person shall cause or allow the emission of particulate matter into the atmosphere in any one hour period from any new process emission unit which, either alone or in combination with the emission of particulate matter from all other similar process emission units for which construction or modification commenced on or after April 14, 1972, at a source or premises, exceeds the allowable emission rates specified in 35 Ill. Adm. Code 212.321(c).
- f. Pursuant to 35 Ill. Adm. Code 212.321(b), interpolated and extrapolated values of the data in 35 Ill. Adm. Code 212.321(c) shall be determined by using the equation:

$$E = A(P)^B$$

where:

P = Process weight rate; and
 E = Allowable emission rate; and,

- i. Up to process weight rates of 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr
A	1.214	2.54
B	0.534	0.534

- ii. For process weight rate greater than or equal to 408 Mg/hr (450 T/hr):

	Metric	English
P	Mg/hr	T/hr
E	kg/hr	lbs/hr

	Metric	English
A	11.42	24.8
B	0.16	0.16

- g. Pursuant to 35 Ill. Adm. Code 212.321(c), Limits for Process Emission Units For Which Construction or Modification Commenced On or After April 14, 1972:

Metric		English	
P	E	P	E
Mg/hr	kg/hr	T/hr	lbs/hr
0.05	0.25	0.05	0.55
0.1	0.29	0.10	0.77
0.2	0.42	0.20	1.10
0.3	0.64	0.30	1.35
0.4	0.74	0.40	1.58
0.5	0.84	0.50	1.75
0.7	1.00	0.75	2.40
0.9	1.15	1.00	2.60
1.8	1.66	2.00	3.70
2.7	2.1	3.00	4.60
3.6	2.4	4.00	5.35
4.5	2.7	5.00	6.00
9.	3.9	10.00	8.70
13.	4.8	15.00	10.80
18.	5.7	20.00	12.50
23.	6.5	25.00	14.00
27.	7.1	30.00	15.60
32.	7.7	35.00	17.00
36.	8.2	40.00	18.20
41.	8.8	45.00	19.20
45.	9.3	50.00	20.50
90.	13.4	100.00	29.50
140.	17.0	150.00	37.00
180.	19.4	200.00	43.00
230.	22.	250.00	48.50
270.	24.	300.00	53.00
320.	26.	350.00	58.00
360.	28.	400.00	62.00
408.	30.1	450.00	66.00
454.	30.4	500.00	67.00

where:

P = Process weight rate in metric or T/hr, and
 E = Allowable emission rate in kg/hr or lbs/hr.

4. The two natural gas-fired boilers are subject to 35 Ill. Adm. Code Part 216 Subpart B (Fuel Combustion Emission Sources). Pursuant to 35 Ill. Adm. Code 216.121, no person shall cause or allow the emission of carbon monoxide (CO) into the atmosphere from any fuel combustion emission source with actual heat input greater than 2.9 MW (10 mmBtu/hr) to exceed 200 ppm, corrected to 50 percent excess air.
- 5a. The use of cleaning solvents associated with the cleaning operations and sanitizing operations at this source are subject to 35 Ill. Adm.

Code 218 Subpart E (Solvent Cleaning). Pursuant to 35 Ill. Adm. Code 218.187(a)(1), on and after January 1, 2012:

Except as provided in 35 Ill. Adm. Code 218.187(a)(2), the requirements of 35 Ill. Adm. Code 218.187 shall apply to all cleaning operations that use organic materials at sources that emit a total of 226.8 kg per calendar month (500 lbs per calendar month) or more of VOM, in the absence of air pollution control equipment, from cleaning operations at the source other than cleaning operations identified in 35 Ill. Adm. Code 218.187(a)(2). For purposes of 35 Ill. Adm. Code 218.187, "cleaning operation" means the process of cleaning products, product components, tools, equipment, or general work areas during production, repair, maintenance, or servicing, including but not limited to spray gun cleaning, spray booth cleaning, large and small manufactured components cleaning, parts cleaning, equipment cleaning, line cleaning, floor cleaning, and tank cleaning, at sources with emission units;

- b. Pursuant to 35 Ill. Adm. Code 218.187(b), no owner or operator of a source subject to 35 Ill. Adm. Code 218.187, other than manufacturers of coatings, inks, adhesives, or resins, shall perform any cleaning operation subject to 35 Ill. Adm. Code 218.187 unless the owner or operator meets the requirements in 35 Ill. Adm. Code 218.187(b)(1), (b)(2), or (b)(3). No owner or operator of a source that manufactures coatings, inks, adhesives, or resins shall perform any cleaning operation subject to 35 Ill. Adm. Code 218.187 unless the owner or operator meets the requirements in at least one of the following subsections: 35 Ill. Adm. Code 218.187(b)(1), (b)(2), (b)(3), (b)(4), or (b)(5).

- i. The VOM content of the as-used cleaning solutions does not exceed the following emissions limitations:

	<u>kg/l</u>	<u>lb/gal</u>
All other cleaning operations not subject to a specific limitation in 35 Ill. Adm. Code 218.187(b)(1)(A) through (b)(1)(D)	0.050	0.42

- ii. The VOM composite vapor pressure of each as-used cleaning solution used does not exceed 8.0 mmHg measured at 20°C (68°F);

- c. The Stretched Fruit Lines 1 and 2, Makat Mogul, N1d1 Mogul, and N1D2 Mogul are subject to 35 Ill. Adm. Code Part 218 Subpart G (Use of Organic Material). Pursuant to 35 Ill. Adm. Code 218.301, no person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission unit, except as provided in 35 Ill. Adm. Code 218.302, 218.303, or 218.304 and the following exception: If no odor nuisance exists the limitation of 35 Ill. Adm. Code Part 218 Subpart G shall apply only to photochemically reactive material.

- 6a. This permit is issued based on the natural gas-fired boilers at this source not being subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Industrial, Commercial, and

Institutional Boilers and Process Heaters, 40 CFR 63 Subpart DDDDD because this source is not or is part of, a major source of HAP as defined in 40 CFR 63.2.

- b. This permit is issued based on the natural gas-fired boilers at this source not being subject to the NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources, 40 CFR 63 Subpart JJJJJJ. Pursuant to 40 CFR 63.11195(e), a gas-fired boiler as defined in 40 CFR 63 Subpart JJJJJJ are not subject to 40 CFR 63 Subpart JJJJJJ and to any requirements in 40 CFR 63 Subpart JJJJJJ.
- 7a. Pursuant to 35 Ill. Adm. Code 212.314, 35 Ill. Adm. Code 212.301 shall not apply and spraying pursuant to 35 Ill. Adm. Code 212.304 through 212.310 and 35 Ill. Adm. Code 212.312 shall not be required when the wind speed is greater than 40.2 km/hr (25 mph). Determination of wind speed for the purposes of 35 Ill. Adm. Code 212.314 shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to 35 Ill. Adm. Code Part 212 Subpart K is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.
8. This permit is issued based on the Stretched Fruit Lines 1 and 2, Makat Mogul, N1d1 Mogul, and N1D2 Mogul at this source not being subject to the requirements of 35 Ill. Adm. Code Part 218 Subpart TT (Other Emission Units) because the potential to emit of the source is less than 22.7 Mg (25 tons) of VOM per year, in aggregate, from emission units that are not regulated by 35 Ill. Adm. Code Part 218 Subparts B, E, F, H, Q, R, S, T (excluding 35 Ill. Adm. Code 218.486), V, X, Y, Z, or BB. This is a result of the federally enforceable production and operating limitations, which restrict the maximum theoretical emissions to less than 90.7 Mg (100 tons) of VOM per calendar year in the absence of air pollution control equipment and the potential to emit for VOM of potentially affected emission units to less than 25 tons/year.
9. Pursuant to 40 CFR 60.11(d), at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Illinois EPA or USEPA which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
- 10a. Pursuant to 35 Ill. Adm. Code 212.306, all normal traffic pattern access areas surrounding storage piles specified in 35 Ill. Adm. Code 212.304 and all normal traffic pattern roads and parking facilities which are located on mining or manufacturing property shall be paved or treated with water, oils or chemical dust suppressants. All paved areas shall be cleaned on a regular basis. All areas treated with

water, oils or chemical dust suppressants shall have the treatment applied on a regular basis, as needed, in accordance with the operating program required by 35 Ill. Adm. Code 212.309, 212.310 and 212.312.

- b. Pursuant to 35 Ill. Adm. Code 212.307, all unloading and transporting operations of materials collected by pollution control equipment shall be enclosed or shall utilize spraying, pelletizing, screw conveying or other equivalent methods.
- c. Pursuant to 35 Ill. Adm. Code 212.309(a), the emission units described in 35 Ill. Adm. Code 212.304 through 212.308 and 35 Ill. Adm. Code 212.316 shall be operated under the provisions of an operating program, consistent with the requirements set forth in 35 Ill. Adm. Code 212.310 and 212.312, and prepared by the owner or operator and submitted to the Illinois EPA for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.
- d. Pursuant to 35 Ill. Adm. Code 212.310, as a minimum the operating program shall include the following:
 - i. The name and address of the source;
 - ii. The name and address of the owner or operator responsible for execution of the operating program;
 - iii. A map or diagram of the source showing approximate locations of storage piles, conveyor loading operations, normal traffic pattern access areas surrounding storage piles and all normal traffic patterns within the source;
 - iv. Location of unloading and transporting operations with pollution control equipment;
 - v. A detailed description of the best management practices utilized to achieve compliance with 35 Ill. Adm. Code Part 212 Subpart K, including an engineering specification of particulate collection equipment, application systems for water, oil, chemicals and dust suppressants utilized and equivalent methods utilized;
 - vi. Estimated frequency of application of dust suppressants by location of materials; and
 - vii. Such other information as may be necessary to facilitate the Illinois EPA's review of the operating program.
- e. The Fugitive Particulate Operating Program, as submitted by the Permittee pursuant to 35 Ill. Adm. Code 212.309 on May 6, 2020, is incorporated herein by reference. The source shall be operated under and shall comply with the provisions of this Fugitive Particulate Operating Program and any amendments to the Fugitive Particulate Operating Program submitted pursuant to Condition 10(c).

- f. Pursuant to 35 Ill. Adm. Code 212.312, the operating program shall be amended from time to time by the owner or operator so that the operating program is current. Such amendments shall be consistent with 35 Ill. Adm. Code Part 212 Subpart K and shall be submitted to the Illinois EPA within thirty (30) days of such amendment. Any future revision to the Fugitive Particulate Operating Program made by the Permittee during the permit term is automatically incorporated by reference provided the revision is not expressly disapproved, in writing, by the Illinois EPA. In the event that the Illinois EPA notifies the Permittee of a deficiency with any revision to the Fugitive Particulate Operating Program, the Permittee shall be required to revise and resubmit the Fugitive Particulate Operating Program within thirty (30) days of receipt of notification to address the deficiency.
- 11a. Pursuant to 35 Ill. Adm. Code 218.187(c), the owner or operator of a subject source shall demonstrate compliance with 35 Ill. Adm. Code 218.187 by using the applicable test methods and procedures specified in 35 Ill. Adm. Code 218.187(g) and by complying with the recordkeeping and reporting requirements specified in 35 Ill. Adm. Code 218.187(e).
- b. Pursuant to 35 Ill. Adm. Code 218.187(d), the owner or operator of a source subject to the requirements of 35 Ill. Adm. Code 218.187 shall comply with the following for each subject cleaning operation. Such requirements are in addition to work practices set forth in 35 Ill. Adm. Code 218.187(b)(4) and (b)(5), as applicable:
 - i. Cover open containers and properly cover and store applicators used to apply cleaning solvents;
 - ii. Minimize air circulation around the cleaning operation;
 - iii. Dispose of all used cleaning solutions, cleaning towels, and applicators used to apply cleaning solvents in closed containers; and
 - iv. Utilize equipment practices that minimize emissions.
- 12a. In the event that the operation of this source results in an odor nuisance, the Permittee shall take appropriate and necessary actions to minimize odors, including but not limited to, changes in raw material or installation of controls, in order to eliminate the nuisance.
- b. The Permittee shall, in accordance with the manufacturer(s) and/or vendor(s) recommendations, perform periodic maintenance on the baghouse associated with the Sugar Bin, the baghouse associated with the Sugar Bag Dump, the baghouse associated with the Makat Mogul, the baghouse associated with the Makat Dryer, the filter associated with the Makat Cooler, the filter associated with the NID1 Mogul, the baghouse associated with the NID1 Dryer, the baghouse associated with the NID2 Mogul and Dryer, the dust collector associated with the Sugar Storage Silo and the dust collector associated with the Delivery Hopper such that the baghouses, filters, and dust collectors are kept in proper

working condition and not cause a violation of the Illinois Environmental Protection Act or regulations promulgated therein.

- c. The two boilers at this source shall only be operated with natural gas as the fuel. The use of any other fuel in the boilers may require that the Permittee first obtain a construction permit from the Illinois EPA and perform stack testing to verify compliance with all applicable requirements.

- 13a. Emissions from and operation of Stretched Fruit Lines 1 and 2 shall not exceed the following limits:

Production Rate		VOM Emissions	
<u>(Tons/Month)</u>	<u>(Tons/Year)</u>	<u>(Tons/Month)</u>	<u>(Tons/Year)</u>
300	3,000	1.26	12.60

These limits are based on the maximum material usage, the maximum VOM content of the materials usage, and the use of a mass balance to calculate emissions.

- b. Emissions from and operation of the Makat Mogul, N1d1 Mogul, N1D2 Mogul, cleaning operations, and sanitizing operations shall not exceed the following limits:

VOM Usage		VOM Emissions	
<u>(Tons/Month)</u>	<u>(Tons/Year)</u>	<u>(Tons/Month)</u>	<u>(Tons/Year)</u>
1.12	11.2	1.12	11.20

These limits are based on the maximum material usage, the maximum VOM content of the materials usage, and the use of a mass balance to calculate emissions.

- c. Emissions from and operations of the two natural gas fired boilers shall not exceed the following limits:

- i. Natural Gas Usage: 40.0 mmscf/month, 400 mmscf/year (combined)
- ii. Emissions from the combustion of natural gas:

<u>Pollutant</u>	Emission Factor <u>(lb/mmscf)</u>	Emissions	
		<u>(Tons/Mo)</u>	<u>(Tons/Yr)</u>
Carbon Monoxide (CO)	84.0	1.68	16.80
Nitrogen Oxides (NO _x)	100.0	2.00	20.00
Particulate Matter (PM)	7.6	0.15	1.52
Sulfur Dioxide (SO ₂)	0.6	0.01	0.12
Volatile Organic Materials (VOM)	5.5	0.11	1.10

These limits are based on the maximum fuel usage and standard emission factors (Tables 1.4-1 and 1.4-2, AP-42, Fifth Edition, Volume I, Supplement D, July 1998).

- d. This permit is issued based on negligible emissions of Particulate Matter (PM) from each Stretched Fruit Lines, Sugar pneumatic Conveying System, Sugar Bin, Sugar Bag Dump, Makat Mogul, Makat Dryer, Makat Cooler, NID1 Mogul, NID1 Dryer with Cooler, NID2 Mogul and Dryer with Cooler, Sugar Storage Silo, and Delivery Hopper. For this purpose, PM emissions from each emission unit shall not exceed nominal emission rates of 0.1 lb/hour and 0.44 ton/year.
 - e. Compliance with the annual limits of this permit shall be determined on a monthly basis from the sum of the data for the current month plus the preceding 11 months (running 12 month total).
14. This permit is issued based on the Potential to Emit (PTE) for Hazardous Air Pollutants (HAPs) as listed in Section 112(b) of the Clean Air Act from this source being less than 10 tons/year of any single HAP and 25 tons/year of any combination of such HAPs. As a result, this permit is issued based on the emissions of all HAPs from this source not triggering the requirements to obtain a CAAPP Permit from the Illinois EPA.
- 15a. Pursuant to 35 Ill. Adm. Code 201.282, every emission source or air pollution control equipment shall be subject to the following testing requirements for the purpose of determining the nature and quantities of specified air contaminant emissions and for the purpose of determining ground level and ambient air concentrations of such air contaminants:
- i. Testing by Owner or Operator. The Illinois EPA may require the owner or operator of the emission source or air pollution control equipment to conduct such tests in accordance with procedures adopted by the Illinois EPA, at such reasonable times as may be specified by the Illinois EPA and at the expense of the owner or operator of the emission source or air pollution control equipment. The Illinois EPA may adopt procedures detailing methods of testing and formats for reporting results of testing. Such procedures and revisions thereto, shall not become effective until filed with the Secretary of State, as required by the APA Act. All such tests shall be made by or under the direction of a person qualified by training and/or experience in the field of air pollution testing. The Illinois EPA shall have the right to observe all aspects of such tests.
 - ii. Testing by the Illinois EPA. The Illinois EPA shall have the right to conduct such tests at any time at its own expense. Upon request of the Illinois EPA, the owner or operator of the emission source or air pollution control equipment shall provide, without charge to the Illinois EPA, necessary holes in stacks or ducts and other safe and proper testing facilities, including scaffolding, but excluding instruments and sensing devices, as may be necessary.

- b. Testing required by Conditions 16 and 17 shall be performed upon a written request from the Illinois EPA by a qualified independent testing service.
16. Pursuant to 35 Ill. Adm. Code 212.110(c), upon a written notification by the Illinois EPA, the owner or operator of a particulate matter emission unit subject to 35 Ill. Adm. Code Part 212 shall conduct the applicable testing for particulate matter emissions, opacity, or visible emissions at such person's own expense, to demonstrate compliance. Such test results shall be submitted to the Illinois EPA within thirty (30) days after conducting the test unless an alternative time for submittal is agreed to by the Illinois EPA.
- 17a. Pursuant to 35 Ill. Adm. Code 218.187(g)(1), testing to demonstrate compliance with the requirements of 35 Ill. Adm. Code 218.187 shall be conducted by the owner or operator within 90 days after a request by the Illinois EPA, or as otherwise specified in 35 Ill. Adm. Code 218.187. Such testing shall be conducted at the expense of the owner or operator and the owner or operator shall notify the Illinois EPA in writing 30 days in advance of conducting the testing to allow the Illinois EPA to be present during the testing;
- b. Pursuant to 35 Ill. Adm. Code 218.187(g)(2), testing to demonstrate compliance with the VOM content limitations in 35 Ill. Adm. Code 218.187(b)(1), and to determine the VOM content of cleaning solvents and cleaning solutions, shall be conducted as follows:
 - i. The applicable test methods and procedures specified in 35 Ill. Adm. Code 218.105(a) shall be used; provided, however, Method 24 shall be used to demonstrate compliance; or
 - ii. The manufacturer's specifications for VOM content for cleaning solvents may be used if such manufacturer's specifications are based on results of tests of the VOM content conducted in accordance with methods specified in 35 Ill. Adm. Code 218.105(a); provided, however, Method 24 shall be used to determine compliance. In the event of any inconsistency between a Method 24 test and the manufacturer's specifications, the Method 24 test shall govern;
 - c. Pursuant to 35 Ill. Adm. Code 218.187(g)(3), testing to determine the VOM composite partial vapor pressure of cleaning solvents, cleaning solvent concentrates, and as-used cleaning solutions shall be conducted in accordance with the applicable methods and procedures specified in 35 Ill. Adm. Code 218.110;
- 18a. Pursuant to 40 CFR 60.7(b), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

- b. Pursuant to 40 CFR 60.7(f), any owner or operator subject to the provisions of 40 CFR Part 60 shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least two years following the date of such measurements, maintenance, reports, and records, except as follows:

The Illinois EPA or USEPA, upon notification to the source, may require the owner or operator to maintain all measurements as required by 40 CFR 60.7(f), if the Illinois EPA or USEPA determines these records are required to more accurately assess the compliance status of the affected source.

- 19a. i. Pursuant to 40 CFR 60.48c(g)(1), except as provided under 40 CFR 60.48c(g)(2) and (g)(3), the owner or operator of each affected facility shall record and maintain records of the amount of each fuel combusted during each operating day.
- ii. Pursuant to 40 CFR 60.48c(g)(2), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility that combusts only natural gas, wood, fuels using fuel certification in 40 CFR 60.48c(f) to demonstrate compliance with the SO₂ standard, fuels not subject to an emissions standard (excluding opacity), or a mixture of these fuels may elect to record and maintain records of the amount of each fuel combusted during each calendar month.
- iii. Pursuant to 40 CFR 60.48c(g)(3), as an alternative to meeting the requirements of 40 CFR 60.48c(g)(1), the owner or operator of an affected facility or multiple affected facilities located on a contiguous property unit where the only fuels combusted in any steam generating unit (including steam generating units not subject to 40 CFR 60 Subpart Dc) at that property are natural gas, wood, distillate oil meeting the most current requirements in 40 CFR 60.42c to use fuel certification to demonstrate compliance with the SO₂ standard, and/or fuels, excluding coal and residual oil, not subject to an emissions standard (excluding opacity) may elect to record and maintain records of the total amount of each steam generating unit fuel delivered to that property during each calendar month.
- b. Pursuant to 40 CFR 60.48c(i), all records required under 40 CFR 60.48 shall be maintained by the owner or operator of the affected facility for a period of two years following the date of such record.
20. Pursuant to 40 CFR 63.10(b)(3), if an owner or operator determines that his or her stationary source that emits (or has the potential to emit, without considering controls) one or more hazardous air pollutants regulated by any standard established pursuant to section 112(d) or (f)

of the Clean Air Act, and that stationary source is in the source category regulated by the relevant standard, but that source is not subject to the relevant standard (or other requirement established under 40 CFR Part 63) because of limitations on the source's potential to emit or an exclusion, the owner or operator must keep a record of the applicability determination on site at the source for a period of 5 years after the determination, or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the owner or operator believes the source is unaffected (e.g., because the source is an area source). The analysis (or other information) must be sufficiently detailed to allow the USEPA and/or Illinois EPA to make a finding about the source's applicability status with regard to the relevant standard or other requirement. If relevant, the analysis must be performed in accordance with requirements established in relevant subparts of 40 CFR Part 63 for this purpose for particular categories of stationary sources. If relevant, the analysis should be performed in accordance with USEPA guidance materials published to assist sources in making applicability determinations under Section 112 of the Clean Air Act, if any. The requirements to determine applicability of a standard under 40 CFR 63.1(b)(3) and to record the results of that determination under 40 CFR 63.10(b)(3) shall not by themselves create an obligation for the owner or operator to obtain a Title V permit.

21. Pursuant to 35 Ill. Adm. Code 212.110(e), the owner or operator of an emission unit subject to 35 Ill. Adm. Code Part 212 shall retain records of all tests which are performed. These records shall be retained for at least three (3) years after the date a test is performed.
- 22a. Pursuant to 35 Ill. Adm. Code 218.187(e)(3), all sources complying with 35 Ill. Adm. Code 218.187 pursuant to the requirements of 35 Ill. Adm. Code 218.187(b)(1) shall collect and record the following information for each cleaning solution used:
 - i. For each cleaningsolution that is prepared at the source with automatic equipment:
 - A. The name and identification of each cleaning solution;
 - B. The VOM content of each cleaning solvent in the cleaning solution;
 - C. Each change to the setting of the automatic equipment, with date, time, description of changes in the cleaning solution constituents (e.g., cleaning solvents), and a description of changes to the proportion of cleaning solvent and water (or other non-VOM);
 - D. The proportion of each cleaning solvent and water (or other non-VOM) used to prepare the as-used cleaning solution;

- E. The VOM content of the as-used cleaning solution, with supporting calculations; and
 - F. A calibration log for the automatic equipment, detailing periodic checks.
 - ii. For each batch of cleaning solution that is not prepared at the source with automatic equipment:
 - A. The name and identification of each cleaning solution;
 - B. Date, time of preparation, and each subsequent modification of the batch;
 - C. The VOM content of each cleaning solvent in the cleaning solution;
 - D. The total amount of each cleaning solvent and water (or other non-VOM) used to prepare the as-used cleaning solution; and
 - E. The VOM content of the as-used cleaning solution, with supporting calculations. For cleaning solutions that are not prepared at the site but are used as purchased, the manufacturer's specifications for VOM content may be used if such manufacturer's specifications are based on results of tests of the VOM content conducted in accordance with methods specified in 35 Ill. Adm. Code 218.105(a).
 - b. Pursuant to 35 Ill. Adm. Code 218.187(e)(4), all sources complying with 35 Ill. Adm. Code 218.187 pursuant to the requirements of 35 Ill. Adm. Code 218.187(b)(2) shall collect and record the following information for each cleaning solution used:
 - i. The name and identification of each cleaning solution;
 - ii. Date, time of preparation, and each subsequent modification of the batch;
 - iii. The molecular weight, density, and VOM composite partial vapor pressure of each cleaning solvent, as determined in accordance with the applicable methods and procedures specified in 35 Ill. Adm. Code 218.110;
 - iv. The total amount of each cleaning solvent used to prepare the as-used cleaning solution; and
 - v. The VOM composite partial vapor pressure of each as-used cleaning solution, as determined in accordance with the applicable methods and procedures specified in 35 Ill. Adm. Code 218.110.
 - c. Pursuant to 35 Ill. Adm. Code 218.187(e)(10), all records required by 35 Ill. Adm. Code 218.187(e) shall be retained by the source for at

least three years and shall be made available to the Illinois EPA upon request.

- 23a. The Permittee shall maintain records of the following items so as to demonstrate compliance with the conditions of this permit:
- i. Records addressing use of good operating practices for the baghouse associated with the Sugar Bin, the baghouse associated with the Sugar Bag Dump, the baghouse associated with the Makat Mogul, the baghouse associated with the Makat Dryer, the filter associated with the NID1 Mogul, the baghouse associated with the NID1 Dryer, the baghouse associated with the NID2 Mogul and Dryer, the dust collectors associated with the Sugar Storage Silo and the dust collector associated with the Delivery Hopper:
 - A. Records for periodic inspection of the baghouses, filters, and dust collectors with date, individual performing the inspection, and nature of inspection; and
 - B. Records for prompt repair of defects, with identification and description of defect, effect on emissions, date identified, date repaired, and nature of repair.
 - ii. The Permittee shall keep a copy of the Fugitive Particulate Operating Program, any amendments or revisions to the Fugitive Particulate Operating Program, and the Permittee shall also keep a record of activities completed according to the Fugitive Particulate Operating Program.
 - iii. Production rate of Stretched Fruit Lines 1 and 2 (tons/month and tons/year);
 - iv. Name and amount of VOM containing products used in the candy manufacturing process (tons/month and tons/year);
 - v. Amount of VOM containing products used in the cleaning and sanitizing operations (gallons/month and gallons/year);
 - vi. VOM content and density of the VOM containing products used in the cleaning and sanitizing operations (lbs/gallon and % by weight);
 - vii. Natural gas usage of the boilers (mmscf/month and mmscf/year);
 - viii. Sugar Usage (tons/month and tons/year); and
 - ix. Monthly and annual CO, NO_x, PM, SO₂, and VOM emissions from the source, with supporting calculations (tons/month and tons/year).
- b. All records and logs required by Conditions 23(a) of this permit shall be retained at a readily accessible location at the source for at least five (5) years from the date of entry and shall be made available for inspection and copying by the Illinois EPA or USEPA upon request. Any records retained in an electronic format (e.g., computer storage

device) shall be capable of being retrieved and printed on paper during normal source office hours so as to be able to respond to an Illinois EPA or USEPA request for records during the course of a source inspection.

24. Pursuant to 40 CFR 60.7(a)(4), any owner or operator subject to the provisions of 40 CFR Part 60 shall furnish the Illinois EPA or USEPA written notification or, if acceptable to both the Illinois EPA and USEPA and the owner or operator of a source, electronic notification, as follows:

A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 40 CFR 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Illinois EPA or USEPA may request additional relevant information subsequent to this notice.

25. Pursuant to 35 Ill. Adm. Code 212.110(d), a person planning to conduct testing for particulate matter emissions to demonstrate compliance shall give written notice to the Illinois EPA of that intent. Such notification shall be given at least thirty (30) days prior to the initiation of the test unless a shorter period is agreed to by the Illinois EPA. Such notification shall state the specific test methods from 35 Ill. Adm. Code 212.110 that will be used.

- 26a. Pursuant to 35 Ill. Adm. Code 218.187(e)(2)(B), all sources subject to the requirements of 35 Ill. Adm. Code 218.187 shall:

At least 30 calendar days before changing the method of compliance between 35 Ill. Adm. Code 218.187(b)(1), (b)(2), (b)(4), or (b)(5) and 35 Ill. Adm. Code 218.187(b)(3), notify the Illinois EPA in writing of such change. The notification shall include a demonstration of compliance with the newly applicable subsection;

- b. Pursuant to 35 Ill. Adm. Code 218.187(e)(9), all sources subject to the requirements of 35 Ill. Adm. Code 218.187(b) and (d) shall notify the Illinois EPA of any violation of 35 Ill. Adm. Code 218.187(b) or (d) by providing a description of the violation and copies of records documenting the violation to the Illinois EPA within 30 days following the occurrence of the violation.
- c. Pursuant to 35 Ill. Adm. Code 218.990, upon request by the Illinois EPA, the owner or operator of an emission unit which is exempt from the requirements of 35 Ill. Adm. Code Part 218 Subparts PP, QQ, RR, TT or 35 Ill. Adm. Code 218.208(b) shall submit records to the Illinois EPA within 30 calendar days from the date of the request that document that the emission unit is exempt from those requirements.

27a. If there is an exceedance of or a deviation from the requirements of this permit as determined by the records required by this permit or otherwise, the Permittee shall submit a report to the Illinois EPA's Bureau of Air Compliance Section in Springfield, Illinois within thirty (30) days after the exceedance or deviation. The report shall identify the duration and the emissions impact of the exceedance or deviation, a copy of the relevant records and information to resolve the exceedance or deviation, and a description of the efforts to reduce emissions from, and the duration of exceedance or deviation, and to prevent future occurrences of any such exceedance or deviation.

b. One (1) copy of required reports and notifications shall be sent to:

i. Via mail or overnight delivery:

Illinois Environmental Protection Agency
Bureau of Air
Compliance Section (#40)
P.O. Box 19276
Springfield, Illinois 62794-9276

ii. and electronically:

epa.boa.smu@illinois.gov

If you have any questions on this permit, please contact Jason Selling at 217/785-1705.

William D. Marr
Manager, Permit Section
Bureau of Air

WDM:JAS:tan

Attachment A - Emissions Summary

This attachment provides a summary of the maximum emissions from candy manufacturing operating in compliance with the requirements of this federally enforceable permit. In preparing this summary, the Illinois EPA used the annual operating scenario which results in maximum emissions from such a plant. The resulting maximum emissions are well below the levels (e.g., 50 tons/year for VOM) at which this source would be considered a major source for purposes of the Clean Air Act Permit Program. Actual emissions from this source will be less than predicted in this summary to the extent that less material is handled, and control measures are more effective than required in this permit.

<u>Emission Unit</u>	E M I S S I O N S (Tons/Year)				
	<u>CO</u>	<u>NO_x</u>	<u>PM</u>	<u>SO₂</u>	<u>VOM</u>
Two (2) Stretched Fruit Lines Makat Mogul, NID1 Mogul, NID2 Mogul, Equipment & Working Areas Cleaning Operations and Sanitizing Operations					12.60
Material handling Equipment			6.60		11.20
Two (2) Boilers	<u>16.80</u>	<u>20.00</u>	<u>1.52</u>	<u>0.12</u>	<u>1.10</u>
Totals:	16.80	20.00	8.12	0.12	24.90

JAS:tan



STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF AIR POLLUTION CONTROL
P. O. BOX 19506
SPRINGFIELD, ILLINOIS 62794-9506

STANDARD CONDITIONS
FOR
OPERATING PERMITS

May, 1993

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111-1/2, Section 1039) grants the Environmental Protection Agency authority to impose conditions on permits which it issues.

The following conditions are applicable unless superseded by special condition(s).

1. The issuance of this permit does not release the Permittee from compliance with state and federal regulations which are part of the Illinois State Implementation Plan, as well as with other applicable statutes and regulations of the United States or the State of Illinois or with applicable local laws, ordinances and regulations.
2. The Illinois EPA has issued this permit based upon the information submitted by the Permittee in the permit application. Any misinformation, false statement or misrepresentation in the application shall be grounds for revocation under 35 Ill. Adm. Code 201.166.
3.
 - a. The Permittee shall not authorize, cause, direct or allow any modification, as defined in 35 Ill. Adm. Code 201.102, of equipment, operations or practices which are reflected in the permit application as submitted unless a new application or request for revision of the existing permit is filed with the Illinois EPA and unless a new permit or revision of the existing permit(s) is issued for such modification.
 - b. This permit only covers emission sources and control equipment while physically present at the indicated plant location(s). Unless the permit specifically provides for equipment relocation, this permit is void for an item of equipment on the day it is removed from the permitted location(s) or if all equipment is removed, notwithstanding the expiration date specified on the permit.
4. The Permittee shall allow any duly authorized agent of the Illinois EPA, upon the presentation of credentials, at reasonable times:
 - a. To enter the Permittee's property where actual or potential effluent, emission or noise sources are located or where any activity is to be conducted pursuant to this permit;
 - b. To have access to and to copy any records required to be kept under the terms and conditions of this permit;
 - c. To inspect, including during any hours of operation of equipment constructed or operated under this permit, such equipment and any equipment required to be kept, used, operated, calibrated and maintained under this permit;
 - d. To obtain and remove samples of any discharge or emission of pollutants; and
 - e. To enter and utilize any photographic, recording, testing, monitoring or other equipment for the purpose of preserving, testing, monitoring or recording any activity, discharge or emission authorized by this permit.
5. The issuance of this permit:
 - a. Shall not be considered as in any manner affecting the title of the premises upon which the permitted facilities are located;

- b. Does not release the Permittee from any liability for damage to person or property caused by or resulting from the construction, maintenance, or operation of the facilities;
 - c. Does not take into consideration or attest to the structural stability of any unit or part of the project; and
 - d. In no manner implies or suggests that the Illinois EPA (or its officers, agents, or employees) assumes any liability, directly or indirectly, for any loss due to damage, installation, maintenance, or operation of the proposed equipment or facility.
6. The facilities covered by this permit shall be operated in such a manner that the disposal of air contaminants collected by the equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 7. The Permittee shall maintain all equipment covered under this permit in such a manner that the performance of such equipment shall not cause a violation of the Environmental Protection Act or regulations promulgated thereunder.
 8. The Permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. These records shall be made available to any agent of the Environmental Protection Agency at any time during normal working hours and/or operating hours. At a minimum, this record shall show the dates of performance and nature of preventative maintenance activities.
 9. No person shall cause or allow continued operation during malfunction, breakdown or startup of any emission source or related air pollution control equipment if such operation would cause a violation of an applicable emission standard or permit limitation. Should a malfunction, breakdown or startup occur, which results in emissions in excess of any applicable standard or permit limitation, the Permittee shall:
 - a. Immediately report the incident to the Illinois EPA's Regional Field Operations Section Office by telephone, telegraph or other method as constitutes the fastest available alternative, and shall comply with all reasonable directives of the Illinois EPA with respect to the incident;
 - b. Maintain the following records for a period of no less than two (2) years:
 - i. Date and duration of malfunction, breakdown, or startup,
 - ii. Full and detailed explanation of the cause,
 - iii. Contaminants emitted and an estimate of quantity of emissions,
 - iv. Measures taken to minimize the amount of emissions during the malfunction, breakdown or startup, and
 - v. Measures taken to reduce future occurrences and frequency of incidents.
 10. If the permit application contains a compliance program and project completion schedule, the Permittee shall submit a project completion status report within thirty (30) days of any date specified in the compliance program and project completion schedule or at six month intervals, whichever is more frequent.
 11. The Permittee shall submit an Annual Emission Report as required by 35 Ill. Adm. Code 201.302 and 35 Ill. Adm. Code Part 254.

EXHIBIT L

ILLINOIS POLLUTION CONTROL BOARD

July 20, 2006

MIDWEST GENERATION, LLC, WILL)	
COUNTY GENERATING STATION,)	
)	
Petitioner,)	
)	
v.)	PCB 06-156
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by A.S. Moore):

Petitioner Midwest Generation, LLC, Will County Generating Station (Midwest) filed an appeal contesting various conditions placed in a construction permit issued on March 3, 2006, by the Illinois Environmental Protection Agency (Agency). In its appeal, Midwest requested that the Board grant a partial stay of the construction permit by staying 14 specified contested conditions. In its reply to the Agency's response to its request, Midwest submitted an edited permit identifying the specific contested language within each condition that is truly the basis for its appeal and request for stay.

Today, the Board is not ruling on the merits of the construction permit appeal but instead addresses Midwest's request for a partial stay. For the reasons below, the Board grants Midwest's request for a partial stay consistent with the edited permit filed by Midwest, as modified by this order.

PROCEDURAL BACKGROUND

On April 7, 2006, Midwest filed an appeal (Pet.) contesting conditions contained in a construction permit issued to it by the Agency on March 3, 2006. In its petition for review, Midwest requested that the Board stay the effectiveness of fourteen specified contested conditions. In an April 20, 2006 order, the Board accepted the petition for hearing but reserved ruling on the request for a partial stay.

On April 25, 2006, the Agency filed a response (Resp.) opposing Midwest's request for a stay. On May 12, 2006, Midwest filed a motion for leave to file a reply and its reply to the Agency's response (Reply). On May 26, 2006, the Agency filed a motion for leave to file a surreply and its surreply (Sur.).

The Board has not received a response to either motion for leave to file. The Board grants both motions for leave to file and has reviewed all filings submitted to it.

FACTUAL BACKGROUND

The Will County Generating Station (Station) is an electric generating station owned by Midwest Generation, LLC, and operated by Midwest. Pet. at 1-2. The Station, located at 529 East 135th Road, Romeoville, Will County, went online between 1955 and 1963 and is an intermediate load plant capable of generating approximately 1100 megawatts. Pet. at 2.

At the Station, Midwest operates four coal-fired boilers and associated coal handling, coal processing, and ash handling activities. Pet. at 2. Midwest crushes and prepares coal in a breaker building and then sends coal through conveyors to bunkers. *Id.* From the bunkers, Midwest transfers coal through pulverizers, which further reduce coal size. *Id.* Midwest then blows pulverized coal into its boilers. *Id.*

The Station is situated within the Chicago nonattainment areas for ozone and particulate matter less than 2.5 microns in aerodynamic diameter (PM_{2.5}), and it “is a major source subject to the Clean Air Act Permitting Program (CAAPP).” Pet. at 2. On September 29, 2005, the Agency issued Midwest a CAAPP permit for the Station. *Id.* On November 2, 2005, Midwest appealed that CAAPP permit to the Board. *Id.*; see Midwest Generation, LLC, Will County Generating Station v. IEPA, PCB 06-60. In determining Midwest’s request for a stay of the CAAPP permit, the Board found that the automatic stay provisions of the Administrative Procedure Act (5 ILCS 100/10-65(b) (2004)) effectively stay Midwest’s CAAPP permit by operation of law. Midwest Generation, LLC, Will County Generating Station v. IEPA, PCB 06-60, slip op. at 7 (Feb. 16, 2006); see also Borg-Warner Corp. v. Mauzy, 427 N.E.2d 415 (3rd Dist. 1981).

Midwest has historically controlled emissions from its bunkers at the Station through the use of baghouses or rotoclones with water spray. Pet. at 3. Midwest sought the construction permit at issue in this proceeding in order to construct and operate wet dust extractor control devices as replacements for the rotoclones. *Id.* A dust extractor creates negative pressure inside the bunkers so that it can capture dust-laden air created by drops from the conveyors and by withdrawal of coal from the bunkers. *Id.* “The dust/air/water mixture passes through a mesh panel, which separates the dust particles in the air stream.” *Id.*

Midwest intended to install wet dust extractors during a planned outage beginning March 4, 2006, and Midwest submitted its construction permit application to the Agency on February 2, 2006. *Id.* On March 3, 2006, the Agency issued a construction permit including various conditions. Pet. at 3; see Pet., Exh. 1.

PETITIONER’S REQUEST FOR STAY

Midwest states that, in the course of discussing its construction permit with the Agency, it “learned that the Agency intended to include provisions that mirrored language that has been appealed in the CAAPP permit issued to Will County.” Pet. at 3, see Midwest Generation, LLC, Will County Generating Station v. IEPA, PCB 06-60. Midwest further states that it asked the Agency to remove from the construction permit the language it had contested in its CAAPP

permit appeal but the Agency declined to do so. *Id.*, citing Pet., Exh. 2 (e-mail correspondence between Midwest and Agency).

Midwest notes that condition 11 of the construction permit provides “[t]he affected operations may be operated with the new control systems pursuant to this construction permit until an operating permit becomes effective that addresses operation of these operations with the new control systems.” Pet. at 4, 6 n.3, citing Pet., Exh. 1 at 10. Midwest concludes from this language that “the operating conditions included in the construction permit will roll into the CAAPP permit when it becomes effective.” Pet. at 4. Midwest argues that, even if it must obtain an operating permit for its wet dust extractors while the CAAPP permit appeal is pending, the Agency will ultimately have to include the language of that permit in the CAAPP permit. Pet. at 6 n.3.

Midwest notes the Board may in a separate appeal strike contested conditions from the Station’s CAAPP permit. Pet. at 4. Midwest argues that it “will suffer irreparable harm” if these contested conditions remain in the construction permit and then carry forward into the CAAPP permit when it becomes effective. Pet. at 4. “Inclusion of such language in the construction permit effectively denies Midwest Generation its statutory right to its appeal of the CAAPP permit unless the Board stays the contested language.” *Id.*

Arguing the Board has historically granted petitioners’ requests for partial stays in permit appeals (Pet. at 4 (citations omitted)), Midwest requests that the Board grant a partial stay of the construction permit by staying contested conditions 2, 5(a)(1), 5(a)(ii)(b), 5(b)(i), 6(a)(i)(A), 6(a)(ii)(A), 6(b), 7(a), 7(d)(ii), 7(d)(vii), 9(a), 9(a)(ii), 9(b)(i)(A), and 9(b)(ii). Pet. at 5.

AGENCY’S RESPONSE TO REQUEST FOR STAY

The Agency states “the Board should evaluate Petitioner’s stay request by looking to the traditional factors frequently considered by the Board in prior proceedings.” Resp. at 4 (citations omitted). In a case cited by the Agency, the Board has stated that, “[i]n determining whether a discretionary stay is appropriate, the Board may refer to four factors: (1) a certain and clearly ascertainable right needs protection; (2) irreparable injury will occur without the stay; (3) no adequate remedy at law exists; and (4) there is a probability of success on the merits.” Resp. at 4, citing Bridgestone/Firestone Off-Road Tire Company v. IEPA, PCB 02-31, slip op. at 3 (Nov. 1, 2001); *see also* Community Landfill Company and City of Morris v. IEPA, PCB 01-48, 01-49, slip op. at 4 (Oct. 19, 2000).

The Agency acknowledges that Midwest’s request presents some of these traditional factors: “the Petitioner should not be required to expend significant costs, or run the risk that its appeal rights be cut short, in complying with the contested conditions of the permit prior to a Board ruling on the merits of the appeal.” Resp. at 5. The Agency continues by stating that, while the Board should review stay requests on a case-by-case basis, it generally favors stays limited to conditions contested by the permittee. *Id.*

Nonetheless, the Agency concludes that it cannot support Midwest's request because it is overly broad. Pet. at 5. "Petitioner's stay request would unnecessarily afford stay protection to matters unrelated to the substance of the appeal." *Id.*

The Agency claims that Midwest's request with regard to Condition 5(a)(1) is one example of this overbreadth. Resp. at 5. In its entirety, that condition provides

The Permittee shall perform inspection of the affected operation at least once per month, including the associated control measures, while the affected operations are in use, to confirm compliance with the requirements of this permit. These inspections shall be performed with personnel not directly involved in the day-to-day operation of the affected operations.

The Agency argues that Midwest's petition for review does not specifically challenge the inspections themselves as required by the first sentence of this condition but only challenges the type of personnel performing the required inspections as described in the second sentence. Resp. at 5, citing Pet. at 7-8. The Agency suggests that a stay of the entire condition would allow Midwest to avoid complying with a part of that condition to which it has not objected. *See* Resp. at 5-6. Consequently, the Agency states in its response that it cannot support Midwest's request for a stay. Resp. at 7.

PETITIONER'S REPLY TO AGENCY'S RESPONSE

Midwest states the same four traditional factors as the Agency that the Board considers in determining whether to grant a stay. Reply at 6. Without waiving its claims to a partial stay on other statutory grounds, Midwest argues that the four traditional factors favor granting its requested stay. *Id.* First, Midwest argues that its certain and clearly ascertainable statutory right to appeal conditions in its CAAPP would be "undercut" if the Board does not stay the contested conditions in the construction permit. Reply at 6. Second, Midwest claims that, if the Board does not grant a stay, it would suffer irreparable injury. Midwest "would be required to implement measures that are under appeal in Docket PCB 06-60 and upon which the Board has not yet rendered a decision." Reply at 6-7. Midwest suggests that that Agency shares its position on this factor because the Agency has acknowledged that Midwest "should not be required to expend significant costs, or run the risk that its appeal rights might be cut short, in complying with the contested conditions of the permit prior [to] a Board ruling on the merits of the appeal." Reply at 7, citing Resp. at 5 (§ 11). Third, Midwest claims that, outside the Board, it does not have an adequate remedy at law. Reply at 7. Finally, Midwest believes it has a probability of success on the merits of its appeal. *Id.*

In at least some cases, Midwest accepts the Agency's characterization that Midwest "objects to only certain limited provisions contained within the conditions and not the entire condition in all cases." Reply at 7. Midwest states that "[i]dentifying only the specific language that is objectionable appeared to be a level of detail that exceeded the scope of what was appropriate for inclusion in the Petition for Appeal, though it is a level of detail that would be addressed in a hearing on the matter." Reply at 8.

Consequently, Midwest “is agreeable to a ‘surgical stay’ of only certain portions of some of the identified conditions.” Reply at 8. As Exhibit 1 of its reply, Midwest attached an edited permit that strikes “the language that is objectionable and that is truly the object of Midwest Generation’s appeal.” *Id.*; see Reply, Exh. 1. Midwest does state that it cannot indicate the language in condition 9(b)(i) that it seeks to stay simply by striking it. Reply at 8. In its entirety, Midwest’s edited condition 9(b)(i)(A) provides:

The Permittee shall immediately notify the Illinois EPA’s Regional Office, by telephone (voice, facsimile or electronic) for each incident in which the opacity from an affected operation exceeds ~~or may have exceeded~~ the applicable opacity standard for five or more 6-minute averaging periods. ~~Otherwise, if opacity during a malfunction or breakdown incident only exceeds or may have exceeded the applicable standard for no more than five consecutive 6-minute averaging periods, the Permittee need only report the incident in accordance with Condition 9(b)(ii).~~ Reply, Exh. 1 at 8.

Midwest states it “will interpret the condition to imply that the five six-minute periods identified in the condition are consecutive, even though the word consecutive is not included in the condition.” *Id.*

AGENCY’S SURREPLY

Noting that Midwest has indicated it is agreeable to a partial stay and that Midwest has submitted to the Board an edited version striking the specific conditions to which it objects, the Agency states that it “is prepared to accept the Petitioner’s attachment as an accurate representation of conditions currently being challenged on appeal.” Sur. at 6.

The Agency notes that it is troubled by Midwest’s approach in addressing condition 9(b)(i)(A). Sur. at 6. In its petition for review, Midwest argues that the condition is internally inconsistent because the word “consecutive” should appear in the phrase “five or more 6-minute averaging periods” in the first sentence just as that word appears in the next sentence regarding opacity during a malfunction or breakdown incident. See Pet. at 12. “Otherwise, the reporting requirement could be triggered by any five random six-minute averaging periods of opacity greater than the limitation.” *Id.*

The Agency states that, if Midwest believes that the word “consecutive” should appear in the first sentence of condition 9(b)(i)(A), “then it might be more appropriate to show that language as contested, and thus stayed, even if it leaves the remaining part of the condition without meaning.” Sur. at 6. Otherwise, argues the Agency, the part of the condition that is not stayed will have conflicting interpretations based on the explicit language and on Midwest’s “implied” insertion of the term. *Id.*

BOARD ANALYSIS

In Community Landfill Co. and City of Morris v. IEPA, PCB 01-48, 01-49, slip op. at 4 (Oct. 19, 2000), the Board found “that it has the authority to grant discretionary stays from

permit conditions.” The Board noted it “has previously granted or denied discretionary stays in permit appeals, both when the Agency did and did not consent to such stays.” *Id.* The Board elaborated that “[t]he permit appeal system would be rendered meaningless in many cases, if the Board did not have the authority to stay permit conditions.” *Id.*

The Board has reviewed Midwest’s edited permit filed with its reply as Exhibit 1, which strikes “the language that is objectionable and that is truly the object of Midwest Generation’s appeal.” The Board has also considered the Agency’s surreply and its position on that edited permit. On the basis of that review and consideration, the Board grants with only one exception Midwest’s request for a stay of the contested conditions in its construction permit, as those contested conditions are reflected in the edited permit filed as Exhibit 1 to Midwest’s Reply. With regard to that one exception, the Board finds, based on the parties’ filings, that the entire condition 9(b)(i)(A) is contested and should therefore be stayed in its entirety. The partial stay remains in effect until the Board takes final action on of the construction permit appeal, or until the Board orders otherwise.

The edited permit filed as Exhibit 1 to Midwest’s reply indicates the scope of the partial stay granted by the Board as plainly as any summary the Board might provide. Accordingly, the Board incorporates that document. For the parties’ convenience, that document is attached to this order as Attachment A.

ILLINOIS POLLUTION CONTROL BOARD

October 19, 2000

COMMUNITY LANDFILL COMPANY)	
and CITY OF MORRIS,)	
)	
Petitioners,)	
)	
v.)	PCB 01-48
)	PCB 01-49
ILLINOIS ENVIRONMENTAL)	(Permit Appeal - Land)
PROTECTION AGENCY,)	(Consolidated)
)	
Respondent.)	

ORDER OF THE BOARD (by R.C. Flemal):

On September 7, 2000, Community Landfill Company (CLC) and City of Morris (collectively, petitioners), filed these permit appeals regarding certain conditions included in the Illinois Environmental Protection Agency's (Agency) issuance of two significant modification permits for the Morris Community Landfill. On September 11, 2000, petitioners filed a motion to consolidate the appeals and a motion to stay the contested permit conditions (motion to stay). On September 20, 2000, the Board granted the motion to consolidate and deferred ruling on the motion to stay until the Agency's response was due.

On September 25, 2000, the Agency filed a motion for extension of time to file the administrative record, a motion for leave to file *instanter* the response to the motion to stay, and a response to the motion to stay (response). On October 3, 2000, petitioners filed a reply in support of its motion to stay (reply). On October 5, 2000, petitioners filed a motion for leave to file the reply *instanter*. On October 5, 2000, the Board granted the Agency's motion to file the response *instanter* and denied the motion for extension of time to file the administrative record. The Board grants petitioners' October 5, 2000, motion for leave to file the reply *instanter*.

On October 12, 2000, the Agency filed a motion for leave to file a surreply, a surreply to the petitioner's reply, a second motion for extension of time, and a motion for relief from copy requirements. The Board grants the Agency's motion for leave to file a surreply, the second motion for extension of time, and the motion for relief from copy requirements. Finally, for the reasons stated below, the Board grants petitioners' motion to stay the contested permit conditions.

BACKGROUND

Petitioners are the permitted owner and operator of the Morris Community Landfill. The two permits that are the issue of these appeals relate to two parcels of that landfill, A and B. PCB 01-48 is the appeal for Parcel A. PCB 01-49 is the appeal for Parcel B. The Agency issued the permits for parcels A and B on August 4, 2000. Mot. to Stay, Exh. 2.

Petitioners' Motion to Stay

Petitioners argue that certain conditions of the permits should be stayed during the pendency of the appeals before the Board. The challenged conditions address various matters such as pumping restrictions, a leachate storage system and refuse depositing restrictions. Mot. to Stay at 5-6. Petitioners argue that failure to grant the stay would render the appeal moot, would require unnecessary costs and would negate petitioners' right to appeal the contested conditions. Mot. to Stay at 7-8. Petitioners claim that staying the conditions would not cause environmental harm. Mot. to Stay at 8. Furthermore, petitioners argue that the basis for staying these conditions is that they timely filed their permit applications, and the Board has granted stays in previous cases. Mot. to Stay at 8.

Agency Response

The Agency objects to the motion to stay for three reasons: (1) petitioners did not timely file their permit applications, and therefore are not entitled to an automatic stay of the permit conditions pursuant to 35 Ill. Adm. Code 814.105(b); (2) the Board does not have the authority to issue a discretionary stay of the permit conditions; and (3) petitioners are not entitled to a discretionary stay. Resp. at 2-9.

Timely Filing of Applications

The Agency argues that petitioners did not timely file their permit applications, and therefore are not entitled to an automatic stay of the permit conditions pursuant to 35 Ill. Adm. Code 814.105(b). 35 Ill. Adm. Code 814.105(b) states:

An operator who has timely filed a notification pursuant to Section 814.103 and an application for significant permit modification pursuant to Section 814.104 shall continue operation under the terms of its existing permits until final determination by the Agency on its application and any subsequent appeal to the Board pursuant to Section 40 of the Act. During this time, the operator will be deemed to be in compliance with all requirements of this Part. 35 Ill. Adm. Code 814.105(b).

The Agency previously set June 15, 1993, as the deadline for filing the permit applications for parcels A and B. Resp. at 3. CLC failed to file the applications by that deadline and requested a retroactive variance from the Board in which to file the applications. Resp. at 3; Community Landfill Corporation v. IEPA (September 21, 1995), PCB 95-137. The Board denied the variance. The appellate court, however, ordered the Board to issue CLC a 45-day prospective variance. Community Landfill Corporation v. IEPA, 283 Ill. App. 3d 1120, 708 N.E.2d 854 (3rd Dist. 1996). On June 20, 1996, the Board allowed CLC to file its significant modification permit application by August 5, 1996.

The Agency argues that although petitioners may have filed the significant permit modification application within the time allowed by the prospective variance, petitioners did not timely file pursuant to Section 814.105(b), and therefore the Board should not grant an automatic stay of the contested conditions. Resp. at 4.

Board Authority to Grant Discretionary Stay

The Agency further contends that the Board does not have the authority to grant discretionary stays of permit conditions. Resp. at 4. Specifically, the Agency argues that the Environmental Protection Act does not grant the Board such authority. Resp. at 5. Additionally, the Agency argues that granting the stay would be similar to granting injunctive relief, which the Board does not have the authority to do. Resp. at 5.

Petitioners Not Entitled to Discretionary Stay

The Agency's final argument is that even if the Board has the discretion to grant the stay, petitioners are not entitled to a stay. Resp. at 6. The Agency, citing the Manager of the Agency's Bureau of Land Permit Section, asserts that granting a stay would create the "distinct possibility" of environmental harm. Resp. at 8, Resp. at affidavit. The Agency further argues that any hardship petitioners may suffer from a stay is part of the overall permitting scheme, and, when weighed against other concerns, does not favor the petitioners. Resp. at 9. Lastly, the Agency asserts that the chances of petitioners prevailing on appeal are slim, and notes that petitioners' motion for stay is silent regarding their perceived chances on appeal. Resp. at 9.

The Agency cites Interstate Pollution Control, Inc. v. IEPA (March 1986), PCB 86-19, a case where permits had been denied. Resp. at 6. The Agency notes that the Board considered the Agency's arguments that petitioner did not adequately show what its chances of prevailing were on appeal, and did not show that a denial of the stay would cause irreparable harm. Resp. at 6. The Agency also cites Motor Oils Refining Company, Inc. v. IEPA

(August 10, 1989), PCB 89-116, in which the Board declined to grant an automatic stay due to the untimely filing of the application. Resp. at 7.

Petitioners' Reply

Timely Filing of Applications

In their reply, petitioners argue that the issue before the Board is not whether petitioners timely filed their original permit applications back in 1996. Reply at 6. Petitioners contend that the issue of timeliness of the original applications is currently pending before the Board in People v. Community Landfill Co. PCB 97-193.

Petitioners argue that the relevant permit applications were filed on May 8, 2000. Reply at 5. The filing was made pursuant to an agreement between the Agency and petitioners. Reply at 5. Petitioners assert that they are entitled to an automatic stay under Section 65(b) of the Administrative Procedure Act (415 ILCS 100/10-65(b)), which states:

When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall continue in full force and effect until the final agency decision on the application has been made unless a later date is fixed by order of a reviewing court. 415 ILCS 100/10-65(b).

Board Authority to Grant Discretionary Stay

Petitioners assert, without further argument, that the Board has the authority to grant a discretionary stay. Reply at 7.

Petitioners Request a Discretionary Stay

Petitioners argue that the Board should grant a discretionary stay because without the stay the hardship placed on petitioners is great, and the potential for environmental harm is "either minimal or nonexistent." Reply at 7. Petitioners note that the ten conditions that are the subject of the appeal relate to the manner and timing in which petitioners should implement measures to protect human health and the environment. Reply at 7. They further argue that if petitioners comply with the uncontested provisions, their existing Section 807 permit, and applicable Section 811 regulations, none of the contested conditions would affect human health and the environment. Reply at 7. Additionally, petitioners' engineering and environmental expert, who has conducted engineering operations at the facility during the last eight years, believes that a stay of the contested conditions would not cause any environmental harm. Reply at 7. In contrast, petitioners assert that the Agency's expert has not been to the facility, and her affidavit fails to give specific information regarding any potential environmental harm a stay might cause. Reply at 8.

Petitioners also argue that the financial burden of complying with the contested conditions is great. Reply at 8. As examples, petitioners note that it would cost them approximately \$1 million if they are required to move 475,000 cubic yards of material from Parcel B to Parcel A. Reply at 8. Allowing the material to remain in place during the appeal would prevent petitioners from irrevocably spending the money to make the change. Reply at 8. Petitioners further believe that leaving the material in place would protect the environment. Reply at 8.

Petitioners further argue that if they construct a groundwater interceptor trench, as required, it will render moot their argument that deep wells T-2 and T-4 are more effective. Reply at 8. Petitioners note that they have posted closure and post-closure bonds in excess of \$17 million. Reply at 6, 8-9.

Agency Surreply

In its surreply, the Agency agrees with petitioners that the relevant applications were filed in May 2000 following discussions between the Agency and petitioners regarding how to resolve outstanding permit issues.

Surreply at 2. However, the Agency argues that the petitioners should not assume that implicit in those discussions was the suggestion that the Agency does not consider the May 2000 applications as untimely filed. Surreply at 2. The Agency's acceptance of the May 2000 applications does not mean that the Agency does not object to the timeliness of the filing. Surreply at 3. In fact, the Agency argues that untimely filing of an application is a matter for enforcement. Surreply at 3. The Agency again argues that an automatic stay of the contested conditions is not justified.

The Agency also reiterates its argument that the Board does not have the authority to grant a discretionary stay of the contested conditions. Surreply at 4. The Agency also takes issue with petitioners' claim that no environmental harm will occur during a stay if petitioners comply with the uncontested conditions of their Section 807 permit, and applicable Section 811 regulations. Surreply at 8. The Agency argues that there are aspects of the contested conditions that are not covered in the Section 807 permit. Surreply at 8. Specifically, design standards for foundation stability or leachate storage relating to Sections 811.304, 305 and 309 are not in Section 807 and do not have any corresponding sections in Section 807. Surreply at 8. The Agency concludes that staying these conditions would not provide safeguards for the stability of the landfill's foundation or proper leachate storage capacity. Surreply at 8.

ANALYSIS

Automatic Stay

The Board agrees with petitioners that whether petitioners timely filed applications in 1996 is the subject of count V of the second amended complaint in People v. Community Landfill Co., PCB 97-193, a matter currently pending before the Board. Specifically, count V alleges that petitioners failed to file the required permit application by June 15, 1993. Complaint at 15. The amended complaint further alleges that the permit application was filed on August 5, 1996, in violation of Section 814.104. The Board declines to make a factual finding on whether the relevant applications in this case were timely filed, as the applications appear to be related to the applications filed in 1996, and that issue is currently pending before the Board. Since the Board will not make this factual finding at this time, the Board will not grant an automatic stay of the contested conditions.

Discretionary Stay

The Board finds that it has the authority to grant discretionary stays from permit conditions. The permit appeal system would be rendered meaningless in many cases, if the Board did not have the authority to stay permit conditions. The Board has previously granted or denied discretionary stays in permit appeals, both when the Agency did and did not consent to such stays. See Allied Tube and Conduit Corporation v. IEPA (January 18, 1996), PCB 96-108; Motor Oils Refining Company, Inc. v. IEPA (August 31, 1989), PCB 89-116. The Board declines to find today that it can no longer issue such stays.

The Board further grants a discretionary stay of the contested conditions in the instant case for 180 days from the date of this order, on April 17, 2001. As the Agency notes in its response, the Board has recognized that Illinois law provides standards to help determine whether stays are appropriate. Resp. at 7, citing Motor Oils Refining Company, Inc. v. IEPA (August 31, 1989), PCB 89-116. Those standards are: (1) a certain and clearly ascertainable right needs protection; (2) irreparable injury will occur without the injunction; (3) no adequate remedy at law exists; and (4) there is a probability of success on the merits. Motor Oils (August 31, 1989), PCB 89-116, slip op. at 1-2, citing Junkunc v. S.J. Advanced Technology & Mfg., 149 Ill. App. 3d 114, 498 N.E. 2d 1179 (1st Dist. 1986). The Board further noted that while it may look to these four factors in determining whether or not to grant a stay, the Board is particularly concerned about the likelihood of environmental harm if a stay is granted. Motor Oils (August 31, 1989), PCB 89-116, slip op. at 2.

The Agency notes that its primary concern is that if a stay were granted, there would be a "definite potential threat to human health and the environment." Resp. at 6. As previously noted, petitioners' expert does not believe that there would be such a threat. Reply at 7. Since there is conflicting expert opinion on this issue, the Board will look to the other standards as announced in Motor Oils.

The Board is persuaded that petitioners' appeal of the permit conditions would be rendered moot if they had to comply with the contested conditions during the appeal. As petitioners noted, the cost of complying with some of the conditions is great. If petitioners complied with the conditions and then prevailed on appeal, the cost and the point of the appeal would be lost. In this instance, the Board finds that petitioners' right to appeal the permit conditions should be protected, so that the integrity of the appeal is preserved.

Additionally, the cost of complying with the contested conditions during the appeal would impose an irreparable hardship on petitioners. If the appeal is resolved in favor of petitioners, but during that time petitioners complied with the contested conditions, the result would be that petitioners had an unnecessary hardship imposed on them. The Agency admits that a stay would impose a hardship, but qualifies the hardship as being part of the permitting scheme. The Board disagrees with the Agency, and finds that requiring petitioners to comply with the contested conditions during the instant appeal is too onerous on petitioners to be justified.

Neither party argues that there is an inadequate remedy at law, and the Board declines to address this standard. Also, the parties have opposing views on who will prevail on this matter. The Board does not find this standard helpful in this instance.

Lastly, although the Board grants the motion to stay, the Board intends that this case should still proceed as expeditiously as practicable and therefore only grants the stay until April 17, 2001.

Other Matters

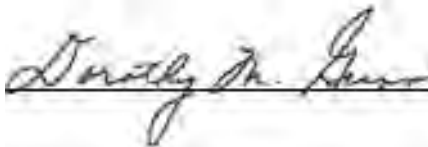
Also pending before the Board is the Agency's second motion for extension of time to file the administrative record and motion for relief from copy requirements. The Agency represents that the administrative record in this matter is approximately 5,552 pages. Second Mot. at 2. As such, the Agency requests it have until October 24, 2000, to file the administrative record. Second Mot. at 2. The Agency also requests that it only be required to file the original record and four, rather than nine copies. The Board grants the second motion for extension of time and relief from copy requirements.

CONCLUSION

Petitioners' motion to stay is granted until April 17, 2001. All other outstanding motions are granted. The Agency has until October 24, 2000, to file the original and four copies of the administrative record. The Board orders this matter to proceed accordingly.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 19th day of October 2000 by a vote of 7-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

November 1, 2001

BRIDGESTONE/FIRESTONE OFF-ROAD)	
TIRE COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 02-31
)	(Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

On September 10, 2001, Bridgestone/Firestone Off-Road Tire Company (Bridgestone/Firestone) timely filed a petition asking the Board to review an August 6, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40.2(a) (2000); 35 Ill. Adm. Code 105.302(e). In the petition, Bridgestone/Firestone requests a stay of effectiveness for the August 6, 2001 permit. On September 20, 2001, the Board accepted the petition for hearing, but reserved ruling on the request for stay of effectiveness. The Agency was directed to file a response to the request for stay on or before October 4, 2001.

On October 15, 2001, the Agency filed a response including a motion to strike the request to stay, accompanied by a motion for leave to file *instanter*. On October 23, 2001, Bridgestone/Firestone filed a response to the motion to strike. Bridgestone/Firestone did not object to the motion for leave to file *instanter* in its response, and the Board grants the Agency's motion for leave to file its response and motion to strike. Finally, for the reasons articulated below, the Board grants Bridgestone/Firestone's request for stay of effectiveness.

BACKGROUND

Bridgestone/Firestone is appealing an August 6, 2001 Clean Air Act Permit Program (CAAPP) permit that was issued with conditions. The CAAPP permit application concerns Bridgestone/Firestone's off-road rubber tire manufacturing facility located at Veterans Parkway and Fort Jesse Road, Bloomington, McClean County. Bridgestone/Firestone is appealing the permit on the grounds that permit condition 7.3.6 unreasonably separates the facility's tire assembly machines into separate groups, each with a different emission limit.

REQUEST OF STAY OF EFFECTIVENESS

In the petition, Bridgestone/Firestone requests that the challenged condition be stayed pending resolution of this permit appeal. The petitioner asserts that it would be harmed if it has to begin to implement requirements that are not legally supportable, and that the challenged condition would necessitate redundant and unnecessary record keeping prone to oversight, human error and unnecessary expense.¹ Pet. at 2. Bridgestone/Firestone contends that the applicable overall emission limits will not be affected by the requested stay, and that, therefore, the Agency and the public will not be harmed in any way if a stay is granted. Pet. at 2-3.

AGENCY'S RESPONSE AND MOTION TO STRIKE

The Agency argues that Section 105.304(d) of the Board's rules specifically states that a petition may include a request to stay the effectiveness of a *denial* of the CAAPP permit until final action is taken by the Board. Mot. at 2 (emphasis added by Agency). The Agency argues that the Board's rules allow a request for a stay to be included within a petition for review only when a CAAPP permit denial is involved. *Id.* In this case, the petitioner has appealed a condition of a CAAPP permit that was issued. Therefore, the Agency concludes, requesting a stay within the petition is not proper. *Id.*

The Agency cites case law in stating that statutory construction dictates that the intent of the promulgating body must be given effect and that the best indication of this intent is the plain and unambiguous language of the rule. *See* McTigue v. Personnel Board of the City of Chicago, 299 Ill. App. 3d 579, 701 N.E. 2d 135 (1st Dist. 1998). Finally, the Agency argues that the Board's inclusion of a specific provision authorizing a petitioner to request a stay from a permit denial in a petition for review must be interpreted to exclude the inclusion of such requests in said petition if the appeal involves an issued permit. Mot. at 3. The Agency requests that the Board strike Bridgestone/Firestone's request for a stay of the permit.

BRIDGESTONE/FIRESTONE'S RESPONSE

Bridgestone/Firestone argues that the motion to strike the stay of effectiveness should be denied. The petitioner notes that it filed its petition pursuant to 415 ILCS 5/40.2 of the Environmental Protection Act (Act) which allows review of denials of CAAPP permits as well as review of the conditions imposed by such permits. Resp. at 1. Bridgestone/Firestone asserts that, in appealing CAAPP permits, the applicable regulations direct the permit applicant to consider any condition imposed by the Agency in a permit as a refusal by the Agency to grant the permit. Resp. at 1 citing 35 Ill. Adm. Code 201.168 and 201.207. As a result, Bridgestone/Firestone argues that the issuance of contested conditions in a permit is deemed to be the denial necessary to support a request for stay pursuant to 35 Ill. Adm. Code 105.304(d). Resp. at 2.

¹ The petition is cited as "Pet. at ___." The Agency's response and included motion to strike is cited as "Mot. at ___." Bridgestone/Firestone's response to the motion to strike is cited as "Resp. at ___."

Finally, Bridgestone/Firestone states that a stay is necessary in this instance to prevent irreparable injury to Bridgestone/Firestone, and reiterates that applicable overall emission limits will not be affected by the requested stay, and that the Agency and the public will not be harmed if a stay is granted. Resp. at 2.

DISCUSSION

Section 105.304 addresses petition content requirements for CAAPP permit appeals, and provides in part:

- b) The petition may include a request to stay the effectiveness of a denial of the CAAPP permit until final action is taken by the Board pursuant to Section 40.2 of the Act. 35 Ill. Adm. Code 105.304 (b)

The Board is not convinced by the Agency's argument that the word 'denial' in Section 105.204 must be interpreted to prohibit requests to stay in petitions involving a permit issued with conditions. As Bridgestone/Firestone notes, the applicable regulations direct the permit applicant to consider any contested condition imposed by the Agency in a permit as a refusal by the Agency to grant the permit. Accordingly, the motion to strike is denied.

Next, the Board must address the request for stay of effectiveness. The petitioner maintains that a stay is necessary to prevent irreparable injury, and that the public will not be harmed if a stay is granted. The Agency did not provide any arguments concerning the substance of the request to stay.

In determining whether a discretionary stay is appropriate, the Board may refer to four factors: (1) a certain and clearly ascertainable right needs protection; (2) irreparable injury will occur without the stay; (3) no adequate remedy at law exists; and (4) there is a probability of success on the merits. Community Landfill Company and City of Morris v. IEPA, PCB 01-48 and 01-49 (consolidated), slip op. at 5. (October 19, 2000), citing Junkunc v. S.J. Advanced Technology & Mfg., 149 Ill. App. 3d 114, 498 N.E.2d 1179 (1st Dist. 1986). The Board notes that while it may look to these four factors in determining whether or not to grant a stay, the Board is particularly concerned about the likelihood environmental harm if a stay is granted. Community Landfill, PCB 01-48 and 01-49, slip op. at 5.

Bridgestone/Firestone asserts that neither the public nor the Agency will be harmed if the stay is granted. The Agency did not address any potential environmental harm from the issuance of the stay. Based on the pleadings before it, the Board is persuaded that a stay will not effect applicable overall emission limits or result in environmental harm.

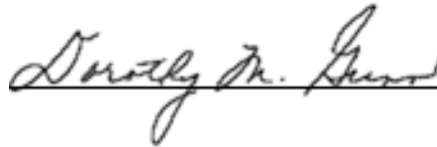
The Board is not required, nor does it find it necessary in this case, to consider each of the previously noted four factors. However, the Board finds that irreparable harm will befall Bridgestone/Firestone if the stay is not issued. Moreover, the Board is persuaded that the petitioner's appeal of the permit condition would be rendered moot if it had to comply with the contested condition during the appeal. In this instance, the Board finds that the petitioner's right to appeal the permit condition is a certain and ascertainable right that needs protection.

CONCLUSION

The request for a stay of effectiveness of the contested permit condition is granted. Although the Board grants the request to stay, the Board directs the hearing officer to proceed as expeditiously as practicable consistent with the decision deadline.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 1, 2001, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board