BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:	)	
AMENDMENTS TO 35 ILL. ADM. CODE PARTS 201, 202, AND 212	)	R23-018(A) (Rulemaking – Air)

NOTICE OF FILING

To: Attached Service List

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board **EAST DUBUQUE NITROGEN FERTILIZERS, LLC'S FIRST POST-HEARING COMMENT** and a **CERTIFICATE OF SERVICE,** which are attached and copies of which are herewith served upon you.

Dated: October 26, 2023

Respectfully submitted,

/s/ John M. Heyde
East Dubuque Nitrogen Fertilizers, LLC
By One of Its Attorneys

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EAST DUBUQUE NITROGEN FERTILIZERS, LLC'S FIRST POST-HEARING COMMENT

East Dubuque Nitrogen Fertilizers, LLC ("EDNF") submits this comment, following the September 27, 2023 hearing on this matter, to respond to requests for information that were made or discussed during the hearing.

I. FREQUENCY AND DURATION OF STARTUPS AND SHUTDOWNS

In the pre-filed questions from the Pollution Control Board attached to the September 20, 2023 Hearing Officer Order, the Board asked EDNF to comment on whether it maintains records of the frequency and duration of startups and shutdowns of the two Nitric Acid Processes at EDNF's facility and, if so, submit that information into the record.[1] Hearing Officer Order, R23-18(A) (Sep. 20, 2023) ("Hearing Officer Order"), at 6. Phil Crnkovich, testifying for EDNF at the hearing, responded that, as required by the Facility's Clean Air Act Permit Program permit, the Facility maintains records of each startup and shutdown, including records of the start time and end time of each. Transcript of First Hearing, R23-18(A) (Sep. 27, 2023) ("Tr.") at 88:16-21.

[1] Capitalized terms in this document have the same meaning as in EDNF's rulemaking proposal. (East Dubuque Nitrogen Fertilizers, LLC's Proposal to Amend Section 217.381, R23-18(A) (Aug. 7, 2023.))

Exhibits 1 and 2 list the startups and shutdowns at each of the two Nitric Acid Processes at the Facility in 2022 and the first half of 2023 and include the duration of each. Overall, the NAP-1 process had 65 startups and 65 shutdowns over this time period. The NAP-2 process had 55 startups and 55 shutdowns over the same time period.

II. CURRENT AND PROPOSED MAXIMUM ALLOWABLE NOx EMISSIONS

The Attorney General's Office asked, in its pre-filed question 5, for data on current monthly or yearly nitrogen oxides ("NOx") emissions and the maximum NOx emissions that would be allowed under EDNF's proposed modifications. Illinois Attorney General's Questions for Participants Testifying at First Hearing, R23-18(A) (Sep. 20, 2023) ("AG Questions") at 8.

As Mr. Crnkovich testified at the hearing, the rule EDNF has proposed would not result in any change in actual emissions from the Nitric Acid Processes. (Tr. at 84:13-15.) This is because the Nitric Acid Processes, which use selective catalytic reduction ("SCRs") to reduce NOx emissions, have always been unable to meet a 3.0 lb/ton NOx standard during startup and shutdown, when the temperature in the SCRs is too low to permit injection of ammonia into the SCRs. This was true before the Board recently changed its rules in R23-18 to remove the authority to operate during startup, it is true currently, and it will remain true if the proposed rule is enacted. The proposed rule merely avoids the untenable and arbitrary state of affairs in which it is allowable to operate the Nitric Acid Processes but – in theory – not to shut them down or, once shut down, start them again.

Tables 1 and 2 provide actual NOx emissions in pounds, acid production in tons (as 100 percent acid), and NOx emissions in pounds per ton of acid produced for the period January 1, 2022 to June 30, 2023, broken down by quarter. The data include all operating conditions, including startup and shutdown. Table 1 covers NAP-1, and Table 2 covers NAP-2.

Table 1: Actual NOx Emissions and Acid Production, NAP-1			
Quarter	*NOx (Pounds)*	*Acid Production (Tons)*	*NOx (Lbs/Ton Acid)*
2022 Q1	4,149	11,921	0.35
2022 Q2	5,239	17,993	0.29
2022 Q3	4,046	9,366	0.43
2022 Q4	5,844	18,684	0.31
2023 Q1	6,579	20,552	0.32
2023 Q2	6,089	19,632	0.31

Table 2: Actual NOx Emissions and Acid Production, NAP-2			
Quarter	*NOx (Pounds)*	*Acid Production (Tons)*	*NOx (Lbs/Ton Acid)*
2022 Q1	8,251	12,640	0.65
2022 Q2	7,237	13,062	0.55
2022 Q3	3,947	6,349	0.62
2022 Q4	5,278	7,096	0.74
2023 Q1	7,445	12,584	0.59
2023 Q2	6,818	12,060	0.57

Tables 3 shows the allowable NOx emissions for this same time period under the existing 3.0 pound per ton limit and the proposed 1.5 pound per ton limit. The allowable emissions are shown separately for NAP-1 and NAP-2, and they are calculated by applying the limit to the acid production for each process each quarter.

Table 3: Allowable NOx Emissions Under Current and Proposed Section 217.381(a)(1)				
	NAP-1 Allowable NOx Emissions (Pounds)		*NAP-2 Allowable NOx Emissions (Pounds)*	
Quarter	Current	Proposed	Current	Proposed
2022 Q1	35,762	17,881	37,920	18,960
2022 Q2	53,980	26,990	39,186	19,593
2022 Q3	28,098	14,049	19,047	9,524
2022 Q4	56,051	28,025	21,288	10,644
2023 Q1	61,656	30,828	37,753	18,876
2023 Q2	58,897	29,448	36,179	18,090

As the tables indicate, EDNF's proposal would reduce the allowable emissions for EDNF's two Nitric Acid Processes, cutting them in half. The proposal is not expected to cause a change in actual emissions, as the Nitric Acid Processes' actual NOx emissions are already lower

than the proposed allowable amounts because the processes are well-controlled through the use of the SCRs.

III. DERIVATION OF THE PROPOSED 1.5 POUND/TON LIMIT

The Attorney General's Office asked, in its pre-filed question 3, for an explanation of how EDNF determined that its proposed 1.5 pound-per-ton NOx limit was reasonable. (AG Questions at 8.) Mr. Crnkovich answered this question during the hearing, explaining that EDNF completed an analysis of existing data to determine a pound-per-ton limit with which the Nitric Acid Processes could comply. (Tr. at 82:3-21.) EDNF also agreed to submit additional information in these comments. (*Id.* at 87:21-24.)

EDNF derived the proposed 1.5 pound-per-ton, 30-day average limit by examining data on the performance of its two Nitric Acid Processes during the period from January 1, 2017 to May 31, 2023. EDNF identified data on NOx emissions and acid production from its continuous emissions monitoring system and other data sources and summarized those data consistent with the calculation methods in the proposed rule. Specifically, for each day, EDNF calculated a "30-day rolling average, rolled daily." (Proposed 35 Ill. Adm. Code 217.381(a)(1)). During "periods where there is little or no acid production (e.g., Startup or Shutdown)," EDNF calculated "the average hourly acid production rate from the data collected over the previous 30 days of normal acid production periods." (Proposed § 217.381(a)(6).) This is the same calculation that is described in Subpart Ga at 40 C.F.R. § 60.73a(c)(3).

EDNF then examined the daily data to identify an emission rate that both Nitric Acid Processes met consistently over the data set. Because both Nitric Acid Processes are older than Subpart Ga, EDNF did not expect – and the processes did not consistently achieve – the 0.5 pound per ton limit in 40 C.F.R. § 60.72a. However, EDNF was pleased to see that both

processes not only achieved the existing 3.0 pound-per-ton limit in Subpart G and current 35 Ill. Adm. Code 217.381(a)(1), they also consistently performed at or below half of that limit: 1.5 pounds per ton. Because the data did include a few days in which one of the Nitric Acid Processes exceeded 1.0 pounds per hour, EDNF elected not to propose that as the limit. Instead, EDNF concluded that 1.5 pounds per hour – as a 30-day average applicable at all times – is a fair representation of the capability of the Nitric Acid Processes.

Importantly, EDNF did not propose to retain the 3.0 pound-per-ton limit and simply add a 30-day averaging period. Rather, in the spirit of cooperation and to show good faith, EDNF has offered without prompting to have the limit reduced to 1.5 pounds of NOx per ton of acid produced and have that limit apply at all times, as long as the averaging time is added and the calculation method specified as set forth in EDNF's proposal.

In comments made earlier this week, the Illinois Environmental Protection Agency ("Illinois EPA") argued that, based on Annual Emissions Reports, "annual emission rates at both of the [Nitric Acid Processes] are well below 1 lb/ton of acid produced on an annual basis."[2] Illinois Environmental Protection Agency's Comments, R23-18(A) (Oct. 23, 2023) at 7. However, EDNF is not proposing an *annual* average; it is proposing a 30-day average. EDNF does not believe that 1.0 pounds per ton is an appropriate 30-day standard. As noted above, both Nitric Acid Processes did not always meet 1.0 pounds per ton when averaged over 30 days. Moreover, EDNF is already proposing to cut the existing standard *in half* when there is no demonstrated environmental need for *any* reduction in NOx emissions from nitric acid plants in Illinois.

[2] EDNF has not had an opportunity yet to digest Illinois EPA's comments fully. EDNF will include any additional responses to Illinois EPA's comments in a subsequent public comment.

IV. OTHER APPLICABLE PERMIT LIMITS

During the hearing, Mr. Crnkovich testified that the Facility also has other permit limits that would eliminate the possibility of spikes. (Tr. at 91:17-19.) In response to a request from the Board's technical officer, EDNF agreed to provide citations to those limits. (*Id.* at 92:4-7.)

The most relevant permit provisions for preventing short-term spikes in NOx emissions are pound-per-hour limits, which currently are in the Facility's CAAPP permit at Section 4.6.2.c.i.F. Illinois EPA, *Clean Air Act Permit Program (CAAPP) Permit,* issued to EDNF, No. 96010003 (revision issued Dec. 15, 2020), attached to Prefiled Testimony of Philip G. Crnkovich, R23-18(A) (Aug. 28, 2023) as Exhibit 1. NAP-1 is limited to 33.41 pounds per hour, and NAP-2 is limited to 8.22 pounds per hour.[3] (*Id.*) NAP-1 is further limited to 4.875 pounds per hour during periods other than startup and shutdown. (*Id.* at § 4.6.2.c.i.E.) Collectively, these limits ensure that neither Nitric Acid Process would be allowed to have NOx spikes during normal operation, even with the 30-day average limit that EDNF has proposed for Section 217.381(a)(1).

V. U.S. EPA'S APPROVAL OF A REVISION TO FLORIDA STATE IMPLEMENTATION PLAN FOR STARTUP AND SHUTDOWN OF NITRIC ACID PROCESSES

The Board's final question attached to the hearing officer order requested comment on how EDNF's proposed approach for addressing startup and shutdown at nitric acid processes compares to Florida's approach, which the U.S. Environmental Protection Agency ("U.S. EPA")

[3] The CAAPP permit does not currently state whether the pound-per-hour limits in Section 4.6.2.c.i.F apply during startup and shutdown. Because the limits are derived from construction permits and not federal or Illinois regulations, Illinois EPA is free to amend these limits to specify that they do not apply during startup and shutdown. Even if they were so amended, however, they would still serve the purpose of preventing any short-term spikes in NOx emissions during normal operation.

recently approved as a revision to Florida's state implementation plan ("SIP"). (Hearing Officer Order at 7.) Mr. Crnkovich agreed to provide comments following the hearing. (Tr. at 91:9-12.)

EDNF has no facilities in Florida, and it has not discussed the Florida SIP revision with Florida officials or U.S. EPA; however, it has reviewed U.S. EPA's Federal Register notice approving the SIP revision and the two relevant permits, which it downloaded from the website of the Florida Department of Environmental Protection. The Florida SIP revision included addition of emission-unit-specific NOx limits for two nitric acid processes and removal from the SIP of the NOx emission limits in Florida's rule of general applicability for nitric acid plants. U.S. EPA, *Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards; Amendments to Stationary Sources – Emission Standards*, Final Rule, 88 Fed. Reg. 51,702 (Aug. 4, 2023) (attached as **Exhibit 3**). The site-specific NOx limits were incorporated into the SIP from specific permits for the two nitric acid plants. (*See id.* at 51,708-10.) We have attached the two relevant permits as **Exhibit 4** (permit for Ascend Pensacola) and **Exhibit 5** (permit for Trademark Nitrogen).

The two permits include a NOx emission limit of 2.6 pounds per ton of production, averaged over 30 operating days (Trademark Nitrogen) or 720 operating hours (Ascend Pensacola); this limit applies at all times, including startup, shutdown, and malfunction. (Exhibit 4 at 4, 6; Exhibit 5 at 3, 6.) The two permits also retain the existing 3.0 pound per ton limit, although that limit is stated as averaged over three hours and not applicable during startup, shutdown, and malfunction. (Exhibit 4 at 6; Exhibit 5 at 6.) However, this limit no longer is included in the SIP. (88 Fed. Reg. at 51710 (Exhibit 3), listing Fla. Adm. Code 62-296.408 as part of the SIP "[e]xcept for paragraph (2)"; Fla Adm. Code 62-296.408(2) (attached as **Exhibit 6**).)

The Florida SIP revision does not appear to have considered opacity from nitric acid processes. U.S. EPA's final rule does not mention opacity or visible emissions in connection with the nitric acid plants, and the Florida rule of general applicability continues to contain a 10 percent opacity limit. (Fla. Adm. Code 62-296.408(3), Exhibit 6.) However, this limit exists in only one of the two permits that U.S. EPA approved. (Exhibit 5 at 6.) In addition, the Florida SIP revision does not appear to have incorporated the calculation method that EDNF has proposed for 35 Ill. Adm. Code 217.381(a)(6). This proposed provision recognizes that, during periods of little or no acid production (e.g., startup and shutdown), the acid production rate will be artificially low. Therefore, for determining compliance with the NOx emission limit, the average hourly production rate during these low production periods should be determined as the average over the previous 30 days of normal acid production periods. (Proposed Section 217.381(a)(6).)

Despite these minor differences, the Florida SIP revision shows that U.S. EPA will accept a 30-operating-day averaging period for a NOx emission limit that applies at all times. Equally important is the calculation U.S. EPA made to demonstrate that Florida had "developed its new source-specific emission limits in an appropriate way to ensure that the SIP is not relaxed and that increased emissions will not occur because of the SIP revision." (88 Fed. Reg. at 51,705 (Exhibit 3).) U.S. EPA compared maximum allowable NOx emissions under the existing and new NOx limitations, on both an hourly and yearly basis, and found that the allowable emissions were lower with the new limits:

Facility	Existing SIP NO_X limits		New source-specific SIP NO_X limits	
	Maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Maximum emissions allowed per year (tons/yr)	Maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Maximum emissions allowed per year (tons/yr)
Ascend Pensacola	187.5	821	[iv] 162.6	712

Facility	Existing SIP NO_X limits		New source-specific SIP NO_X limits	
	Maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Maximum emissions allowed per year (tons/yr)	Maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Maximum emissions allowed per year (tons/yr)
Trademark Nitrogen	18.8	82.1	[v] 16.3	71.2

[iv] 720-hour average.
[v] 30-day average.

(*Id.* at 51,705-06.) U.S. EPA used this comparison to conclude that "in all cases the maximum emissions theoretically allowed under the new source-specific limits are less than what is theoretically allowed under the existing SIP limits on both a short-term and a long-term (annual) basis." (*Id.* at 51,705.)

The allowable emission comparison U.S. EPA used for the Florida SIP revision confirms that EDNF's proposal here will not result in any increase of emission or have the potential to cause or contribute to NOx non-attainment or backsliding. As Table 3 above indicates, EDNF's proposal will reduce allowable emissions, just as the Florida approach did. The Florida example also demonstrates that U.S. EPA finds a 30-operating-day averaging period for NOx emissions to be an appropriate alternative emission limit in compliance with its 2015 SIP policy.

VI. COMMENTS ON NON-SUBSTANTIVE REVISIONS TO PROPOSED RULE AMENDMENT LANGUAGE

The hearing officer order also included a request for comment on the non-substantive revisions to the proposed rule language that the Board attached to the order. (Hearing Officer Order at 3.) During the hearing, the hearing officer also requested comments on proposed changes made by the staff of the Joint Committee on Administrative Rules ("JCAR") in a public comment. (Tr. at 92:9-15.) EDNF has reviewed the revisions that the Board and JCAR staff have proposed, and EDNF has no objection to those revisions.

JCAR staff also asked whether the reference to "good air pollution control practices for minimizing emissions" in proposed 35 Ill. Adm. Code 217.381(a)(2)(A) will require the incorporation by reference of any external standards. It will not. U.S. EPA has used the phrase "good air pollution control practices" or "good air pollution control practices for minimizing emissions" in several places in its regulations without further definition, e.g., 40 C.F.R. § 60.11(d) and § 63.6(e). In finalizing the inclusion of this phrase in Part 63, U.S. EPA said that:

> The term "good air pollution control practices" is intentionally broad and nonprescriptive to require sources to implement reasonable actions to minimize emissions for their particular situations. Thus, it is appropriate for these requirements to be located in the General Provisions.

U.S. EPA, Office of Air and Radiation, Emission Standards Division, *General Provisions for 40 CFR Part 63: National Emission Standards for Hazardous Air Pollutants for Source Categories, Background Information for Promulgated Regulation*, EPA-450/3-91-019b (Feb. 1994) at p. 2-110 (relevant excerpt attached as **Exhibit 7**). Following U.S. EPA's approach, we believe that the phrase is appropriate for inclusion in the Board's regulation without further definition or an incorporation by reference. The phrase is intended to provide regulatory authorities with the latitude necessary to require reasonable actions to minimize emissions.

Finally, JCAR staff asked whether EDNF's proposal for addressing startup and shutdown is intended to apply only to new sources or also to existing sources. In asking the question, JCAR staff presumably are referring to existing 35 Ill. Adm. Code 217.381(b), which applies to "existing" nitric acid processes. The terms "new" and "existing" in Section 217.381 refer to processes that were constructed or modified before or after 1972, when the Board first adopted what became Section 217.381. EDNF's Nitric Acid Processes are "new" processes, since they were built after 1972. Since EDNF is not aware of any other facilities in Illinois that have nitric

acid processes, EDNF concludes that there are no "existing" nitric acid processes – that is, processes built before 1972 and, therefore, subject to Section 217.381(b) – in Illinois.

With that background in mind, EDNF proposed changes only to Section 217.381(a) because those changes would address startup and shutdown for all nitric acid processes in Illinois, and EDNF wanted to propose the least extensive changes possible to the existing rules. EDNF does not object to making similar changes to Section 217.381(b), and EDNF is not aware of any problems that would be caused by doing so. Alternatively, EDNF also would not object to deleting Section 217.381(b) entirely and deleting the word "new" where it appears in Section 217.381(a).

VII. CONCLUSION

This first post-hearing comment is intended to respond to all of the questions that the Board and the Attorney General's Office posed before the September 27, 2023 rulemaking hearing. If further questions are posed or information requests made, EDNF plans to submit responses in an additional comment. The information submitted with EDNF's rulemaking petition, the testimony at the September 27 hearing, and the information in this first post-hearing comment provide sufficient basis for the Pollution Control Board to adopt EDNF's proposal for addressing startup and shutdown operations at Illinois weak nitric acid plants, consistent with U.S. EPA's 2015 SIP policy, and EDNF requests that the Board adopt its proposal.

Dated: October 26, 2023

Respectfully submitted,

/s/ John M. Heyde
East Dubuque Nitrogen Fertilizers, LLC
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CERTIFICATE OF SERVICE

I, the undersigned, on affirmation, state that I have served the attached **East Dubuque Nitrogen Fertilizers, LLC's First Post-Hearing Comment** by email on the following:

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I further state that my email address is as stated in the signature block below, that the number of pages in this email transmission is 68 and that the email transmission took place before 5 p.m. on October 26, 2023.

Dated: October 26, 2023

Respectfully submitted,

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EXHIBITS TO EAST DUBUQUE NITROGEN FERTILIZERS, LLC'S
PROPOSAL TO AMEND SECTION 217.381

Exhibit 1: Startup and Shutdown Frequency and Duration, NAP-1 17

Exhibit 2: Startup and Shutdown Frequency and Duration, NAP-2 22

Exhibit 3: U.S. Environmental Protection Agency, *Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards; Amendments to Stationary Sources – Emission Standards*, Final Rule, 88 Fed. Reg. 51,702 (Aug. 4, 2023) 26

Exhibit 4: Florida Department of Environmental Protection, Air Permit No. 0330040-076-AC, issued to Ascend Performance Materials Operations LLC (Sep. 20, 2022) 37

Exhibit 5: Florida Department of Environmental Protection, Air Permit No. 0570025-016-AC, issued to Trademark Nitrogen, Inc. (Sep. 20, 2022) 45

Exhibit 6 Fla Adm. Code 62-296.408 53

Exhibit 7: U.S. Environmental Protection Agency, Office of Air and Radiation, Emission Standards Division, *General Provisions for 40 CFR Part 63: National Emission Standards for Hazardous Air Pollutants for Source Categories, Background Information for Promulgated Regulation*, EPA-450/3-91-019b (Feb. 1994) (relevant excerpt only) 55

Exhibit 1

Exhibit 1 **Frequency and Duration of Startups and Shutdowns – NAP-1**			
Date	*Process*	*Type*	*Duration of Startup or Shutdown Process (Hours)*
1/22/2022	NAP-1	Shutdown	4.12
1/27/2022	NAP-1	Startup	1.37
1/27/2022	NAP-1	Shutdown	1.37
1/27/2022	NAP-1	Startup	0.82
1/29/2022	NAP-1	Shutdown	1.07
1/29/2022	NAP-1	Startup	1.07
1/29/2022	NAP-1	Shutdown	0.38
1/29/2022	NAP-1	Startup	0.63
1/31/2022	NAP-1	Shutdown	1.12
2/1/2022	NAP-1	Startup	2.05
2/21/2022	NAP-1	Shutdown	1.13
3/3/2022	NAP-1	Startup	1.57
3/4/2022	NAP-1	Shutdown	3.15
3/7/2022	NAP-1	Startup	2.82
3/9/2022	NAP-1	Shutdown	1.88
3/30/2022	NAP-1	Startup	1.92
4/2/2022	NAP-1	Shutdown	4.88
4/6/2022	NAP-1	Startup	1.68
4/9/2022	NAP-1	Shutdown	1.72
4/11/2022	NAP-1	Startup	1.28
4/11/2022	NAP-1	Shutdown	0.58
4/11/2022	NAP-1	Startup	0.40
5/2/2022	NAP-1	Shutdown	1.65
5/6/2022	NAP-1	Startup	2.33
5/21/2022	NAP-1	Shutdown	0.50
5/21/2022	NAP-1	Startup	0.02
5/21/2022	NAP-1	Shutdown	0.15
5/21/2022	NAP-1	Startup	0.02
5/21/2022	NAP-1	Shutdown	0.03
5/21/2022	NAP-1	Startup	0.08
5/21/2022	NAP-1	Shutdown	1.98
5/21/2022	NAP-1	Startup	1.53
6/4/2022	NAP-1	Shutdown	0.52
6/4/2022	NAP-1	Startup	0.42
6/6/2022	NAP-1	Shutdown	0.52
6/6/2022	NAP-1	Startup	0.02
6/6/2022	NAP-1	Shutdown	0.07
6/6/2022	NAP-1	Startup	0.55

Exhibit 1 **Frequency and Duration of Startups and Shutdowns – NAP-1**			
Date	*Process*	*Type*	*Duration of Startup or Shutdown Process (Hours)*
6/10/2022	NAP-1	Shutdown	1.38
6/10/2022	NAP-1	Startup	0.47
6/19/2022	NAP-1	Shutdown	0.43
6/19/2022	NAP-1	Startup	0.12
6/19/2022	NAP-1	Shutdown	0.12
6/19/2022	NAP-1	Startup	0.13
6/22/2022	NAP-1	Shutdown	0.23
6/22/2022	NAP-1	Startup	0.97
6/22/2022	NAP-1	Shutdown	2.27
6/22/2022	NAP-1	Startup	1.02
6/24/2022	NAP-1	Shutdown	1.68
6/24/2022	NAP-1	Startup	1.08
6/24/2022	NAP-1	Shutdown	0.28
6/24/2022	NAP-1	Startup	0.58
7/1/2022	NAP-1	Shutdown	0.07
7/1/2022	NAP-1	Startup	2.00
7/2/2022	NAP-1	Shutdown	1.10
7/2/2022	NAP-1	Startup	1.08
7/2/2022	NAP-1	Shutdown	0.27
7/2/2022	NAP-1	Startup	0.77
7/11/2022	NAP-1	Shutdown	5.47
7/12/2022	NAP-1	Startup	1.98
7/23/2022	NAP-1	Shutdown	0.05
7/23/2022	NAP-1	Startup	2.15
7/26/2022	NAP-1	Shutdown	1.08
7/27/2022	NAP-1	Startup	1.55
8/13/2022	NAP-1	Shutdown	2.80
9/23/2022	NAP-1	Startup	1.67
9/27/2022	NAP-1	Shutdown	1.58
9/28/2022	NAP-1	Startup	2.53
9/28/2022	NAP-1	Shutdown	3.48
9/29/2022	NAP-1	Startup	2.15
10/1/2022	NAP-1	Shutdown	1.58
10/3/2022	NAP-1	Startup	1.60
10/18/2022	NAP-1	Shutdown	0.08
10/18/2022	NAP-1	Startup	1.35
10/26/2022	NAP-1	Shutdown	1.40
10/28/2022	NAP-1	Startup	1.88

Exhibit 1 **Frequency and Duration of Startups and Shutdowns – NAP-1**			
Date	*Process*	*Type*	*Duration of Startup or Shutdown Process (Hours)*
12/1/2022	NAP-1	Shutdown	1.83
12/2/2022	NAP-1	Startup	1.02
12/2/2022	NAP-1	Shutdown	2.10
12/7/2022	NAP-1	Startup	1.17
12/7/2022	NAP-1	Shutdown	0.32
12/7/2022	NAP-1	Startup	0.97
12/9/2022	NAP-1	Shutdown	0.40
12/9/2022	NAP-1	Startup	0.40
12/21/2022	NAP-1	Shutdown	0.08
12/22/2022	NAP-1	Startup	1.03
12/22/2022	NAP-1	Shutdown	2.72
12/22/2022	NAP-1	Startup	0.02
12/22/2022	NAP-1	Shutdown	1.83
12/22/2022	NAP-1	Startup	0.05
12/22/2022	NAP-1	Shutdown	0.27
12/22/2022	NAP-1	Startup	0.12
12/22/2022	NAP-1	Shutdown	2.17
12/22/2022	NAP-1	Startup	2.53
1/1/2023	NAP-1	Shutdown	1.48
1/1/2023	NAP-1	Startup	0.10
1/1/2023	NAP-1	Shutdown	0.13
1/1/2023	NAP-1	Startup	0.00
1/1/2023	NAP-1	Shutdown	0.12
1/1/2023	NAP-1	Startup	0.02
1/1/2023	NAP-1	Shutdown	0.98
1/1/2023	NAP-1	Startup	1.53
1/20/2023	NAP-1	Shutdown	2.28
1/20/2023	NAP-1	Startup	1.80
1/27/2023	NAP-1	Shutdown	0.37
1/27/2023	NAP-1	Startup	0.30
2/2/2023	NAP-1	Shutdown	0.97
2/2/2023	NAP-1	Startup	1.45
2/6/2023	NAP-1	Shutdown	3.87
2/8/2023	NAP-1	Startup	2.60
3/8/2023	NAP-1	Shutdown	1.95
3/8/2023	NAP-1	Startup	1.03
3/8/2023	NAP-1	Shutdown	1.18
3/9/2023	NAP-1	Startup	1.08

Exhibit 1 **Frequency and Duration of Startups and Shutdowns – NAP-1**			
Date	*Process*	*Type*	*Duration of Startup or Shutdown Process (Hours)*
3/9/2023	NAP-1	Shutdown	0.15
3/9/2023	NAP-1	Startup	0.43
3/9/2023	NAP-1	Shutdown	0.33
3/9/2023	NAP-1	Startup	0.47
3/9/2023	NAP-1	Shutdown	1.25
3/9/2023	NAP-1	Startup	0.53
4/3/2023	NAP-1	Shutdown	1.35
4/3/2023	NAP-1	Startup	2.85
4/21/2023	NAP-1	Shutdown	2.65
4/23/2023	NAP-1	Startup	3.33
4/24/2023	NAP-1	Shutdown	1.68
4/24/2023	NAP-1	Startup	1.73
6/19/2023	NAP-1	Shutdown	3.00
6/20/2023	NAP-1	Startup	1.68
6/24/2023	NAP-1	Shutdown	0.12
6/25/2023	NAP-1	Startup	2.62

Exhibit 2

Exhibit 2 **Frequency and Duration of Startups and Shutdowns – NAP-2**			
Date	*Process*	*Type*	*Duration of Startup or Shutdown Process (Hours)*
1/11/2022	NAP-2	Shutdown	1.05
1/11/2022	NAP-2	Startup	1.68
1/23/2022	NAP-2	Shutdown	1.87
1/26/2022	NAP-2	Startup	1.68
1/26/2022	NAP-2	Shutdown	1.05
1/26/2022	NAP-2	Startup	1.67
1/26/2022	NAP-2	Shutdown	0.72
1/26/2022	NAP-2	Startup	0.05
1/26/2022	NAP-2	Shutdown	0.63
1/26/2022	NAP-2	Startup	0.28
1/26/2022	NAP-2	Shutdown	1.18
1/26/2022	NAP-2	Startup	0.57
1/27/2022	NAP-2	Shutdown	1.18
1/27/2022	NAP-2	Startup	0.12
1/27/2022	NAP-2	Shutdown	1.57
1/27/2022	NAP-2	Startup	0.42
1/27/2022	NAP-2	Shutdown	0.83
1/27/2022	NAP-2	Startup	0.55
2/25/2022	NAP-2	Shutdown	1.93
2/25/2022	NAP-2	Startup	1.90
3/18/2022	NAP-2	Shutdown	1.55
3/21/2022	NAP-2	Startup	1.25
3/21/2022	NAP-2	Shutdown	1.25
3/21/2022	NAP-2	Startup	0.65
3/28/2022	NAP-2	Shutdown	2.07
3/28/2022	NAP-2	Startup	1.73
3/31/2022	NAP-2	Shutdown	1.95
3/31/2022	NAP-2	Startup	2.35
4/15/2022	NAP-2	Shutdown	1.93
4/16/2022	NAP-2	Startup	1.40
6/14/2022	NAP-2	Shutdown	1.27
6/14/2022	NAP-2	Startup	1.55
7/7/2022	NAP-2	Shutdown	0.93
7/8/2022	NAP-2	Startup	2.42
7/11/2022	NAP-2	Shutdown	0.05
7/11/2022	NAP-2	Startup	3.48
7/20/2022	NAP-2	Shutdown	3.02
7/20/2022	NAP-2	Startup	1.37

Exhibit 2 **Frequency and Duration of Startups and Shutdowns – NAP-2**			
Date	*Process*	*Type*	*Duration of Startup or Shutdown Process (Hours)*
7/20/2022	NAP-2	Shutdown	2.28
7/20/2022	NAP-2	Startup	1.17
7/21/2022	NAP-2	Shutdown	0.05
7/21/2022	NAP-2	Startup	0.37
7/21/2022	NAP-2	Shutdown	1.85
7/21/2022	NAP-2	Startup	1.25
7/24/2022	NAP-2	Shutdown	2.02
7/25/2022	NAP-2	Startup	1.63
7/25/2022	NAP-2	Shutdown	3.12
7/25/2022	NAP-2	Startup	1.52
8/9/2022	NAP-2	Shutdown	1.80
8/9/2022	NAP-2	Startup	1.82
8/14/2022	NAP-2	Shutdown	2.77
9/26/2022	NAP-2	Startup	2.13
9/26/2022	NAP-2	Shutdown	2.72
9/26/2022	NAP-2	Startup	2.22
10/3/2022	NAP-2	Shutdown	1.03
10/3/2022	NAP-2	Startup	0.47
10/18/2022	NAP-2	Shutdown	0.08
10/18/2022	NAP-2	Startup	1.35
10/29/2022	NAP-2	Shutdown	2.05
11/16/2022	NAP-2	Startup	1.75
11/16/2022	NAP-2	Shutdown	0.28
11/16/2022	NAP-2	Startup	0.03
11/16/2022	NAP-2	Shutdown	0.02
11/16/2022	NAP-2	Startup	0.80
11/16/2022	NAP-2	Shutdown	1.80
11/16/2022	NAP-2	Startup	1.02
11/16/2022	NAP-2	Shutdown	2.38
11/22/2022	NAP-2	Startup	2.10
12/8/2022	NAP-2	Shutdown	2.15
12/20/2022	NAP-2	Startup	1.60
12/20/2022	NAP-2	Shutdown	0.33
12/20/2022	NAP-2	Startup	1.18
12/22/2022	NAP-2	Shutdown	1.23
12/22/2022	NAP-2	Startup	0.47
12/22/2022	NAP-2	Shutdown	2.60
12/22/2022	NAP-2	Startup	0.15

Exhibit 2 **Frequency and Duration of Startups and Shutdowns – NAP-2**			
Date	*Process*	*Type*	*Duration of Startup or Shutdown Process (Hours)*
12/22/2022	NAP-2	Shutdown	0.12
12/22/2022	NAP-2	Startup	0.08
12/22/2022	NAP-2	Shutdown	0.03
12/22/2022	NAP-2	Startup	0.72
12/22/2022	NAP-2	Shutdown	1.83
12/24/2022	NAP-2	Startup	1.22
12/24/2022	NAP-2	Shutdown	2.35
12/24/2022	NAP-2	Startup	0.85
12/28/2022	NAP-2	Shutdown	1.27
12/28/2022	NAP-2	Startup	0.47
1/31/2023	NAP-2	Shutdown	1.35
1/31/2023	NAP-2	Startup	0.62
2/2/2023	NAP-2	Shutdown	0.08
2/2/2023	NAP-2	Startup	1.32
2/26/2023	NAP-2	Shutdown	0.08
2/26/2023	NAP-2	Startup	1.58
3/6/2023	NAP-2	Shutdown	0.08
3/6/2023	NAP-2	Startup	1.22
3/7/2023	NAP-2	Shutdown	0.58
3/7/2023	NAP-2	Startup	1.23
4/5/2023	NAP-2	Shutdown	1.87
4/5/2023	NAP-2	Startup	0.30
4/22/2023	NAP-2	Shutdown	2.25
4/26/2023	NAP-2	Startup	1.22
4/28/2023	NAP-2	Shutdown	2.17
4/29/2023	NAP-2	Startup	1.53
5/5/2023	NAP-2	Shutdown	1.50
5/5/2023	NAP-2	Startup	1.67
5/24/2023	NAP-2	Shutdown	0.33
5/24/2023	NAP-2	Startup	0.33
5/24/2023	NAP-2	Shutdown	2.87
5/24/2023	NAP-2	Startup	1.70
6/24/2023	NAP-2	Shutdown	0.12
6/25/2023	NAP-2	Startup	1.60

Exhibit 3

If the COTP determines that the security zones need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter all portions of the regulated areas.

Dated: July 31, 2023.

M.A. McDonnell,

Captain, U.S. Coast Guard, Captain of the Port Sector Puget Sound.

[FR Doc. 2023–16682 Filed 8–3–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0892; EPA–R04–OAR–2022–0851; FRL–10928–02–R4]

Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards; Amendments to Stationary Sources—Emission Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Florida on November 22, 2016, and supplemented on September 30, 2022, through the Florida Department of Environmental Protection (FDEP). The November 22, 2016, SIP revision is in response to EPA's SIP Call published on June 12, 2015, concerning excess emissions during startup, shutdown, and malfunction (SSM) events. The September 30, 2022, supplemental SIP revision addresses additional SSM-related rule amendments identified by the State and the addition of source specific sulfur dioxide (SO_2) and nitrogen oxide (NO_X) emission limits. EPA is approving these SIP revisions and finds that they correct the deficiencies identified in the June 12, 2015, SIP Call. EPA is also approving a portion of a SIP revision submitted by FDEP on April 1, 2022, which modifies provisions that regulate emissions of SO_2, NO_X, and visible emissions and modifies requirements for major stationary sources of volatile organic compounds (VOC) and NO_X.

DATES: This rule is effective September 5, 2023.

ADDRESSES: EPA has established dockets for these actions under Docket Identification Nos. EPA–R04–OAR–2022–0892 and EPA–R04–OAR–2022–0851. All documents in the dockets are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joel Huey, Manager, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9104. Mr. Huey can also be reached via electronic mail at *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

a. Florida's November 22, 2016, and September 30, 2022, SIP Submissions

On November 22, 2016, FDEP submitted a revision to the Florida SIP (referred to hereinafter as Florida's ''Excess Emissions Rule SIP Revision'') in response to EPA's June 12, 2015, action titled ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction'' (''2015 SSM SIP Action''). *See* 80 FR 33839 (June 12, 2015). In the Excess Emissions Rule SIP Revision, FDEP requests EPA approval of the following changes to the Florida SIP: (1) Removal of Florida Administrative Code Rule (referred to hereinafter referred as ''Rule'') 62–210.700(4) with the addition of equivalent language to Rules 62–210.700(1) and (2); (2) amendment of Rule 62–210.700(3) to revise the particulate matter (PM) limits applicable during boiler cleaning (soot blowing) and load changes by removing the statement that excess emissions during these periods ''shall be permitted,'' removing the exemption for pollutants other than PM and visible emissions, and removing a specific allowance for visible emissions which exceed 60 percent opacity for up to four six-minute periods during the 3-hour period of excess emissions allowed for soot blowing or load change; (3) addition of Rule 62–210.700(6), which states that Rules 62–210.700(1) and (2) shall not apply after May 22, 2018, to either category-specific or unit-specific limits that have been incorporated into Florida's SIP; and (4) addition of Rule 62–210.700(7), which states that after the State's effective date of the rule change (October 23, 2016), Rules 62–210.700(1) and (2) shall not apply to new permit-specific emission limits established pursuant to Florida's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) regulations (Rules 62–212.400 and 62–210.500). The Excess Emissions Rule SIP revision includes information demonstrating that these changes will not interfere with any applicable requirement concerning attainment of any National Ambient Air Quality Standards (NAAQS) and reasonable further progress (RFP), or with any other applicable requirement of the Clean Air Act (CAA or Act).

On September 30, 2022, FDEP submitted a supplemental revision (referred to hereinafter as Florida's ''Supplemental SSM SIP Revision'') to the State's November 22, 2016, Excess Emissions Rule SIP Revision. In the Supplemental SSM SIP Revision, FDEP includes alternative SIP emission limits for those SIP emission limits that it identified as ''problematic'' if applied continuously and several changes to language throughout Chapter 62–296. The State requests EPA approval of the following changes: (1) Amendment of existing Rule 62–296.405, ''Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input,'' and Rule 62–296.570, ''Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities,'' to clarify how emissions are calculated, including during periods of startup, shutdown, and malfunction; (2) addition of emissions-unit-specific SO_2 and NO_X emission limits for certain sulfuric acid plants (SAPs) and nitric acid plants (NAPs) in Florida; (3) removal of SO_2 emission limits in Rule 62–296.402, ''Sulfuric Acid Plants''; and (4) removal of NO_X emission limits in Rule 62–296.408, ''Nitric Acid Plants.'' The

Supplemental SSM SIP revision includes technical support materials to demonstrate that these changes will not interfere with any applicable requirement concerning attainment of any NAAQS and RFP, or with any other applicable requirement of the Act.

On May 8, 2023, EPA proposed to approve FDEP's November 22, 2016, and September 30, 2022, SIP revisions. *See* 88 FR 29598. That notice of proposed rulemaking (NPRM) is titled ''Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards'' (Excess Emissions Proposal). In the Excess Emissions Proposal, EPA also proposed to determine that the SIP revisions correct the deficiencies that the Agency identified in the 2015 SSM SIP Action with respect to Florida. The reasons for the proposed approval and determination are stated in the Excess Emissions Proposal and will not be restated here. The public comment period for EPA's proposed approval and determination ended on June 7, 2023. EPA received one favorable comment and one set of comments in a joint letter submitted by the Sierra Club and the Environmental Integrity Project (hereinafter collectively referred to as the Commenters) which agree in part and disagree in part with EPA's proposed action. Both sets of comments are available in Docket No. EPA–R04–OAR–2022–0892.

b. Florida's April 1, 2022, SIP Submission

On April 1, 2022, FDEP submitted a SIP revision seeking to revise Rules 62–296.405, ''Fossil Fuel Steam Generators with More Than 250 Million Btu Per Hour Heat Input,'' and 62–296.570, ''Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X- Emitting Facilities.'' [1] [2] Florida's April 1, 2022, SIP revision includes technical support materials to demonstrate that the changes and deletions to these rules will not interfere with any applicable requirement concerning attainment of any NAAQS and RFP, or with any other applicable requirement of the Act.

Specifically, the April 1, 2022, submission contains changes to the following provisions in Rule 62–296.405: 62–296.405(1)(a); 62–296.405(1)(c)1.; 62–296.405(1)(c)1.b. through e.; 62–296.405(1)(c)1.h. through i.; 62–296.405(1)(c)2.a., b., and d.; 62–296.405(1)(c)3.; 62–296.405(1)(d)3.; 62–296.405(1)(e); and 62–296.405(2). These provisions regulate emissions of SO_2, NO_X, and visible emissions from certain fossil fuel-fired steam generators with more than 250 million British thermal units (Btu) per hour heat input. The changes to these provisions revise a visible emissions limitation and clarify to whom the results of visible emissions testing must be submitted. The changes also remove outdated language, including emission limits for sources that have shut down or have more stringent federally enforceable limits, add specific citations for EPA test methods, and make minor wording edits. These changes do not allow for any pollutant emission increases because they only (1) remove certain SIP rules that are either obsolete or that are redundant for units that have more stringent federally enforceable limits in the SIP and (2) revise other rules in a way that would not interfere with any applicable requirement concerning attainment, RFP, or any other applicable requirement of the CAA.

The April 1, 2022, submission also removes obsolete provisions in Rule 62–296–570, ''Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities'' and makes changes to clarify the intent of the Rule and update certain cross-references. FDEP developed Rule 62–296.570 to implement VOC and NO_X RACT for existing major sources of VOC and NO_X in its then moderate ozone nonattainment area—the South Florida Area (consisting of Broward, Dade, and Palm Beach Counties)—as required by CAA section 182.[3] After EPA redesignated the South Florida Area to attainment, Florida revised its RACT rules such that Rule 62–296.570 now applies to the South Florida maintenance area.[4] EPA has evaluated the State's non-interference demonstration and finds that the changes to Rule 62–296.570 would not interfere with any applicable requirement concerning attainment of any NAAQS and RFP, or any other applicable requirement of the CAA.

In a NPRM published on May 8, 2023, EPA proposed to approve the portion of Florida's April 1, 2022, SIP revision seeking to amend Rules 62–296.405 and 62–296.570. *See* 88 FR 29591. That notice of proposed rulemaking is titled ''Air Plan Approval; Florida; Amendments to Stationary Sources—Emission Standards'' (Emission Standards Proposal). Comments on the Emission Standards Proposal were due on or before June 7, 2023. EPA received no comments on the Emission Standards Proposal.

II. Response to Comments

This section contains summaries of the comments received and EPA's responses.

Comment 1: Regarding the removal of SO_2 and NO_X emission limits from Rules 62–296.402, ''Sulfuric Acid Plants,'' and 62–296.408, ''Nitric Acid Plants,'' respectively, Commenters state that ''EPA posits that a longer-term limit will protect the 1-hour SO_2 NAAQs if it is of comparable stringency to a maximum 1-hour NAAQS-protective 'critical emission value' that provides for attainment.'' [5] Commenters then note that EPA's 2014 SO_2 Nonattainment Guidance (SO_2 Nonattainment Guidance) [6] sets out a method that uses an ''equivalency ratio'' derived by compiling a representative distribution, or sample set, of actual emissions data on a 1-hour average to compute a distribution of longer-term emission averages and then a ratio of the 99th percentile of the longer-term values to the 99th percentile of the hourly values.[7] Commenters assert that Florida's proposed longer-term average limits are based on EPA's SO_2 Nonattainment Guidance and that ''one obvious problem'' with the method is that the equivalency ratio can vary greatly depending on the selected data set.[8] Commenters go on to state that EPA has not provided all relevant information about the data set used to

[1] On March 30, 2023, Florida submitted a letter to EPA withdrawing the removal of Rule 62–296.405(1)(c)1.g. and 62–296.405(1)(d)2., from EPA's consideration. For this reason, EPA is not acting on the removal of (1)(c)1.g. and (1)(d)2 described in the April 1, 2022, SIP revision. The letter is available in the docket for this rulemaking.

[2] The April 1, 2022, submittal transmits several changes to other Florida SIP-approved rules. These changes are not addressed in this rulemaking and will be considered by EPA in a separate rulemaking.

[3] *See* 60 FR 2688, 2689 (January 11, 1995) (approving Florida's January 8, 1993, SIP revision and noting that Florida's RACT rule ''applies to the 1990 Clean Air Act Amendment requirement for RACT for existing major sources of VOCs and NO_X in Florida's moderate non-attainment area.''). The fact that Rule 62–296.570 applies solely to existing units is further evidenced by language in Florida's January 8, 1993, SIP revision (available in the docket for this rulemaking), the May 31, 1995, compliance date in Rule 62–296.570(4)(a)1, and the exclusion of new and modified major VOC- and NO_X emitting facilities subject to major new source review through Rule 62–296.570(1)(a) (referencing Rule 62–296.500(1)(b)).

[4] *See* 60 FR 10325 (February 24, 1995) (redesignating the South Florida Area to attainment); 64 FR 32346 (June 16, 1999).

[5] Although this statement only appears in the comment regarding SO_2 limits in Rule 62–296.407, Commenters note in their comment regarding NO_X limits in Rule 62–296.408 that they ''have the same concerns . . . as with the SO_2 limits.'' The comments on the NO_X limits relate to the 1-hour NO_2 NAAQS.

[6] *See* SO_2 Nonattainment Guidance, *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

[7] *See supra* note 5.

[8] *Id.*

calculate the source-specific limits and it is therefore unclear whether the selected data are appropriate and whether they yield standards comparable to what might result from other potentially representative data.

Response 1: Regarding the Commenters' statement that ''EPA posits that a longer-term average limit will protect the 1-hour SO_2 NAAQS . . . ,'' the Excess Emissions Proposal does not, as the statement may suggest, include new policy statements on the use of longer-term average limits for NAAQS attainment planning purposes. Rather, in the Excess Emissions Proposal, EPA merely summarizes the approach for establishing acceptable longer-term average emission limits included in the SO_2 Nonattainment Guidance. The proposal also notes that all areas in Florida that had been through the attainment planning and/or designation process had been redesignated and, in Sections II.B.5.I. and II.B.5.II., details the methodology that Florida employed to determine proposed longer-term average emission limits for several sulfuric acid plants (SAPs) and nitric acid plants (NAPs) in the State. EPA also specifically highlights the differences between the attainment planning approach laid out in the SO_2 Nonattainment Guidance and the assessment made for determining comparably stringent limits to replace the existing SIP-rule limits.

As discussed in the Excess Emissions Proposal, Florida's longer-term average emission limits for several SAPs and NAPs in the September 30, 2022, SIP revision are not based entirely on the SO_2 Nonattainment Guidance. As FDEP explains in its SIP submittal, to set reasonable longer-term average emission limits that would be comparable to the existing SIP-rule emission limits proposed for removal from the SIP, the State made use of the statistical principles that EPA applied in the SO_2 Nonattainment Guidance to calculate equivalency ratios. In the Excess Emissions Proposal, EPA states that Florida made use of similar statistical approaches to the approach outlined in the guidance when developing its source-specific emission limits for SO_2 and NO_X. *See* 88 FR 29598, 29605–08. Making use of a similar statistical analysis of actual emissions data to develop longer-term average emission limits that would be comparable to existing SIP-rule emission limits and not allow emissions increases is not the same as applying the guidance for demonstrating that a prospective limit is sufficient to provide for attainment of the NAAQS.

As noted above, the Excess Emissions Proposal discusses the modified methodology for determining the longer-term average emission limits that can replace the existing SIP rule SO_2 emission limits for SAPs and the existing SIP rule NO_X emission limits for NAPs. The analysis demonstrates that the longer-term average emission limits are comparably stringent to those existing SIP emission limits and, therefore, do not allow any emissions increases. The detailed analysis described in section II.B.5. of the Excess Emissions Proposal explains why the longer-term emission limits developed by Florida are comparably stringent to the existing SIP limits. The proposal also specifically details how Florida's approach in establishing longer-term average emission limits for certain SAPs and for the two NAPs in the State differed from EPA's approach detailed in the SO_2 Nonattainment Guidance for the purpose of attainment planning, and it highlights the similarities, where relevant, between the two approaches. EPA did not state or suggest that Florida made use of actual modeled ''critical emission values'' (CEVs) to determine the new longer-term average emission limits proposed for incorporation into the SIP.

At the time of proposal, EPA had no information that there were any NAAQS issues that would require modeling a new CEV, and no new information has been provided to indicate that there would be NAAQS compliance issues around any of the facilities subject to this rulemaking. Rather, FDEP established new, source-specific emission limits and compared them to existing SIP emission limits in Rules 62–296.402 and 62–296.408. The starting point for the analysis was not a nonattainment planning situation, but instead a consideration of any potential relaxation to the SIP in replacing the existing SIP-rule emission limits with source-specific longer-term average emission limits.

As discussed in the Excess Emissions Proposal, the existing SIP emission limits proposed for removal from the SIP were only applicable to steady-state periods of operation, having functioned with an exemption for periods of SSM. With Florida's removal of exemptions for SSM in Rule 62–210.700, ''Excess Emissions,'' in response to the 2015 SSM SIP Action, the State wanted to develop new, continuous emission limits that would apply during all periods of operation. Having been through the attainment planning process and air quality designations process for several SAPs (*i.e.,* Mosaic Fertilizer's Riverview facility, Bartow facility, and New Wales facility), FDEP recognized that several SAPs in the State already had existing longer-term average, source-specific emission limits which were continuous and at least as stringent as the emission limits in Rule 62–296.402 (which had not been adopted for attainment planning purposes).

The State then proposed new, longer-term average emission limits for the remaining SAPs in the State, Mosaic South Pierce, Nutrien White Springs, and Tampa Electric Company (TECO) Polk, which would be based on an analysis of comparable stringency to the previously existing short-term limits using each source's continuous emissions monitoring system (CEMS) data, similar to the longer-term average emission limit approach developed in the SO_2 Nonattainment Guidance. For this analysis, Florida used the existing SIP rule emission limits in place of the CEV concept used in the SO_2 Guidance to demonstrate how much a longer-term average limit should be scaled down to compensate for the longer averaging period and maintain the same level of emission limit stringency. Similarly, the State developed longer-term average continuous emission limits for the two NAPs in the State, Ascend Pensacola, and Trademark Nitrogen, which could build off of a similar analysis based on historical CEMS data. EPA has not suggested that FDEP made use of a modeled CEV for these SAPs and NAPs. The existing 3-hour average SIP emission limits were the baseline for the longer-term average analysis. *See* 88 FR 29598, 29605–08.

EPA disagrees with the Commenters that the Agency did not provide enough information to assess the appropriateness of the data sets used in the analysis. The Excess Emissions Proposal and associated docket provide sufficient relevant information about the data sets Florida used to calculate the source-specific limits. The State utilized over three years of CEMS data for Mosaic South Pierce, three years of data for Nutrien White Springs SAP F, two years of data for Nutrien White Springs SAP E, and three years of data for Ascend Pensacola.[9] The data sets used were from the most recently available complete years and provide ample data points to perform robust analyses and to reach reliable conclusions.

EPA included the CEMS data as provided by FDEP for the Mosaic South Pierce SAPs, Nutrien White Springs

[9] *See* ''Nutrien White Springs Eq Ratio 2019–2021,'' ''Mosaic SP SO_2 Equivalence Ratios,'' and ''Ascend Nitric Acid Plant Equivalency Ratio'' in the docket for this rulemaking.

SAPs, and the Ascend Pensacola NAP in the rulemaking docket at the time of proposal. EPA also evaluated the analysis that FDEP performed in selecting longer-term average emission limits for these facilities. The Excess Emissions Proposal describes the use of 99th percentile 1-hour average, 3-hour average, 6-hour average, and 24-hour block average emissions, as applicable for the SAPs, and the proposed longer-term average emission limits being evaluated. Similarly, EPA describes the use of the 98th percentile 1-hour average, 3-hour average, and 720-hour rolling average emissions for the Ascend Pensacola NAP.

As discussed in the Excess Emissions Proposal, for the Nutrien White Springs and Mosaic South Pierce SAPs, FDEP evaluated the ratio of the 24-hour:3-hour average 99th percentile emissions, then also considered the ratio of 24-hour:1-hour average 99th percentile emissions. FDEP then selected a longer-term average emission limit (840 lbs/hr) in line with the most conservative (*i.e.,* lowest) equivalency ratios determined for Nutrien White Springs and considerably more stringent than the calculated equivalency ratios would have determined to be appropriate for Mosaic South Pierce. *See* 88 FR 29598, 29605–09. The ratio of the selected emission limit to the existing SIP emission limit (917 lbs/hr) is 0.916. The average of the two 24-hr:3-hr ratios determined for SAPs E (0.950) and F (0.914), would be 0.932. Therefore, the final limit across these two SAPs at Nutrien White Springs is in line with the lower end of what the 24-hr:3-hr equivalency ratios would indicate is an appropriate longer-term average emission limit and more stringent than what an equal consideration for the analysis across both SAPs would call for. Regarding Mosaic South Pierce, FDEP and Mosaic Fertilizer agreed upon an equivalency ratio of 0.750 for the source, which is lower than any of the 24-hr:3-hr or 24-hr:1-hr equivalency ratios included in the analysis of the CEMS data. *See* 88 FR 29598, 29605.

Regarding the TECO Polk SAP, with the new 6-hour average emission limit, the ratio between the selected limit and the existing SIP emission limit is in line with the lowest 6-hr:1-hr ratio from the available CEMS data for Nutrien White Springs and Mosaic South Pierce. *See* 88 FR 29598, 29610. For Ascend Pensacola, FDEP considered the ratio of the 720-hour:3-hour average 98th percentile emissions, then also considered the ratio of the 720-hour:1-hour average 98th percentile emissions. The selected emission limit compared to the existing SIP emission limit for Ascend Pensacola and Trademark Nitrogen results in a significantly more stringent ratio (0.867) than the CEMS data analysis would lead to for the 720-hr:3-hr (0.958) and 720-hr:1-hr (0.958) ratios. *See* 88 FR 29598, 29607, 29612–13. The ultimate longer-term average emission limits for these SAPs and NAPs were compared to these existing SIP emission limits and the ratios of longer-term average emissions to shorter-term average emissions in the CEMS data to assess the comparability with the existing SIP emission limits and therefore assess the potential relaxation to the SIP. FDEP developed its new source-specific emission limits in an appropriate way to ensure that the SIP is not relaxed and that increased emissions will not occur because of the SIP revision.

As shown in the tables below, and as discussed in the Excess Emissions Proposal,[10] in all cases the maximum emissions theoretically allowed under the new source-specific limits are less than what is theoretically allowed under the existing SIP limits on both a short-term and a long-term (annual) basis.

Facility	Existing SIP SO_2 limits		New source-specific SIP SO_2 limits	
	Combined unit maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Combined unit maximum emissions allowed per year (tons/yr)	Combined unit maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Combined unit maximum emissions allowed per year (tons/yr)
Nutrien White Springs	917	4,015	[i] 840	3,679
Mosaic South Pierce	1,000	4,380	[ii] 750	3,285
TECO Polk	49.8	218.3	[ii] 48.0	[iii] 210.2

[ii] 24-hour average.
[ii] 6-hour average.
[iii] EPA notes that Table 5 in the Excess Emissions Proposal included a typographical error, reflecting 214.6 tons/year rather than 210.2 tons/year.

Facility	Existing SIP NO_X limits		New source-specific SIP NO_X limits	
	Maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Maximum emissions allowed per year (tons/yr)	Maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Maximum emissions allowed per year (tons/yr)
Ascend Pensacola	187.5	821	[iv] 162.6	712

[10] Except where noted, each figure in the tables below appeared in a table regarding the corresponding facility in the Excess Emissions Proposal.

Facility	Existing SIP NO_X limits		New source-specific SIP NO_X limits	
	Maximum emissions allowed per hour (based on a 3-hour average) (lbs/hr)	Maximum emissions allowed per year (tons/yr)	Maximum emissions allowed per hour (based on longer-term averages, as indicated) (lbs/hr)	Maximum emissions allowed per year (tons/yr)
Trademark Nitrogen	18.8	82.1	[v] 16.3	71.2

[iv] 720-hour average.
[v] 30-day average.

Regarding the other impacted SAPs at Mosaic Fertilizer's Riverview facility, Bartow facility, and New Wales facility, EPA notes in the Excess Emissions Proposal that these facilities already had longer-term average continuous emission limits that had been previously approved into the SIP to enable attainment of the 2010 SO_2 NAAQS.[11] EPA compared these approved source-specific emission limits, which in fact provided for attainment in the respective nonattainment areas, to the existing SIP emission limit at Rule 62–296.402 (which had not been relied upon to show attainment) and determined that these emission limits are at least as stringent as the limits provided in Rule 62–296.402. EPA did not reopen for comment these longer-term average limits for these facilities, as noted in the proposal, and the Commenters did not raise any issues with these facilities or their existing longer-term average source-specific emission limits with any specificity. *See* 88 FR 29598, 29612, 29615. The Excess Emissions Proposal refers readers to the actions in which EPA approved those source-specific emission limits for more detail on how those limits were developed. In that proposal, EPA only compares the new longer-term average limits with the existing limits at Rule 62–296.402.

EPA also reiterates that, for the NAPs, the steady-state SIP emission limit was carried forward directly into the source-specific permits being approved into the SIP. This means, as EPA described in the Excess Emissions Proposal, no effective change to the existing SIP emission limitations results from removing the Rule 62–296.408 emission limit from the SIP. Instead, the two NAPs each received two new source-specific emission limits: the first covers the steady-state modes of operation and is the same as required by the existing SIP; the second applies at all times, including periods of SSM, and is comparably stringent to the existing SIP emission limit. Therefore, the SIP is strengthened by the changes applicable to these sources.

Regarding all SAPs, except for the TECO Polk SAP, the New Source Performance Standard (NSPS) at 40 CFR part 60, subpart H, *Standards of Performance for Sulfuric Acid Plants,* imposes the same emission limit for steady-state periods as the most stringent emission limit in Rule 62–296.402 (*i.e.,* 4 pounds of SO_2 per ton of sulfuric acid produced (lb/ton)). Therefore, EPA has several reasons to believe that steady-state emissions will not increase subsequent to this revision: (1) The new, longer-term average emission limits are comparably stringent to the existing steady-state SIP-rule emission limit, (2) the longer-term average emission limits significantly reduce the total SO_2 emissions allowed on a short-term basis and also a long-term (annual) basis, and (3) the NSPS will still apply to Nutrien White Springs and Mosaic South Pierce.

Comment 2: Commenters state that longer term limits cannot guarantee protection of 1-hour standards and generally should not be used to protect short-term NAAQS. Additionally, the Commenters state that if EPA chooses to allow longer-term emission limits, it should ensure that those limits are as protective as possible to ensure that the health-based standards are maintained at all times.

Response 2: EPA disagrees with the Commenters' statement that longer-term average limits should not be used to protect short-term NAAQS. As discussed in Section II.B.5. of the Excess Emissions Proposal, EPA's 2014 SO_2 Nonattainment Guidance provides procedures for using a statistical analysis to determine NAAQS-protective longer-term average emission limits for sources with variable emissions. In general, EPA believes that when the statistical procedure described in the SO_2 Nonattainment Guidance is applied appropriately, longer-term average limits are comparably effective in achieving attainment of a short-term NAAQS in nonattainment areas. EPA has approved the application of the longer-term averaging policy on a case-by-case basis in accordance with the concepts recommended in the SO_2 Nonattainment Guidance for several SO_2 nonattainment-area attainment SIPs and redesignation requests that require a NAAQS evaluation.[12] This includes attainment-SIP and redesignation-request approvals for SO_2 nonattainment areas in Florida. Appropriately set longer-term average limits can provide for attainment of a short-term NAAQS because they are set low enough that they are equally stringent as the respective shorter-term limits with higher thresholds.

Florida's application of the statistical analysis procedures contained in EPA's SO_2 Nonattainment Guidance for this SIP action was not for the purpose of demonstrating compliance with the short-term 1-hour SO_2 and NO_2 NAAQS. Rather, Florida's analysis shows that replacement of the existing short-term SIP-approved limits with the new source-specific longer-term average emission limits would not allow for an increase in emissions and thereby lessen the stringency of the SIP. As a result, the control strategy needed to meet a comparably stringent longer-term emission limit would necessarily be as effective as the control strategy needed to meet the shorter-term emission limit. Moreover, the statistical procedures were used to develop source-specific longer-term average emission limits that will apply during all periods of operation and that are comparatively

[11] *See* 82 FR 30749 (July 3, 2017), 85 FR 9666 (February 20, 2020).

[12] EPA analyzed and approved several SO_2 attainment SIPs and redesignation requests that provided modeled attainment of the 2010 short-term standard determining the suitably adjusted long term limits can be protective of the expected to 1-hour SO_2 standard. *See, e.g.,* 87 FR 33095 (June 1, 2022), 85 FR 9666 (February 20, 2020), 83 FR 25922 (June 5, 2018), 84 FR 30920 (June 28, 2019), 82 FR 30749 (July 3, 2017).

stringent to the existing shorter-term limits in Florida's SIP for SAPs and NAPs, which only apply during full-load operation and exclude SSM periods. While Florida's submission is neither intended nor required to demonstrate protection of 1-hour standards, such as what would be required of an attainment SIP supported by a modeling demonstration, Florida used appropriate source-specific data sets and appropriately applied statistical procedures to develop longer-term average emission limits that are comparatively stringent to the existing SIP emission limits such that the SIP revision will not result in emissions increases and consequently will not interfere with any applicable requirement of the CAA.

Comment 3: Commenters state that if EPA chooses to allow longer-term limits to protect short-term NAAQS, the Agency should ensure that the conversion factor used to calculate a longer-term limit is appropriately low and that the facility would violate its longer-term limit if it violated its ''critical emission value.''

Response 3: EPA believes that the procedures used by Florida to calculate the longer-term average limits for the SAPs and NAPs discussed in the May 8, 2023, Excess Emissions Proposal are appropriate and provide for comparably stringent longer-term average emission limits that apply during all periods of operation of the affected sources. The procedures used by Florida to derive the longer-term average limits are discussed and summarized in Section II.B.5. of the Excess Emissions Proposal. As shown in the example calculations provided for the Mosaic South Pierce facility and described in the Excess Emissions Proposal, Florida used an equivalency ratio of 0.75 to establish the 24-hour SO_2 limit for the two SAPs, which is approximately 23 percent lower than the 0.978 equivalency ratio calculated by applying the procedure of the SO_2 Nonattainment Guidance.[13] Therefore, the 24-hour SO_2 limits established for these SAPs are even more stringent than limits that would be derived by strictly following the procedures in the SO_2 Nonattainment Guidance. Likewise, the longer-term average limits for the other SAPs and NAPs subject to this rulemaking are at least as stringent as the longer-term average limits that were calculated following the procedures of the SO_2 Nonattainment Guidance.

As discussed in EPA's response to Comment 1, the concept of the ''critical emission value'' (CEV) is not applicable to the analysis Florida performed to calculate the comparably stringent longer-term average limits that apply during all periods of operation, including SSM events. Florida used the existing 3-hour SIP limits applicable the SAPs and NAPs as the starting point for deriving comparably stringent longer-term average limits. No CEVs were calculated. To the extent the Commenters may be referring to how the longer-term average emission limits are established relative to the existing 3-hour average SIP emission limits, EPA disagrees that the limits should be set such that any exceedance of the existing 3-hour average limits would result in exceeding the longer-term average limit. The purpose of setting a longer-term average emission limit is to allow for some level of emissions variability. Prior to this action, the existing SIP emission limits did not apply during periods of SSM, and with this change, a comparably stringent emission limit will apply at all times, including those periods of SSM. EPA discussed the statistical approach that Florida employed in establishing its longer-term average emission limits which are comparable to existing SIP emission limits in the responses to Comments 1 and 2.

Comment 4: Commenters state that there appears to be no description in EPA's proposed rule or Florida's SIP submission regarding the removal of subparagraph 62–296.405(1)(c)3, which provides that owners of fossil fuel steam generators shall monitor their emissions and the effects of the emissions on ambient concentrations of SO_2, in a manner, frequency, and locations approved and deemed reasonably necessary and ordered by the Department. Commenters question why EPA has not included any analysis on how removing this provision would not interfere with attainment, reasonable further progress, or any other applicable requirement under section 110(l) of the Act.

Response 4: EPA's May 8, 2023, Excess Emissions Proposal (88 FR 29598), which addresses Florida's November 22, 2016, and September 30, 2022, SIP revisions, did not discuss the removal of subparagraph 62–296.405(1)(c)3 because the Excess Emissions Proposal did not propose to remove it from the SIP. *See* 88 FR at 29602 and 29603, n.15. Instead, EPA proposed to remove subparagraph 62–296.405(1)(c)3 from the SIP in a different and separate notice of proposed rulemaking also published on May 8, 2023—the Emission Standards Proposal (88 FR 29591). In that notice, EPA explained the rationale for removal and proposed to find that the changes to Rule 62–296.405 would not interfere with any requirement concerning attainment and RFP, or any other applicable requirement of the CAA. *See* 88 FR 29591, 29593–94. EPA did not receive any comments on the Emission Standards Proposal and is finalizing action on both the Emission Standards Proposal and the Excess Emissions Proposal in this final rulemaking.

As EPA explained in the Emission Standards Proposal, EPA proposed to remove subparagraph (1)(c)3 from the SIP because, as FDEP notes in its April 1, 2022, SIP revision, the monitoring of stack emissions is regulated by SIP-approved Chapter 62–297, F.A.C., Stationary Sources—Emissions Monitoring, and subparagraph (1)(c)3 is a discretionary ambient SO_2 monitoring provision that is no longer needed in the SIP. *Id.* FDEP explains that the State has the authority and capability of setting up ambient air quality monitoring stations as needed. In addition, Rule 62–212.400(7) requires that the owner or operator of a major stationary source or major modification under the PSD program provide any required monitoring and analysis as required in 40 CFR 52.21(m). Florida operates an approved plan for monitoring compliance with the SO_2 NAAQS and may require owners of fossil fuel steam generators to conduct ambient monitoring as needed when constructing or modifying emissions units.

Comment 5: Commenters speculate that specific plants are being removed from Rule 62–296.405, ''Fossil Fuel Steam Generators with More than 250 Million Btu Per Hour Heat Input,'' because they no longer exist or are no longer permitted to operate. Commenters ask EPA to clarify why the plants are being removed.

Response 5: Similar to the response to Comment 4, EPA's May 8, 2023, Excess Emissions Proposal did not discuss the removal of SO_2 and NO_X standards for certain units from Rule 62–296.405 because the Excess Emissions Proposal did not propose to remove them from the SIP. Instead, EPA proposed to remove the standards for certain units from Rule 62–296.405 in the Emissions Standards Proposal and explained the rationale for such removal in that notice. EPA did not receive any comments on the Emission Standards Proposal and is finalizing action on both the Emission Standards Proposal and the Excess Emissions Proposal in this final rulemaking.

As EPA explained in the Emission Standards Proposal, EPA proposed to remove certain units from Rule 62–296.405 because Florida requested the

[13] *See supra* note 9.

removal of SO_2 and NO_X standards from Rule 62–296.405 for units that have permanently shut down [14] or have more stringent federally enforceable limits in the SIP. *See* 88 FR 29591, 29593–94.

Comment 6: A separate commenter expresses support for EPA's Excess Emissions Proposal and urges EPA to approve Florida's SIP revisions ''and reinstate or issue new SIP calls for other states or local jurisdictions that have not yet revised their SSM provisions . . . .'' The commenter mentions that ''this will ensure a level playing field for all regulated facilities and promote environmental justice for all communities.''

Response 6: EPA acknowledges the commenter's support for finalizing the Excess Emissions Proposal. To the extent that the comment refers to SIP calls for other states or local jurisdictions, the comment is outside the scope of this rulemaking, which addresses the 2015 SSM SIP Action with respect to Florida only.

III. Final Actions

EPA is approving Florida's November 22, 2016, SIP revision (Excess Emissions Rule SIP Revision) consisting of revisions to Rule Section 62–210.700, ''Excess Emissions.'' The revisions include the deletion of Rule 62–210.700(4), with the addition of equivalent language to Rules 62–210.700(1) and (2); amendment of Rule 62–210.700(3), to clarify and restate the visible emissions and PM limits applicable during boiler cleaning (soot blowing) and load changes; addition of Rule 62–210.700(6), which states that Rules 62–210.700(1) and (2) shall not apply after May 22, 2018, to either emission limits or unit-specific emission limits that have been incorporated into Florida's SIP; and addition of Rule 62–210.700(7), which states that after October 23, 2016, Rules 62–210.700(1) and (2), shall not apply to new permit-specific emission limits established pursuant to Florida's PSD and NNSR regulations (Rules 62–212.400 and 62–210.500). EPA has determined that Florida's Excess Emissions Rule SIP Revision is consistent with CAA requirements and adequately addresses the specific deficiencies that EPA identified in the 2015 SSM SIP Action with respect to the Florida SIP.

Additionally, EPA is approving Florida's SIP revisions consisting of SSM-related and other changes to Rule 62–296.405, ''Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input,'' [15] and Rule 62–296.570, ''Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities''; removal of the sulfur dioxide emission limit in Rule 62–296.402, ''Sulfuric Acid Plants''; and removal of the nitrogen oxides emission limit in Rule 62–296.408, ''Nitric Acid Plants.'' Further, EPA is approving into Florida's SIP source-specific SO_2 and NO_X emission limits and construction permit conditions for five SO_2 emissions units and two NO_X emissions units. EPA finds that Florida's April 1, 2022, SIP revision and the September 30, 2022, Supplemental SSM SIP Revision are consistent with CAA requirements and adequately address the additional regulations identified by the State as problematic.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Sections I through III of this preamble, EPA is finalizing the incorporation by reference of Florida Rule 62–210.700, ''Excess Emissions,'' state effective October 23, 2016, which set a schedule by which the exemptions from applicable emission limits for startups, shutdowns, and malfunctions will be removed. EPA is also finalizing the incorporation by reference of the following Florida Rules: 62–296.402, ''Sulfuric Acid Plants,'' removing specific emission limits from the Florida SIP, state effective June 23, 2022, except for 62–296.402(1), 62–296.402(2)(a)2., 62–296.402(2)(b)2., and 62–296.402(3)(b); 62–296.405, ''Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input,'' revising monitoring requirements and clarifying applicability, state effective June 23, 2022, except for 62–296.405(4)(a)2. through 5., 62–296.405(4)(a)8. and 9., 62–296.405(4)(b)1. and 2., 62–296.405(4)(b)4., and 62–296.405(5)(c).; 62–296.408, ''Nitric Acid Plants,'' removing specific emission limits, state effective November 23, 1994, except for 62–296.408(2); and 62–296.570, ''Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities,'' removing an exemption from RACT requirements during startups, shutdowns, and malfunctions, state effective June 23, 2022. Additionally, EPA is finalizing the incorporation by reference of the specified new operating parameters, SO_2 emission caps, and compliance monitoring, recordkeeping, and reporting requirements for emission units EU 066 (SAP E) and EU 067 (SAP F) at Nutrien White Springs (Permit No. 0470002–132–AC),[16] state effective January 1, 2023; EU 004 (SAP 10) and EU 005 (SAP 11) at Mosaic South Pierce (Permit No. 1050055–037–AC),[17] state effective April 1, 2023; and EU 004 at TECO-Polk (Permit No. 1050233–050–AC),[18] state effective January 1, 2023. The SO_2 emission standards specified in each permit are the basis for the removal of other SO_2 emission limits from the SIP. Finally, EPA is finalizing the incorporation by reference of the specified new operating parameters, NO_X emission caps, and compliance monitoring, recordkeeping, and reporting requirements for emission units EU 042 at Ascend Pensacola (Permit No. 0330040–076–AC),[19] state effective January 1, 2023; and EU 001 at Trademark Nitrogen (Permit No. 0570025–016–AC),[20] state effective

[14] As explained in the Emission Standards Proposal, on March 30, 2023, Florida withdrew its request to remove 62–296.405(1)(c)1.g and (1)(d)2., which include SO_2 and NO_X limits, respectively, for Florida Power and Light's Manatee plant, which has not shut down. EPA accordingly did not propose to approve the removal of these subparagraphs.

[15] The September 30, 2022, SIP revision includes the following typographical errors: (1) In paragraph 62–296.405(6)(b) as shown on page 33 of 126 in the submittal, one sentence (''In lieu of EPA Method 17, 5, 5B, or 5F . . . .'') appears in two places. The amendments to the State effective version of Rule 62–296.405, which start at page 73 of 126, show the revised text correctly at page 75 of 126 in the SIP submittal. (2) In paragraph 62–296.405(7)(a)4. as shown on page 35 of 126, two rule cross-references are not shown as revised. The amendments to the State effective version of Rule 62–296.405 show the revised cross-references correctly at page 77 of 126. (3) In paragraph 62–296.405(7)(b) as shown on page 35 of 126, a rule cross-reference is not shown as revised. The amendments to the State effective version of the rule show the revised cross-reference correctly at page 77 of 126.

[16] Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 3 through 6 from Permit No. 0470002–132–AC issued to White Springs Agricultural Chemicals, Inc., Suwanee River/Swift Creek Complex by FDEP on September 22, 2022, State effective January 1, 2023.

[17] Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 4 through 7 from Permit No. 1050055–037–AC issued to Mosaic Fertilizer, LLC, South Pierce Facility by FDEP on September 22, 2022, State effective April 1, 2023.

[18] Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 1 through 4 from Permit No. 1050233–050–AC issued to Tampa Electric Company Polk Power Station by FDEP on September 21, 2022, State effective January 1, 2023.

[19] Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 1 through 6 from Permit No. 0330040–076–AC issued to Ascend Performance Materials Operations LLC Pensacola Plant by FDEP on September 20, 2022, State effective January 1, 2023. EPA notes that the condition numbers are misidentified on pages 43–44 of the Supplemental SSM SIP Revision as 1 and 5 through 9; in the permit, those conditions are numbered 1 through 6, as shown on pages 98–99 of the Supplemental SSM SIP Revision.

[20] Specifically, EPA is incorporating by reference into Florida's SIP Specific Conditions 1 and 5

January 1, 2023. The NO_X emission standards specified in each permit are the basis for the removal of other NO_X emission limits from the SIP. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[21]

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, these actions do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The FDEP did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in these actions. Due to the nature of the actions being taken here, these actions are expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of these actions, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these actions and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. These actions are not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by October 3, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 24, 2023.

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K—Florida

■ 2. In § 52.520:

■ a. Amend the table in paragraph (c) by:

■ 1. Under the heading ''Chapter 62–210 Stationary Sources—General Requirements,'' revising the entry ''62–210.700'',

through 9 from Permit No. 0570025–016–AC issued to Trademark Nitrogen, Inc., by FDEP on September 20, 2022, State effective January 1, 2023.

[21] *See* 62 FR 27968 (May 22, 1997).

■ 2. Under the heading ''Chapter 62–296 Stationary Sources—Emission Standards,'' revising entries ''62–296.402'', ''62–296.405'', ''62–296.408'', and ''62–296.570'';
■ b. Amend the table in paragraph (d), by adding entries ''Nutrien White Springs''; ''Mosaic Fertilizer LLC—South Pierce Facility''; ''Tampa Electric Company (TECO)—Polk Power Station'', Ascend Pensacola'', and ''Trademark Nitrogen'' at the end of the table.

The revisions and additions read as follows:

§ 52.520 dentification of plan.

* * * * *

(c) * * *

EPA-APPROVED FLORIDA LAWS AND REGULATIONS

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 62–210 Stationary Sources—General Requirements				
*	*	*	*	*
62–210.700	Excess Emissions	10/23/2016	8/4/2023, [Insert citation of publication].	
*	*	*	*	*
Chapter 62–296 Stationary Sources—Emission Standards				
*	*	*	*	*
62–296.402	Sulfuric Acid Plants	6/23/2022	8/4/2023, [Insert citation of publication].	Except for paragraphs (1), (2)(a)2., (2)(b)2., and (3)(b).
*	*	*	*	*
62–296.405	Existing Fossil Fuel Steam Generators with Greater than or Equal to 250 Million Btu Per Hour Heat Input.	6/23/2022	8/4/2023, [Insert citation of publication].	Except for paragraphs (4)(a)2. through 5., (4)(a)8. and 9., (4)(b)1. and 2., (4)(b)4., and (5)(c).
*	*	*	*	*
62–296.408	Nitric Acid Plants	11/23/1994	8/4/2023, [Insert citation of publication].	Except for paragraph (2).
*	*	*	*	*
62–296.570	Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities.	6/23/2022	8/4/2023, [Insert citation of publication].	
*	*	*	*	*

(d) * * *

EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
Nutrien White Springs	0470002–132–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 3 through 6 at EU 066 (SAP E) and EU 067 (SAP F).
Mosaic Fertilizer, LLC—South Pierce Facility.	1050055–037–AC.	4/1/2023	8/4/2023, [Insert citation of publication].	Conditions 4 through 7 at EU 004 (SAP 10) and EU 005 (SAP 11).
Tampa Electric Company (TECO)—Polk Power Station.	1050233–050–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 1 through 4 at EU 004.
Ascend Pensacola	0330040–076–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 1 through 6 at EU 042.
Trademark Nitrogen	0570025–016–AC.	1/1/2023	8/4/2023, [Insert citation of publication].	Conditions 1 and 5 through 9 at EU 001.

* * * * *

[FR Doc. 2023–15964 Filed 8–3–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2023–0197; FRL–10826–02–R7]

Air Plan Approval; State of Missouri; Construction Permits by Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Missouri State Implementation Plan (SIP) received on August 4, 2022. The submission removes a provision in the Missouri regulation ''Construction Permits By Rule'' that allows the burning of illegal and waste pharmaceutical drugs in crematories and animal incinerators. In the previous revision, submitted to EPA on March 7, 2019, EPA approved selected revisions of the rule but did not act on a portion of the revision that included the disposal of pharmaceuticals in crematories and animal incinerators because it conflicted with federal requirements on the incineration of illegal and waste pharmaceuticals. By removing the conflicting language, approval of these revisions ensures consistency between State and federally approved rules. These revisions along with other minor text changes are administrative in nature and do not impact the stringency of the SIP or air quality. The EPA's approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on September 5, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2023–0197. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Steven Brown, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7718; email address: *brown.steven@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is the EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What is being addressed in this document?

The EPA is approving a SIP revision submitted by the State of Missouri on August 4, 2022. Missouri requested the EPA to approve revisions to 10 Code of State Regulations (CSR) 10–6.062 in the Missouri SIP. The state has revised the rule to remove a provision in the Missouri regulation, ''Construction Permits By Rule'' that allowed the burning of illegal and waste pharmaceutical drugs in crematories and animal incinerators. In the previous revision, submitted to EPA on March 7, 2019, and in a final rulemaking, EPA approved selected revisions of the rule but did not act on a portion of the revision that included the disposal of pharmaceutical drugs because it conflicted with federal requirements on the incineration of illegal and waste pharmaceuticals. After review and analysis of the revisions, the EPA concluded that these changes do not have adverse effects on air quality. The full text of these changes can be found in the State's submission, which is included in the docket for this action. The EPA's analysis of the revisions can be found in the technical support document (TSD), also included in the docket.

II. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from 12/01/2021 to 2/03/2022 and received no comments. The EPA's Notice of Proposed Rulemaking (NPRM) and supporting information contained in the docket were made available for public comment from May 22, 2023, to June 21, 2023 (88 FR 32715).

The EPA received one comment. The commenter did not support the incineration of illegal and waste pharmaceuticals because of the potential negative human health and environmental impacts. The state removed the language in the rule allowing the incineration of illegal and waste pharmaceuticals. Therefore, the rule is consistent with federal regulations and EPA is able to approve this revision. The comment is included in the docket.

In addition, as explained above and in more detail in the TSD, which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is the EPA taking?

The EPA is taking final action to amend the Missouri SIP by approving the State's revisions to rule 10–6.062 ''Construction Permits By Rule.'' Approval of these revisions will ensure consistency between State and federally approved rules. As described in the NPRM (88 FR 32715), and the TSD, the EPA has determined that these changes meet the requirements of the Clean Air Act and will not adversely impact air quality or the stringency of the SIP.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri rule 10 CSR 10–6.062, state effective date July 30, 2022, which regulates the process by which sources can be exempt from 10 CSR 10–6.060 Construction Permits Required. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

[1] 62 FR 27968, May 22, 1997.

Exhibit 4

PERMITTEE

Ascend Performance Materials Operations LLC
Post Office Box 97
Gonzalez, Florida 32560-0097

Authorized Representative:
Matthew D. Stewart, Site Director Pensacola Chemicals

Air Permit No. 0330040-076-AC
Permit Expires: December 31, 2023
Minor Air Construction Permit
Ascend Pensacola Plant
New NO_X Emission Limit Nitric Acid Plant

PROJECT

This is the final air construction permit, which imposes a new nitrogen oxide (NO_X) emission limit on the Nitric Acid Plant. The proposed work will be conducted at the existing Ascend Pensacola Plant, which is a nylon and intermediates chemical manufacturing facility, categorized under Standard Industrial Classification (SIC) Code Nos. 2821, 2824, and 2869. The existing facility is in Escambia County at 3000 Old Chemstrand Road in Cantonment, Florida. The UTM coordinates are Zone 16, 476.0 kilometers (km) East and 3385.2 km North.

This final permit is organized into the following sections: Section 1 (General Information); Section 2 (Administrative Requirements); Section 3 (Emissions Unit Specific Conditions); and Section 4 (Appendices). Because of the technical nature of the project, the permit contains numerous acronyms and abbreviations, which are defined in Appendix A of Section 4 of this permit. As noted in the Final Determination provided with this final permit, only minor changes and clarifications were made to the draft permit.

STATEMENT OF BASIS

This air pollution construction permit is issued under the provisions of: Chapter 403 of the Florida Statutes (F.S.) and Chapters 62-4, 62-204, 62-210, 62-212, 62-296 and 62-297 of the Florida Administrative Code (F.A.C.). The permittee is authorized to conduct the proposed work in accordance with the conditions of this permit. This project is subject to the general preconstruction review requirements in Rule 62-212.300, F.A.C. and is not subject to the preconstruction review requirements for major stationary sources in Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality.

Upon issuance of this final permit, any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel (Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000) and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice must be filed within 30 days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida

David Lyle Read, P.E., Environmental Administrator
Permit Review Section
Division of Air Resource Management

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Final Air Construction Permit package was sent by electronic mail, or a link to these documents made available electronically on a publicly accessible server, with received receipt requested before the close of business on the date indicated below to the following persons.

Ms. Deborah Grissett, Ascend: (drgris1@ascendmaterials.com)
Ms. Nichols, Melissa, Ascend: (mnicho@ascendmaterials.com)
Russell Sullivan, Northwest District Office (russell.sullivan@floridadep.gov)
Ms. Amy Hilliard, DEP PRS: Amy.Hilliard@FloridaDEP.gov

Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated agency clerk, receipt of which is hereby acknowledged.

FACILITY DESCRIPTION

Ascend Performance Materials Operations LLC, Ascend Pensacola Plant (Ascend), manufactures various chemicals and products, including adipic acid, nylon fibers and resins, hexamethylene diamine and maleic anhydride. This includes several raw materials barge, train and truck offloading and storage operations; chemical process plants which make chemical feedstocks, intermediates and nylon resins; a yarn plant which makes finished yarn products; and boilers and a cogeneration unit which provide process steam and plant electricity. Ascend also operates a maleic anhydride facility, which is owned by Huntsman Petrochemical Corporation.

The existing facility consists of the following emissions units (EU).

EU No.	Brief Description
Regulated Emissions Units	
014	Boiler No. 4
015	Boiler No. 5
016	Boiler No. 6
003	Boiler No. 8
004	Boiler No. 7
099	Boiler No. 9
076	Maleic Anhydride (MA) Plant
032	Cogeneration Plant
060	Adipic Acid 485 BEPEX Dryer
061	Adipic Acid Dryer 405-A
062	Adipic Acid Dryer 405-B
063	Adipic Acid Dryer 465-A
064	Adipic Acid Dryer 465-B
079	Adipic Acid 485 NIRO Dryer
002	Adipic Acid Process
090	Adipic Acid Process- Fugitive Emissions
101	Adipic Acid - Fugitive Emissions (New Equipment)
005	Vaporizer No. 1
007	Vaporizer No. 2
008	Vaporizer No. 3
009	Vaporizer No. 4
010	Vaporizer No. 5
011	Vaporizer No. 6
013	Vaporizer No. 7
075	Vaporizer No. 8
105	Vaporizer No. 9
081	Continuous Nylon Polymerization Lines
082	Batch Nylon Polymerization
020	Cyclohexane Oxidation Process
049	Hydrogen Generating Plant No. 1

EU No.	Brief Description
040	Hexamethylene Diamine Synthesis and Refining
041	B and C Hexamethylene Diamine Stripper Distillation Column
042	Nitric Acid Plant
088	Area 480 KA Expansion
089	Area 480 KA Expansion- Fugitive Emissions
097	NSPS Storage Tanks (Methanol)
077	Dimethyl Ester (DME) Production Unit
103	Hydrogen Generating Plant No. 2
104	Hydrogen Plant No. 2 Flare
108	Existing Emergency Reciprocating Internal Combustion Engines (RICE)
109	New Emergency Reciprocating Internal Combustion Engine
Unregulated Emissions Units and Activities (see Appendix U, List of Unregulated Emissions Units)	
073	Abrasive Blast Facility
038	Research and Development
050	Adipic Acid Bulk Loading No. 1, Building 346
110	Therminol Header and Relief Condenser Fugitive Emissions

PROPOSED PROJECT

This permitting action will establish a nitrogen oxide (NO_X) emission limit on the Nitric Acid Plant. In particular, the Nitric Acid Plant shall meet a NO_X emission limit, expressed as nitrogen dioxide (NO_2), of 2.6 pounds (lb) per ton of nitric acid produced on a 720-hour consecutive operating days basis. This emission standard will apply at all times, including periods of startup, shutdown and malfunction.

This project will affect the following emissions units.

EU No.	Emission Unit Description
042	Nitric Acid Plant

FACILITY REGULATORY CLASSIFICATION

- The facility is a major source of hazardous air pollutants (HAP).
- The facility is a Title V major source of air pollution in accordance with Chapter 62-213, F.A.C.
- The facility is a major stationary source in accordance with Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality.
- The facility operates units subject to the New Source Performance Standards (NSPS) of Title 40 Part 60 of the Code of Federal Regulations (40 CFR 60).
- The facility operates units subject to the National Emissions Standards of Hazardous Air Pollutants (NESHAP) of 40 CFR 63.

1. Permitting Authority: The permitting authority for this project is the Permit Review Section in the Division of Air Resource Management of the Department of Environmental Protection (Department). The Permit Review Section mailing address is 2600 Blair Stone Road (MS #5505), Tallahassee, Florida 32399-2400.

2. Compliance Authority: All documents related to compliance activities such as reports, tests, and notifications shall be submitted to the Department's Northwest District Office at: 160 West Government Street # 308, Pensacola, Florida 32502.

3. Appendices: The following Appendices are attached as a part of this permit: Appendix A (Citation Formats and Glossary of Common Terms); Appendix B (General Conditions); Appendix C (Common Conditions); Appendix D (Common Testing Requirements); and Appendix E (NSPS Subpart Ga - Standards of Performance for Nitric Acid Plants).

4. Applicable Regulations, Forms and Application Procedures: Unless otherwise specified in this permit, the construction and operation of the subject emissions units shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of: Chapter 403, F.S.; and Chapters 62-4, 62-204, 62-210, 62-212, 62-213, 62-296 and 62-297, F.A.C. Issuance of this permit does not relieve the permittee from compliance with any applicable federal, state, or local permitting or regulations.

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

6. Modifications: The permittee shall notify the Compliance Authority upon commencement of construction. No new emissions unit shall be constructed and no existing emissions unit shall be modified without obtaining an air construction permit from the Department. Such permit shall be obtained prior to beginning construction or modification. [Rules 62-210.300(1) and 62-212.300(1)(a), F.A.C.]

7. Construction and Expiration: The expiration date shown on the first page of this permit provides time to complete the physical construction activities authorized by this permit, complete any necessary compliance testing, and obtain an operation permit. Notwithstanding this expiration date, all specific emissions limitations and operating requirements established by this permit shall remain in effect until the facility or emissions unit is permanently shut down. For good cause, the permittee may request that a permit be extended. Pursuant to Rule 62-4.080(3), F.A.C., such a request shall be submitted to the Permitting Authority in writing before the permit expires. [Rules 62-4.070(3) & (4), 62-4.080 & 62-210.300(1), F.A.C.]

This section of the permit addresses the following emissions unit.

EU No.	Emission Unit Description
042	Nitric Acid Plant

Nitric Acid Plant (EU 042) has a maximum capacity of 1,500 tons per day. Ammonia is oxidized in the presence of a catalyst to form NOx, which is then converted to nitric acid by a reaction with water.

{Permitting Note: NOx emissions are controlled by process operating conditions and/or use of a Selective Catalytic Reduction (SCR) NO_x abatement device. Startup, shutdown and malfunction allowance is three hours based on 40 CFR 60, Subpart G. This emissions unit is regulated under applicable portions of 40 CFR 60, Subpart A; and 40 CFR 60, Subpart G – Standards of Performance for Nitric Acid Plants, adopted and incorporated by reference into this permit.}

NO_X EMISSION LIMIT

1. New and Current NO_X Emission Limit: The below table contains the current and new NO_X emission limits to which the EU is subject along with the effective date of each limit (new NO_X emission limit is yellow highlight):

Pollutant	Emission Limit	Compliance Method	Basis	Effective Date
NO_X	1.5 kg per metric ton (3.0 lb per ton) of 100% HNO_3 produced [1, 3]	CEMS	3-hour	Effective Now
	2.6 lb/ton of 100% HNO_3 produced [2,3]	CEMS	720-operating hour [4] average, rolled hourly (See **Specific Condition 4**	January 1, 2023

1. Excludes startup, shutdown, and malfunction.
2. Applicable at all times, including period of startup, shutdown and malfunction.
3. Expressed as NO_2.
4. An operating hour is defined as any hour the Nitric Acid Plant is operating including periods of startup, shutdown, and malfunction.

[Application No. 0330040-076-AC; and Rule 62-210.200(PTE) F.A.C; Excess Emissions SIP.]

NO_X EMISSION TESTING AND MONITORING

2. General Emissions Monitoring Requirements: The permittee shall install and operate a NO_X CEMS that meets the emissions monitoring requirements of 40 CFR § 60.73. The permittee shall determine the hourly NO_X emissions rate in units of the applicable emissions limit (lb/ton of 100 percent acid produced). The permittee shall operate the emissions monitoring system during all operating periods including unit startup, shutdown, and malfunction. Monitoring downtime shall be reported in accordance with 40 CFR 60.7. [Application No. 0330040-076-AC and 40 CFR §60.73 and Rule 62-210.200(PTE), F.A.C.]

3. NO_X CEMS: The permittee shall operate and maintain the NO_X CEMS to measure gas concentration and determine NO_X emissions on a lb of NO_X/ton of 100 percent acid produced in accordance with 40 CFR §60.73 (see Appendix E). [Application No. 0330040-076-AC and 40 CFR §60.73 and Rules 62-4.070(3) and 62-210.200(PTE), F.A.C.]

EMISSIONS CALCULATIONS

4. 720-Operating Hour Rolling Average Emissions Rate: The 720-operating hour emission rate shall be calculated based on the arithmetic average of pounds of NO_X emitted per ton of acid produced values for 720 consecutive operating hours with the production being expressed as 100 percent nitric acid. Compliance is determined by calculating the pound per ton value for the most recent operating hour and then calculating the arithmetic average of that value and the previous 719 operating hours. An operating hour is defined as any hour when the Nitric Acid Plant is operating, including startup, shutdown, and malfunction. The permittee

shall calculate the 720-operating hour rolling average emissions rate in units of the applicable emissions standard (lb NO_X/ton 100 percent acid produced) at the end of each operating hour using all of the quality assured hourly average CEMS data for the previous 720-operating hour period. [Application No. 0330040-076-AC and Rules 62-4.070(3) and 62-210.200(PTE), F.A.C.]

RECORDKEEPING AND REPORTING

5. Recordkeeping: The permittee shall meet the following recordkeeping requirements:
   (a) For the NO_X emissions rate, you must keep records for, and results of, the performance evaluations of the continuous emissions monitoring systems (NO_X CEMS).
   (b) You must maintain records of the hours of operation and the calculated emission rate for each operating hour and for each 720-operating hour period.
   (c) You must maintain records of the following time periods:
      (1) Times when you were not in compliance with the emissions standards.
      (2) Times when the pollutant concentration exceeded full span of the NO_X monitoring equipment.
   (d) You must maintain records of the reasons for any periods of noncompliance and description of corrective actions taken.
   (e) You must maintain records of any modifications to CEMS which could affect the ability of the CEMS to comply with applicable performance specifications.

   [Application No. 0330040-076-AC]

6. Reporting: For each 720- operating hour period where you were not in compliance with the emissions standard, the following information must be reported within one (1) business day to the Department:
   (a) Time period;
   (b) NO_X emission rates (lb/ton of acid produced);
   (c) Reasons for noncompliance with the emissions standard; and
   (d) Description of corrective actions taken.

   [Application No. 0330040-076-AC; Rule 62-4.160, F.A.C.]

Exhibit 5

PERMITTEE

Trademark Nitrogen, Inc.
1216 Old Hopewell Road
Tampa, FL 33619

Authorized Representative:
Matthew Parsons-Cohrs, Facility Engineer

Air Permit No. 0570025-016-AC
Permit Expires: December 31, 2023
Minor Air Construction Permit
Trademark Nitrogen Plant
New NO_X Emission Limit

PROJECT

This is the final air construction permit, which establishes a new nitrogen oxide (NO_X) emission limit on the Nitric Acid Plant. The proposed work will be conducted at the existing Trademark Nitrogen Plant, which is a nitrogen fertilizer production plant (Standard Industrial Classification No. 2873). This existing facility is in Hillsborough County at 1216 Old Hopewell Road in Tampa, Florida. The UTM coordinates are Zone 17, 367.3 kilometers (km) East, and 3092.6 km North.

This final permit is organized into the following sections: Section 1 (General Information); Section 2 (Administrative Requirements); Section 3 (Emissions Unit Specific Conditions); and Section 4 (Appendices). Because of the technical nature of the project, the permit contains numerous acronyms and abbreviations, which are defined in Appendix A of Section 4 of this permit. As noted in the Final Determination provided with this final permit, only minor changes and clarifications were made to the draft permit.

STATEMENT OF BASIS

This air pollution construction permit is issued under the provisions of: Chapter 403 of the Florida Statutes (F.S.) and Chapters 62-4, 62-204, 62-210, 62-212, 62-296 and 62-297 of the Florida Administrative Code (F.A.C.). The permittee is authorized to conduct the proposed work in accordance with the conditions of this permit. This project is subject to the general preconstruction review requirements in Rule 62-212.300, F.A.C. and is not subject to the preconstruction review requirements for major stationary sources in Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality.

Upon issuance of this final permit, any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel (Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000) and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice must be filed within 30 days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida

David Lyle Read, P.E., Environmental Administrator
Permit Review Section
Division of Air Resource Management

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Final Air Construction Permit package was sent by electronic mail, or a link to these documents made available electronically on a publicly accessible server, with received receipt requested before the close of business on the date indicated below to the following persons.

Mr. Matthew Parsons-Cohrs, Trademark Nitrogen, Inc.: mparsonscohrs@trademarknitrogen.com)
Ms. Diana M. Lee, P.E., EPCHC: lee@epchc.org
Ms. Melissa Madden, DEP SWD Office: Melissa.Madden@FloridaDEP.gov
Ms. Amy Hilliard, DEP PRS: Amy.Hilliard@FloridaDEP.gov

Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated agency clerk, receipt of which is hereby acknowledged.

FACILITY DESCRIPTION

Trademark Nitrogen is a nitrogen fertilizer production plant, which is comprised of a nitric acid plant and an ammonium nitrate plant. The nitric acid plant operation consists of compressing and heating atmospheric air and mixing the air with hot ammonia. The mixture is passed through a catalyst to produce nitrogen oxides (NO_X). The nitrogen oxides are then passed through a series of heat exchangers, coolers, and through a primary absorber where the oxides are absorbed in water to produce nitric acid. The remaining oxides are passed through a secondary absorber, which acts as a control device to reduce NO_X emissions, prior to the Selective Catalytic Reduction (SCR) unit that further reduces NO_X.

The ammonium nitrate plant produces ammonium nitrate (NH_4NO_3) by neutralizing the nitric acid that is produced onsite with ammonia. The nitric acid is sprayed downward from a nozzle within the neutralizer while the anhydrous ammonia is sprayed upward, which causes mixing to take place. An approximately 76% NH_4NO_3 liquid solution product is produced.

The facility also operates the following sources which are exempt from permitting pursuant to Rule 62-210.300(3)(b) F.A.C.: a urea handling operation; a magnesium nitrate solutions plant with a magnesium oxide silo; a bulk storage warehouse with railcar unloading of urea; and a truck loading and a bagging machine located in the warehouse.

Also, the facility has categorically exempt sources that include: a 6.7 MMBtu/hr Orr & Steambower natural gas fired boiler and 4.5 MMBtu/hr natural gas fired Kemco Systems, Inc., water heater, which are exempt pursuant to Rule 62-210.300(3)(a)34 F.A.C. The facility also operates a 350 kW, diesel fuel fired, Kohler emergency generator, which is categorically exempt in accordance with Rule 62-210.300(3)(a)35, F.A.C. However, the engine remains subject to 40 CFR 60, Subpart IIII - *Standards of Performance for Stationary Compression Ignition Internal Combustion Engines* because it was manufactured after April 1, 2006.

In addition to the above sources, the facility receives and loads various liquid fertilizers and liquid products used in the manufacture of liquid fertilizer. The products are stored in 92 tanks and include products such as liquid ammonium nitrate, nitric acid, various liquid fertilizer solutions, safety oil, scrap water, phosphoric acid, and anhydrous ammonia. The truck loading rack and the tanks are not considered significant sources of emissions since they handle liquid products that are not significant sources of regulated emissions.

The existing facility consists of the following emissions units (EU).

EU No.	Emission Unit Description
001	Nitric Acid Plant with Two Absorption Towers and SCR
002	Ammonium Nitrate Plant

PROPOSED PROJECT

This permitting action will establish a NO_X emission limit on the Nitric Acid Plant. In particular, the Nitric Acid Plant shall mee a NO_X emission limit, expressed as NO_2, of 2.60 pounds (lb) per ton of nitric acid produced on a 30 consecutive operating days basis. This emission standard will apply at all times, including period of startup, shutdown, or malfunction.

This project will modify the following emissions units.

EU No.	Emission Unit Description
001	Nitric Acid Plant

FACILITY REGULATORY CLASSIFICATION

- The facility is not a major source of hazardous air pollutants (HAP).
- The facility does not operate units subject to the acid rain provisions of the Clean Air Act (CAA).
- The facility is not a Title V major source of air pollution in accordance with Chapter 62-213, F.A.C.

- The facility is not a major stationary source in accordance with Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality.
- The facility does operate units subject to the New Source Performance Standards (NSPS) of Title 40 Part 60 of the Code of Federal Regulations (40 CFR 60).

1. Permitting Authority: The permitting authority for this project is the Permit Review Section in the Division of Air Resource Management of the Department of Environmental Protection (Department). The Permit Review Section mailing address is 2600 Blair Stone Road (MS #5505), Tallahassee, Florida 32399-2400.

2. Compliance Authority: All documents related to compliance activities such as reports, tests, and notifications shall be submitted to the Environmental Protection Commission of Hillsborough County (EPCHC) at: 3629 Queen Palm Dr., Tampa, Florida 33619. The Permitting Authority's telephone number is (813) 627-2600.

3. Appendices: The following Appendices are attached as a part of this permit: Appendix A (Citation Formats and Glossary of Common Terms); Appendix B (General Conditions); Appendix C (Common Conditions); Appendix D (Common Testing Requirements); and Appendix E (NSPS Subpart G - Standards of Performance for Nitric Acid Plants).

4. Applicable Regulations, Forms and Application Procedures: Unless otherwise specified in this permit, the construction and operation of the subject emissions units shall be in accordance with the capacities and specifications stated in the application. The facility is subject to all applicable provisions of: Chapter 403, F.S.; and Chapters 62-4, 62-204, 62-210, 62-212, 62-213, 62-296 and 62-297, F.A.C. Issuance of this permit does not relieve the permittee from compliance with any applicable federal, state, or local permitting or regulations.

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

6. Modifications: The permittee shall notify the Compliance Authority upon commencement of construction. No new emissions unit shall be constructed and no existing emissions unit shall be modified without obtaining an air construction permit from the Department. Such permit shall be obtained prior to beginning construction or modification. [Rules 62-210.300(1) and 62-212.300(1)(a), F.A.C.]

7. Construction and Expiration: The expiration date shown on the first page of this permit provides time to complete the physical construction activities authorized by this permit, complete any necessary compliance testing, and obtain an operation permit. Notwithstanding this expiration date, all specific emissions limitations and operating requirements established by this permit shall remain in effect until the facility or emissions unit is permanently shut down. For good cause, the permittee may request that a permit be extended. Pursuant to Rule 62-4.080(3), F.A.C., such a request shall be submitted to the Permitting Authority in writing before the permit expires. [Rules 62-4.070(3) & (4), 62-4.080 & 62-210.300(1), F.A.C.]

8. Application for Air Operating Permit: Subsequent to any construction, reconstruction or modification of a facility or emissions unit authorized by an air construction permit, and either within 60 days of demonstration of compliance with the conditions of such air construction permit, or within 60 days of expiration of such an air construction permit, whichever occurs first, the owner or operator of such facility or emissions unit shall obtain an initial air operation permit or revision of an existing air operation permit, whichever is appropriate, in accordance with all applicable provisions of this chapter and Chapter 62-4, F.A.C. When the application for an initial air operation permit or revision of an existing air operation permit is timely and sufficient, this permit shall remain in effect until the initial or revision application has been finally acted upon by the Department. To apply for a non-Title V operation permit, the applicant shall submit the appropriate application form, compliance test results, and such additional information as the Department may by law require. The application shall be submitted to the appropriate Permitting Authority with copies to the Compliance Authority. [Rules 62-4.030, 62-4.070(3), and Chapter 62-210, F.A.C.]

This section of the permit addresses the following emissions unit.

EU No.	Emission Unit Description
001	Nitric Acid Plant

The nitric acid plant consists of two absorption towers (primary and secondary) that operate in series. The process consists of compressing and heating atmospheric air and mixing the air with hot ammonia. The mixture is passed through a catalyst to produce nitrogen oxides (NO_X). The NO_X is then passed through a series of heat exchangers, coolers, and through a primary absorber where the oxides are absorbed in water to produce nitric acid. The remaining oxides are passed through the secondary absorber acting as a control device to reduce NO_X emissions prior to the Selective Catalytic Reduction (SCR) unit. The SCR unit converts NO_X to N_2 and H_2O by mixing the tail gas with a small amount of ammonia then passing the mixture over a catalyst before being discharged out the stack. The following is a more detailed description of the nitric acid plant operation.

{Permitting Note: NOx emissions are controlled by process operating conditions and/or use of a Selective Catalytic Reduction (SCR) NO_x abatement device. Startup, shutdown and malfunction allowance is three hours based on 40 CFR 60, Subpart G. This emissions unit is regulated under applicable portions of 40 CFR 60, Subpart A; and 40 CFR 60, Subpart G – Standards of Performance for Nitric Acid Plants, adopted and incorporated by reference into this permit.}

NO_X AND VE EMISSION LIMITS

1. New and Current NO_X Emission Limits and VE Standard: The below table contains the current and new NO_X emission limits and current visible emission (VE, Opacity) standard to which the EU is subject along with the effective date of each limit (new NO_X emission limit is yellow highlight):

Pollutant	Emission Limit	Compliance Method	Basis	Effective Date
NO_X	3.0 lb/ton of 100% HNO_3 produced [1, 3]	CEMS	3-hour	Effective Now
	2.60 lb/ton of 100% HNO_3 produced [2,3]	CEMS	30-operating day average (See **Specific Condition 5)**	January 1, 2023
VE	10 percent opacity	EPA Method 9	---	Effective Now

1. Excludes startup, shutdown, and malfunction.
2. Applicable at all times, including period of startup, shutdown and malfunction.
3. Expressed as NO_2.

[Application No. 0570025-016-AC; and Rule 62-210.200(PTE) F.A.C; Excess Emissions SIP.]

NO_X EMISSION TESTING AND MONITORING

2. General Emissions Monitoring Requirements: The permittee shall install and operate a NO_X CEMS that meets the emissions monitoring requirements of 40 CFR § 60.73. The permittee shall determine the hourly NO_X emissions rate in pounds per ton of nitric acid production (tons/hr) shall calculate emissions in units of the applicable emissions limit (lb/ton of 100 percent acid produced). The permittee shall operate the monitoring system and report emissions during all operating periods including unit startup and shutdown, and malfunction. [Application No. 0570025-016-AC and 40 CFR § 60.73 and Rule 62-210.200(PTE), F.A.C.]

3. NO_X CEMS: The permittee shall operate and maintain the NO_X CEMS to measure gas concentration and subsequently determine mass emissions in accordance with 40 CFR § 60.73 (see Appendix E). [Application No. 0570025-016-AC and 40 CFR § 60.73 and Rules 62-4.070(3) and 62-210.200(PTE), F.A.C.]

EMISSIONS CACULATIONS

4. Thirty Operating Day Rolling Average Emissions Rate: The 30-operating day emission rate shall be calculated based on 30 consecutive operating days with the production being expressed as 100 percent nitric

acid. Compliance is determined by first summing the total pounds of NO_X emitted from the Nitric Acid Plant during an operating day and the previous 29 operating days; second, sum the total nitric acid production in tons during the operating day and the previous 29 operating days; and third, divide the total number of pounds of NO_X emitted during the 30 operating days by the production during the 30 operating days. An operating day is defined as any day (midnight to midnight) when the Nitric Acid Plant is operating. The permittee shall calculate the 30-operating day rolling average emissions rate in units of the applicable emissions standard (lb NO_X/ton 100 percent acid produced) at the end of each operating day using all of the quality assured hourly average CEMS data for the previous 30 operating days.

[Application No. 0570025-016-AC and Rules 62-4.070(3) and 62-210.200(PTE), F.A.C.]

RECORDKEEPING AND REPORTING

5. Recordkeeping: The permittee shall meet the following recordkeeping requirements:

   (a) For the NO_X emissions rate, you must keep records for and results of the performance evaluations of the continuous emissions monitoring systems.

   (b) You must maintain records of the following information for each day and for each 30 operating day period:

      (1) Hours of operation.

      (2) Production rate of nitric acid, expressed as 100 percent nitric acid.

      (3) Daily and 30 operating day average NO_X emissions rate values.

   (c) You must maintain records of the following time periods:

      (1) Times when you were not in compliance with the emissions standards.

      (2) Times when the pollutant concentration exceeded full span of the NO_X monitoring equipment.

   (d) You must maintain records of the reasons for any periods of noncompliance and description of corrective actions taken.

   (e) You must maintain records of any modifications to CEMS which could affect the ability of the CEMS to comply with applicable performance specifications.

[Application No. 0570025-016-AC]

6. Reporting: For each 30 operating day period where you were not in compliance with the emissions standard the following information must be reported within one (1) business day to the Department:

   (a) Time period;

   (b) NO_X emission rates (lb/ton of acid produced);

   (c) Reasons for noncompliance with the emissions standard; and

   (d) Description of corrective actions taken.

[Application No. 0570025-016-AC; Rule 62-4.160, F.A.C.]

Exhibit 6

West's Florida Administrative Code
Title 62. Department of Environmental Protection
Chapter 62-296. Stationary Sources - Emission Standards

Rule 62-296.408, F.A.C.
Fla. Admin. Code r. 62-296.408

62-296.408. Nitric Acid Plants.

Currentness

These limits are applicable to emissions units producing weak nitric acid (50 to 70 percent) by pressure or atmospheric pressure process.

(1) Visible emissions -- shall not exceed 10 percent opacity.

(2) Nitrogen Oxides -- emissions shall not exceed 3 pounds per ton of acid produced (100 percent basis).

(3) Test Methods and Procedures. All emissions tests performed pursuant to the requirements of this rule shall comply with the following requirements.

(a) The test method for visible emissions shall be EPA Method 9, as described at 40 C.F.R. Part 60, Appendix A-4, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(b) The test methods for nitrogen oxides emissions shall be EPA Methods 7, 7A, 7B, 7C, or 7D, as described at 40 C.F.R. Part 60, Appendix A-4, adopted and incorporated by reference at rule 62-204.800, F.A.C. The minimum sample volume shall be as specified in EPA Method 7. Four grab samples at 15 minute intervals (±2 minutes) per run required.

(c) Test procedures shall meet all applicable requirements of Chapter 62-297, F.A.C.

Credits
Transferred from 17-2.600(8), 17-296.408; Amended Nov. 23, 1994, Jan. 1, 1996. Amended July 10, 2014; Nov. 5, 2020.

Authority: 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS.

Current with amendments available through September 25, 2023. Some sections may be more current, see credits for details.

Rule 62-296.408, F.A.C., 62 FL ADC 62-296.408

End of Document

Exhibit 7

EPA-450/3-91-019b

General Provisions for 40 CFR Part 63 :

National Emission Standards for Hazardous Air Pollutants for Source Categories

Background Information for Promulgated Regulation

Emission Standards Division

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air and Radiation
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

February 1994

DISCLAIMER

This report has been reviewed by the Emission Standards Division of the Office of Air Quality Planning and Standards, EPA, and approved for publication. Mention of trade names or commercial products is not intended to constitute endorsement or recommendation for use. Copies of this report are available from National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487-4650.

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ENVIRONMENTAL PROTECTION AGENCY

Background Information
for General Provisions for 40 CFR Part 63

Prepared by:

Bruce C. Jordan Date
Director, Emission Standards Division
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711

1. The General Provisions eliminate the repetition of general information and requirements within national emission standards for hazardous air pollutants (NESHAP) to be established subsequent to the Clean Air Act Amendments of 1990. Under section 112 of the Clean Air Act as amended, the EPA is authorized to promulgate national standards to control emissions of hazardous air pollutants from categories of stationary sources of these pollutants. The General Provisions, located in subpart A of part 63 of title 40 of the Code of Federal Regulations, codify procedures and criteria to implement NESHAP for source categories.

2. Copies of this document have been sent to the following Federal Departments: Labor, Health and Human Services, Defense, Transportation, Agriculture, Commerce, Interior, and Energy; the National Science Foundation; the Council on Environmental Quality; members of the State and Territorial Air Pollution Program Administrators; the Association of Local Air Pollution Control Officials; EPA Regional Administrators; and other interested parties.

3. For additional information on the General Provisions contact:

   Ms. Shirley Tabler
   Standards Development Branch (MD-13)
   U.S. Environmental Protection Agency
   Research Triangle Park, NC 27711
   Telephone: (919) 541-5256

4. Copies of this document may be obtained from:

   National Technical Information Services

5285 Port Royal Road
Springfield, VA 22161
Telephone: (703) 487-4650

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LIST OF ABBREVIATIONS AND ACRONYMS

Act	Clean Air Act, as amended in 1990
BACT	Best available control technology
BID	Background Information Document
CFR	Code of Federal Regulations
CEMS	Continuous emission monitoring system(s)
CMS	Continuous monitoring system(s)
COMS	Continuous opacity monitoring system(s)
EPA	Environmental Protection Agency
FR	Federal Register
GACT	Generally available control technology
HAP	Hazardous air pollutant(s)
HON	Hazardous Organic NESHAP
LAER	Lowest achievable emission rate
MACT	Maximum achievable control technology
NESHAP	National emission standard(s) for hazardous air pollutant(s)
NSPS	New source performance standard(s)
O/O	Owner or operator(s)
PSD	Prevention of significant deterioration
QA/QC	Quality assurance/quality control

part 60 opacity reading requirements be revised to avoid a requirement that 3 hours of observation be required. This requirement means that two staff members must be present for each test. The commenter also said that it does not seem possible for anyone to make 3 hours of observations without suffering eye fatigue. The commenter suggested the following language:

> When less than the full 3 hours of 30 - 6 minute averages are recorded, a statement of the visible emissions shall be included with those recorded observations. Following initial compliance, the minimum period of time allowed for determining compliance with the opacity standard using method 9 shall be one 6-minute average.

The EPA should also consider that MACT standards themselves may eliminate or minimize the need for visual emission readings.

Response: The EPA appreciates the commenter's concern; however, neither the regulations nor Method 9 require that the three hours of observation be continuous. Rather, guidance for Method 9 observers recommends frequent short breaks for exactly the reasons discussed by the commenter.

2.4.7 General Operation and Maintenance

Comment: Several commenters requested clarification on the meaning and intent of the phrase in § 63.6(e)(1)(i), which requires sources to operate "...in a manner consistent with good air pollution control practices for minimizing emissions." One commenter said that the provisions of §§ 63.6(e)(1)(i) and (e)(1)(iii) are unenforceable, do not give sources sufficient notice of what is required, and have no place in a properly written regulation. According to the commenter, the most appropriate place for these requirements is in an individual standard or permit.

One commenter said that the requirement in § 63.6(e)(1)(i) that sources minimize emissions at all times has no statutory

justification nor can any quantitative measure be reasonably applied to the practice of "minimizing emissions."

Finally, commenters said that §§ 63.6(e)(1)(iii) and (e)(2), which contain criteria for determining whether acceptable operation and maintenance practices are being used, should be deleted because nothing in the Act authorizes the EPA to adopt and enforce operation and maintenance requirements independent of relevant MACT standards. Under the EPA's proposal, a company could be in full compliance with the MACT standards and yet be subject to violations of operation and maintenance requirements.

Response: The EPA intends the provision in § 63.6(e)(1)(i) to require sources to take all steps necessary at all times, including during upset conditions (that may occur during startups, shutdowns, and malfunctions) to minimize environmental impact. The term "good air pollution control practices" is intentionally broad and nonprescriptive to require sources to implement reasonable actions to minimize emissions for their particular situations. Thus, it is appropriate for these requirements to be located in the General Provisions. The EPA agrees that the conditions by which a source will maintain "good air pollution control practices" will become more specific in the operating permit. Section 63.6(e)(1)(i) has been revised to qualify that the requirement to minimize emissions applies "at least to the levels required by all relevant standards."

No change is being made to §§ 63.6(e)(1)(iii) and (e)(2). Section 302(k) of the Act authorizes operation and maintenance requirements for a source to ensure continuous emission reduction when the EPA establishes an emission limitation or emission standard. In addition, for standards established under section 112(h) of the Act, section 112(h) provides that ". . . In

the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment." Because operation and maintenance requirements are part of, and not separate from, MACT standards (or other NESHAP), the EPA may enforce against violations of operation and maintenance requirements independent from violations of other requirements in the standard such as emission limits. Having these requirements be independently enforceable, even in the absence of proof of actual air emissions, will ensure that operation and maintenance provisions are followed.

Comment: One commenter objected to the provisions of §§ 63.6(e)(1)(i) and (e)(iii), which imply that enforcement action would take place when operation and maintenance requirements were deviated from, regardless of whether the deviation resulted in excess emissions. The commenter suggested that § 63.6(e)(1)(iii) be deleted.

Another commenter said that the final rule should recognize that actions that are inconsistent with the startup, shutdown, and malfunction plan [required under § 63.6(e)(3)] do not constitute a violation unless the failure to act consistently with the plan was a material factor in delaying a correction of the malfunction or minimizing exceedances during startup and shutdown. In addition, the final rule should recognize that emissions that occur during such an event are federally permitted releases as long as the permittee has acted in accordance with the plan.

One commenter said that sources should not be in jeopardy of two violations for the same event, i.e., excess emissions and improper maintenance.

Response: No changes have been made in §§ 63.6(e)(1)(i) and (e)(1)(iii). As stated in § 63.6(e)(1)(iii), operation and maintenance requirements are enforceable independent of emissions limitations or other requirements in standards. However, the commenter is correct that actions that are inconsistent with the startup, shutdown, and malfunction plan are not necessarily violations. The actions required by § 63.6(e)(1)(iii) are the minimum planned for by the owner or operator. If the owner or operator does not perform all of the actions for minimizing emissions (at least to the levels required by all relevant standards), and the failure to do so was not required for a safety or health reason, the owner or operator would not be in compliance with the plan. Also, with respect to federally permitted releases, as long as the plan and resulting actions fulfill its conditions, excess emissions are not considered violations for the purposes of the relevant subparts in part 63 only. However, depending on the circumstances, it is possible for an owner or operator to violate both the underlying standard and the startup, shutdown, and malfunction plan.