

**APPENDIX C**

**Environmental Protection Agency Regulations  
Reference Documents**

**Cross Referenced to ADEM Rules and Regulations**

**New Source Performance Standards  
National Emission Standards For Hazardous Air Pollutants**

The complete text of all finalized EPA regulations incorporated into these regulations is located in the documents listed below. Amendments, revisions, or clarifications of EPA regulations which have been codified in the CFR, as well as of finalized regulations which have not yet been codified, are not included in this listing and interested parties are advised to consult the Federal Register for such amendments or revisions. The exceptions listed below are identified by EPA as nondelegable to the States.

<b>ADEM Chapter 335-3-10</b>	<b>40 CFR Part 60</b>	<b>Exceptions</b>
335-3-10-.02(1) Subpart A	Subpart A	§60.8(b)(2) §60.8(b)(3) §60.11(e)(7) §60.11(e)(8) §60.13(g) §60.13(i) §60.13(j)(2)
335-3-10-.02(2)Subpart D	Subpart D	
335-3-10-.02(2)(a) Subpart Da	Subpart Da	§60.45a
335-3-10-.02(2)(b) Subpart Db	Subpart Db	§60.44b(f) §60.44b(g) §60.49b(a)(4)
335-3-10-.02(2)(c) Subpart Dc	Subpart Dc	§60.48c(a)(4)
335-3-10-.02(3) Subpart E	Subpart E	
335-3-10-.02(3)(a) Subpart Ea	Subpart Ea	
335-3-10-.02(3)(b) Subpart Eb	Subpart Eb	
335-3-10-.02(3)(c) Subpart Ec	Subpart Ec	§60.50c(i)
335-3-10-.02(4) Subpart F	Subpart F	§60.66

<b>ADEM Chapter 335-3-10</b>	<b>40 CFR Part 60</b>	<b>Exceptions</b>
335-3-10-.02(5) Subpart G	Subpart G	
335-3-10-.02(5)(a) Subpart Ga	Subpart Ga	
335-3-10-.02(6) Subpart H	Subpart H	
335-3-10-.02(7) Subpart I	Subpart I	
335-3-10-.02(8) Subpart J	Subpart J	§60.105(a)(13)(iii) §60.106(i)(12)
335-3-10-.02(8) (a) Subpart Ja	Subpart Ja	§60.109b
335-3-10-.02(9) Subpart K	Subpart K	
335-3-10-.02(9)(a) Subpart Ka	Subpart Ka	§60.114a
335-3-10-.02(9)(b) Subpart Kb	Subpart Kb	§60.111b(f)(4) §60.114(b) §60.116(e)(3)(iii) §60.116(e)(3)(iv) §60.116b(f)(2)(iii)
335-3-10-.02(12) Subpart L	Subpart L	
335-3-10-.02(13) Subpart M	Subpart M	
335-3-10-.02(14) Subpart N	Subpart N	
335-3-10-.02(14)(a) Subpart Na	Subpart Na	
335-3-10-.02(15) Subpart O	Subpart O	§60.153(e)
335-3-10-.02(16) Subpart P	Subpart P	
335-3-10-.02(17) Subpart Q	Subpart Q	
335-3-10-.02(18) Subpart R	Subpart R	
335-3-10-.02(19) Subpart S	Subpart S	
335-3-10-.02(20) Subpart T	Subpart T	
335-3-10-.02(21) Subpart U	Subpart U	
335-3-10-.02(22) Subpart V	Subpart V	
335-3-10-.02(23) Subpart W	Subpart W	
335-3-10-.02(24) Subpart X	Subpart X	
335-3-10-.02(25) Subpart Y	Subpart Y	
335-3-10-.02(26) Subpart Z	Subpart Z	
335-3-10-.02(27) Subpart AA	Subpart AA	

<b>ADEM Chapter 335-3-10</b>	<b>40 CFR Part 60</b>	<b>Exceptions</b>
335-3-10-.02(27)(a) Subpart AAa	Subpart AAa	
335-3-10-.02(28) Subpart BB	Subpart BB	
335-3-10-.02(28) Subpart BBa	Subpart BBa	
335-3-10-.02(29) Subpart CC	Subpart CC	
335-3-10-.02(30) Subpart DD	Subpart DD	
335-3-10-.02(31) Subpart EE	Subpart EE	§60.316(d)
335-3-10-.02(32) Subpart FF	Reserved	
335-3-10-.02(33) Subpart GG	Subpart GG	§60.334(b)(2) §60.335(f)(1)
335-3-10-.02(34) Subpart HH	Subpart HH	
335-3-10-.02(35) Subpart II	Reserved	
335-3-10-.02(36) Subpart JJ	Reserved	
335-3-10-.02(37) Subpart KK	Subpart KK	
335-3-10-.02(38) Subpart LL	Subpart LL	
335-3-10-.02(39) Subpart MM	Subpart MM	
335-3-10-.02(40) Subpart NN	Subpart NN	
335-3-10-.02(41) Subpart OO	Reserved	
335-3-10-.02(42) Subpart PP	Subpart PP	
335-3-10-.02(43) Subpart QQ	Subpart QQ	
335-3-10-.02(44) Subpart RR	Subpart RR	§60.446(c)
335-3-10-.02(45) Subpart SS	Subpart SS	§60.456(d)
335-3-10-.02(46) Subpart TT	Subpart TT	§60.466(d)
335-3-10-.02(47) Subpart UU	Subpart UU	§60.474(g)
335-3-10-.02(48) Subpart VV	Subpart VV	§60.482-1(c)(2) §60.484
335-3-10-.02(48)(a) Subpart VVa	Subpart VVa	
335-3-10-.02(49) Subpart WW	Subpart WW	§60.496(c)
335-3-10-.02(50) Subpart XX	Subpart XX	§60.502(e)(6)
335-3-10-.02(51) Subpart YY	Reserved	
335-3-10-.02(52) Subpart ZZ	Reserved	
335-3-10-.02(53) Subpart AAA	Reserved	

<b>ADEM Chapter 335-3-10</b>	<b>40 CFR Part 60</b>	<b>Exceptions</b>
335-3-10-.02(54) Subpart BBB	Subpart BBB	§60.543(c)(2)(ii)(B)
335-3-10-.02(55) Subpart CCC	Reserved	
335-3-10-.02(56) Subpart DDD	Subpart DDD	§60.562-2(c)
335-3-10-.02(57) Subpart EEE	Reserved	
335-3-10-.02(58) Subpart FFF	Subpart FFF	
335-3-10-.02(59) Subpart GGG	Subpart GGG	
335-3-10-.02(59)(a) Subpart GGGa	Subpart GGGa	
335-3-10-.02(60) Subpart HHH	Subpart HHH	
335-3-10-.02(61) Subpart III	Subpart III	§60.613(e)
335-3-10-.02(62) Subpart JJJ	Subpart JJJ	
335-3-10-.02(63) Subpart KKK	Subpart KKK	
335-3-10-.02(64) Subpart LLL	Subpart LLL	
335-3-10-.02(65) Subpart MMM	Reserved	
335-3-10-.02(66) Subpart NNN	Subpart NNN	§60.663(e)
335-3-10-.02(67) Subpart OOO	Subpart OOO	
335-3-10-.02(68) Subpart PPP	Subpart PPP	
335-3-10-.02(69) Subpart QQQ	Subpart QQQ	
335-3-10-.02(70) Subpart RRR	Subpart RRR	§60.703(e)
335-3-10-.02(71) Subpart SSS	Subpart SSS	§60.711(a)(16) §60.713(b)(1)(i) §60.713(b)(1)(ii) §60.713(b)(5)(i) §60.713(d) §60.715(a) §60.716
335-3-10-.02(72) Subpart TTT	Subpart TTT	§60.723(b)(1) §60.723(b)(2)(i)(C) §60.723(b)(2)(iv) §60.724(e) §60.725(b)

<b>ADEM Chapter 335-3-10</b>	<b>40 CFR Part 60</b>	<b>Exceptions</b>
335-3-10-.02(73) Subpart UUU	Subpart UUU	
335-3-10-.02(74) Subpart VVV	Subpart VVV	§60.743(a)(3)(v)(A) §60.743(a)(3)(v)(B) §60.743(e) §60.745(a) §60.746
335-3-10-.02(75) Subpart WWW	Subpart WWW	§60.754(a)(5)
335-3-10-.02(76) Subpart XXX	Subpart XXX	§60.764(a)(5)
335-3-10-.02(77) Reserved	Reserved	
335-3-10-.02(78) Reserved	Reserved	
335-3-10-.02(79) Subpart AAAA	Subpart AAAA	
335-3-10-.02(80) Reserved	Reserved	
335-3-10-.02(81) Subpart CCCC	Subpart CCCC	§60.2030 <del>(c)</del> <del>§60.2115</del> <del>§60.2100(b)(2)</del>
335-3-10-.02(82) Reserved	Reserved	
335-3-10-.02(83) Reserved	Reserved	
335-3-10-.02(84) Reserved	Reserved	
335-3-10-.02(85) Reserved	Reserved	
335-3-10-.02(86) Reserved	Reserved	
335-3-10-.02(87) Subpart IIII	Subpart IIII	
335-3-10-.02(88) Subpart JJJJ	Subpart JJJJ	
335-3-10-.02(89) Subpart KKKK	Subpart KKKK	
335-3-10-.02(90) Subpart LLLL	Subpart LLLL	§60.4785(c)
335-3-10-.02(91) Subpart OOOO	Subpart OOOO	
335-3-10-.02(91a) Subpart OOOOa	Subpart OOOOa	
335-3-10-.02 (92) Reserved	Reserved	
335-3-10-.02 (93) Reserved	Reserved	
335-3-10-.02 (94) Reserved	Reserved	
335-3-10-.02 (95) Reserved	Reserved	
335-3-10-.02 (96) TTTT	Subpart TTTT	§60.5575(b)

**ADEM Chapter 335-3-10****40 CFR Part 60****Exceptions**

**History:** Effective Date: May 25, 1976.

**Amended:** June 23, 1981; February 13, 1985; April 15, 1987; June 16, 1988; September 21, 1989; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; December 28, 1993; April 27, 1995; November 21, 1996; September 25, 1997; March 27, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; November 14, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May 28, 2013; September 24, 2013; November 24, 2015; June 9, 2017; ~~Amended:~~ **Proposed: July 20, 2021.**

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(1) Subpart A	Subpart A	§63.6(g) §63.6(h)(9) §63.7(e)(2)(ii) §63.7(f) §63.8(f) §63.10(f)
335-3-11-.06(2) Subpart B	Subpart B	
335-3-11-.06(3) Subpart D	Subpart D	
335-3-11-.06(4) Reserved	Reserved	
335-3-11-.06(5) Subpart F	Subpart F <sup>1</sup>	See Footnote
335-3-11-.06(6) Subpart G	Subpart G	§63.153(c)(1)-(4)

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<sup>1</sup> The following are not delegable: (1) Approval of alternatives to requirements in §§ 63.100, 63.102, and 63.104. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-4-11-.06(7) Subpart H	Subpart H <sup>2</sup>	See Footnote
335-3-11-.06(8) Subpart I	Subpart I <sup>3</sup>	See Footnote
335-3-11-.06(9) Reserved	Reserved	
335-3-11-.06(10) Reserved	Reserved	
335-3-11-.06(11) Subpart L	Subpart L <sup>4</sup>	See Footnote
335-3-11-.06(12) Subpart M	Subpart M <sup>5</sup>	See Footnote

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<sup>2</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.160, 63.162 through 63.176, 63.178 through 63.179. Follow the applicable procedures of § 63.177 to request an alternative means of emission limitation for batch processes and enclosed-vented process units. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90,

and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>3</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.190 and 63.192(a) through (b), (e), and (h) through (j). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>4</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.300 and 63.302 through 63.308 (except the authorities in 63.306(a)(2) and (d)). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in §63.90, and as required in this subpart. (3) Approval of any changes to section 2 of Method 303 in appendix A of this part. (4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>5</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.320 and 63.322(a) through (j). Follow the requirements in § 63.325 to

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(13) Subpart N	Subpart N	§63.348(c)(1)-(4)
335-3-11-.06(14) Subpart O	Subpart O	§63.368(c)(1)-(4)
335-3-11-.06(15) Reserved	Reserved	
335-3-11-.06(16) Subpart Q	Subpart Q <sup>6</sup>	See Footnote
335-3-11-.06(17) Subpart R	Subpart R <sup>7</sup>	<u>§63.429(c)</u> See
335-3-11-.06(18) Subpart S	Subpart S <sup>8</sup>	See Footnote

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demonstrate that alternative equipment or procedures are equivalent to the requirements of § 63.322. (2) Approval of major alternatives to test methods under 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>6</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.400 and 63.402 through 63.403. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in §



63.90, and as required in this subpart.

~~<sup>7</sup>The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.420, 63.422 through 63.423, and 63.424. Any owner or operator requesting to use an alternative means of emission limitation for storage vessels covered by § 63.423 must follow the procedures in § 63.426. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart, and any alternatives to § 63.427(a)(1) through (4) per § 63.427(a)(5). (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.~~

<sup>8</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.440, 63.443 through 63.447 and 63.450. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of alternatives to using §§ 63.457(b)(5)(iii), 63.457(c)(5)(ii) through (iii), and 63.257(c)(5)(ii), and any major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of alternatives using § 64.453(m) and any major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(19) Subpart T	Subpart T <sup>9</sup>	See Footnote
335-3-11-.06(20) Subpart U	Subpart U <sup>10</sup>	See Footnote
335-3-11-.06(21) Reserved	Reserved	
335-3-11-.06(22) Subpart W	Subpart W <sup>11</sup>	See Footnote

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recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>9</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.460, 63.462(a) through (d), and 63.463 through 63.464 (except for the authorities in § 63.463(d)(9)). Use the procedures in § 63.469 to request the use of alternative equipment or procedures. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>10</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.480 through 63.481, 63.483(a) through (c), 63.484, 63.485(a) through (k), (m), through (s), (u), 63.486 through 63.487, 63.488(a), (b)(1) through (4), (5)(iv) through (v), (6) through (7), (c) through (i), 63.493 through 63.494, 63.500(a)(1) through (3), (b), 63.501, 63.502(a) through (f), (i), (k) through (m), and 63.503. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. Where these standards reference another subpart and

modify the requirements, the requirements shall be modified as described in this subpart. Delegation of the modified requirements will also occur according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>11</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.520, 63.521, 63.523, and 63.524. Where these standards reference another rule, the cited provisions in that rule will be delegated according to the delegation provisions of that rule. (2) Approval of major alternatives to test methods for under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(23) Subpart X	Subpart X	§63.551(c)(1)-(4)
335-3-11-.06(24) Subpart Y	Subpart Y	§63.568(c)(1)-(4)
335-3-11-.06(25) Reserved	Reserved	
335-3-11-.06(26) Subpart AA	Subpart AA	§63.611(b)(1)-(5)
335-3-11-.06(27) Subpart BB	Subpart BB	§63.632(b)
335-3-11-.06(28) Subpart CC	Subpart CC	§63.656(c)(1)-(4)
335-3-11-.06(29) Subpart DD	Subpart DD <sup>12</sup>	See Footnote
335-3-11-.06(30) Subpart EE	Subpart EE <sup>13</sup>	See Footnote
335-3-11-.06(31) Reserved	Reserved	
335-3-11-.06(32) Subpart GG	Subpart GG	§63.759(c)(1)-(4)
335-3-11-.06(33) Subpart HH	Subpart HH <sup>14</sup>	See Footnote
335-3-11-.06(34) Subpart II	Subpart II <sup>15</sup>	See Footnote

<sup>12</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.680, 63.683 through 63.691, and 63.693. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>13</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.701 and 63.703. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90,

and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>14</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.760, 63.764 through 63.766, 63.769, 63.771, and 63.777. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>15</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.780 through 63.781, and 63.783 through 63.784. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90,

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(35) Subpart JJ	Subpart JJ <sup>16</sup>	See Footnote
335-3-11-.06(36) Subpart KK	Subpart KK <sup>17</sup>	See Footnote
335-3-11-.06(37) Reserved	Reserved	
335-3-11-.06(38) Subpart MM	Subpart MM <sup>18</sup>	<u>§63.868(b)</u> Se
335-3-11-.06(39) Reserved	Reserved	
335-3-11-.06(40) Subpart OO	Subpart OO <sup>19</sup>	See Footnote

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and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>16</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.800, 63.802, and 63.803(a)(1), (b), (c) introductory text, and (d) through (l). (2) Approval of alternatives to the monitoring and compliance requirements in §§ 63.804(f)(4)(iv)(D) and (E), 63.804(g)(4)(iii)(C), 63.804(g)(4)(vi), and 63.804(g)(6)(vi). (3) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart, as well as approval of any alternatives to the specific test methods under §§ 63.805(a), 63.805(d)(2)(v), and 63.805(e)(1). (4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>17</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.820 through 63.821 and 63.823 through 63.826. (2) Approval of alternatives to the test method for organic HAP content determination in § 63.827(b) and alternatives to the test method for volatile matter in § 63.827(c), and major alternatives to other test methods under § 63.7(e)((2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting

under § 63.10(f), as defined in defined in § 63.90, and as required in this subpart.

~~<sup>18</sup> The following are not delegable: (1) Pursuant to §63.6(g), approval of alternatives to standards in §63.862. (2) Pursuant to §63.7(e)(2)(ii) and (f) and as defined in §63.90, approval of major alternatives to test methods. (3) Pursuant to §63.8(f) and as defined in §63.90, approval of major alternatives to monitoring. (4) Pursuant to §63.10(f) and as defined in §63.90, approval of major alternatives to recordkeeping and reporting.~~

<sup>19</sup> The following are not delegable: (1) Approval of alternatives to the requirements in § 63.900 and 63.902. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3)

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(41) Subpart PP	Subpart PP <sup>20</sup>	See Footnote
335-3-11-.06(42) Subpart QQ	Subpart QQ <sup>21</sup>	See Footnote
335-3-11-.06(43) Subpart RR	Subpart RR <sup>22</sup>	See Footnote
335-3-11-.06(44) Subpart SS	Subpart SS <sup>23</sup>	<del>§63.992(b) See Footnote</del>

Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>20</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.920 and 63.922 through 63.924. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>21</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.940, 63.942, and 63.943. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions of subpart DD. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>22</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.960 and 63.962. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions subpart DD of this part. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as

required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

~~<sup>23</sup> The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in § 63.983(a) and (d), 63.984, 63.985(a), 63.986(a), 63.987(a), 63.988(a), 63.990(a), 63.993(a), 63.994(a), and 63.995(a) under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and~~

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(45) Subpart TT	Subpart TT <sup>24</sup>	See Footnote
335-3-11-.06(46) Subpart UU	Subpart UU <sup>25</sup>	See Footnote
335-3-11-.06(47) Subpart VV	Subpart VV <sup>26</sup>	See Footnote
335-3-11-.06(48) Subpart WW	Subpart WW <sup>27</sup>	See Footnote

~~(f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<sup>24</sup> The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in § 63.1003 through 63.1015, under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

<sup>25</sup> The following are not delegable: (1) Approval of alternatives to the non-opacity emissions standards in § 63.1022 through 63.1034, under § 63.6(g), and the standards for quality improvement programs in § 63.1035. Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

<sup>26</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1040 and 63.1042 through 63.1045. Where these standards reference subpart DD, the cited provisions will be delegated according to the delegation provisions of subpart DD of this part. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>27</sup> The following are not delegable: (1) Approval of alternatives to the non-opacity

emissions standards in §§ 63.1062 and 63.1063(a) and (b) for alternative means of emission limitation, under § 63.6(g). (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(49) Subpart XX	Subpart XX <sup>28</sup>	<u>§63.1097(b)</u> See
335-3-11-.06(50) Subpart YY	Subpart YY	§63.1114(b)(1)-(5)
335-3-11-.06(51) Reserved	Reserved	
335-3-11-.06(52) Reserved	Reserved	
335-3-11-.06(53) Reserved	Reserved	
335-3-11-.06(54) Subpart CCC	Subpart CCC <sup>29</sup>	See Footnote
335-3-11-.06(55) Subpart DDD	Subpart DDD	§63.1195(c)
335-3-11-.06(56) Subpart EEE	Subpart EEE <sup>30</sup>	See Footnote
335-3-11-.06(57) Reserved	Reserved	
335-3-11-.06(58) Subpart GGG	Subpart GGG	§63.1261(c)(1)-(4)

~~<sup>28</sup> The following are not delegable: (1) Approval of alternatives to the non opacity emissions standards in §§ 63.1085, 63.1086 and 63.1095 under § 63.6(g). Where these standards reference another subpart, the cited provisions will be delegated provisions of the referenced subpart. (2) Reserved. (3) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (4) Approval of major changes to monitoring under § 63.90. (5) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<sup>29</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1155, 63.1157 through 63.1159, and 63.1160(a). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of any alternative measurement methods for HCl and CL<sub>2</sub> to those specified in § 63.1161(d)(1). (4) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (5) Approval of any alternative monitoring requirements to those specified in §§ 63.1162(a)(2) through (5) and 63.1162(b)(1) through (3). (6) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart. (7) Waiver of recordkeeping requirements specified in § 63.1165. (8) Approval of an alternative schedule for conducting performance tests to the requirement specified in § 63.1162 (a)(1).

<sup>30</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1200, 63.1203 through 63.1205, and 63.1206(a). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4)

Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(59) Subpart HHH	Subpart HHH <sup>31</sup>	See Footnote
335-3-11-.06(60) Subpart III	Subpart III	§63.1309(c)(1)-(4)
335-3-11-.06(61) Subpart JJJ	Subpart JJJ	§63.1336(c)(1)-(4)
335-3-11-.06(62) Reserved	Reserved	
335-3-11-.06(63) Subpart LLL	Subpart LLL	§63.1358
335-3-11-.06(64) Subpart MMM	Subpart MMM	§63.1369(c)(1)-(4)
335-3-11-.06(65) Subpart NNN	Subpart NNN	§63.1388(c)
335-3-11-.06(66) Subpart OOO	Subpart OOO	§63.1419(c)(1)-(4)
335-3-11-.06(67) Subpart PPP	Subpart PPP	§63.1421(c)(1)-(4)
335-3-11-.06(68) Reserved	Reserved	
335-3-11-.06(69) Subpart RRR	Subpart RRR	§63.1519(c)(1)-(4)
335-3-11-.06(70) Reserved	Reserved	
335-3-11-.06(71) Reserved	Reserved	
335-3-11-.06(72) Subpart UUU	Subpart UUU	§63.1578(c)(1)-(5)
335-3-11-.06(73) Subpart VVV	Subpart VVV <sup>32</sup>	See Footnote
335-3-11-.06(74) Reserved	Reserved	
335-3-11-.06(75) Subpart XXX	Subpart XXX <sup>33</sup>	See Footnote

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<sup>31</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1270, 63.1274 through 63.1275, 63.1281, and 63.1287. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>32</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1580, 63.1583 through 63.1584, and 63.1586 through 63.1587. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

<sup>33</sup> The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.1650 and 63.1652 through 63.1654. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90, and as required in this subpart. (3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90, and as required in this subpart. (4) Approval of major



<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(76) Reserved	Reserved	
335-3-11-.06(77) Reserved	Reserved	
335-3-11-.06(78) Subpart AAAA	Subpart AAAA <sup>34</sup>	<u>§63.1985(c)§</u>
335-3-11-.06(79) Reserved	Reserved	
335-3-11-.06(80) Subpart CCCC	Subpart CCCC	
335-3-11-.06(81) Subpart DDDD	Subpart DDDD <sup>35</sup>	<u>§63.2291(c)§</u>
335-3-11-.06(82) Subpart EEEE	Subpart EEEE <sup>36</sup>	<u>§63.2402(b)§</u>
335-3-11-.06(83) Subpart FFFF	Subpart FFFF <sup>37</sup>	<u>§63.2545(b)§</u>
335-3-11-.06(84) Subpart GGGG	Subpart GGGG	<u>§63.2871(c)</u>

alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90, and as required in this subpart.

~~<sup>34</sup>The following is not delegable: Approval of alternatives to the standards in §63.1955.~~

~~<sup>35</sup>The following is not delegable: (1) Approval of alternatives to the compliance options, operating requirements, and work practice requirements in §§ 63.2240 and 63.2241 as specified in § 63.6(g). For the purposes of delegation authority under 40 CFR part 63, subpart E, "compliance options" represent "emission limits"; "operating requirements" represent "operating limits"; and "work practice requirements" represent "work practice standards." (2) Approval of major alternatives to test methods as specified in § 63.7(e)(2)(iii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring as specified in § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting as specified in § 63.10(f) and as defined in § 63.90. (5) Approval of PCWP sources demonstrations of eligibility for the low risk subcategory developed according to appendix B of this subpart.~~

~~<sup>36</sup>The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations, operating limits, and work practice standards in § 63.2346(a) through (c) under § 63.6(g). (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>37</sup>The following are not delegable: (1) Approval of alternatives to the non-opacity emission limits and work practice standards in § 63.2450(a) under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(85) Subpart HHHH	Subpart HHHH <sup>38</sup>	See Footnote
335-3-11-.06(86) Subpart IIII	Subpart IIII <sup>39</sup>	<del>§63.3175(c)§</del>
335-3-11-.06(87) Subpart JJJJ	Subpart JJJJ <sup>40</sup>	<del>§63.3420(b)§</del>
335-3-11-.06(88) Subpart KKKK	Subpart KKKK <sup>41</sup>	<del>§63.3560(c)§</del>
335-3-11-.06(89) Reserved	Reserved	
335-3-11-.06(90) Subpart MMMM	Subpart MMMM <sup>42</sup>	<del>§63.3980(c)§</del>
335-3-11-.06(91) Subpart NNNN	Subpart NNNN <sup>43</sup>	<del>§63.4180(c)§</del> ee Footnote

<sup>38</sup> The following are not delegable: (1) The authority under § 63.6(g) to approve alternatives to the emission limits in §63.2983 and operating limits in § 63.2984. (2) The authority under § 63.7(e)(2)(ii) and (f) to approve of major alternatives (as defined in § 63.90) to the test methods in § 63.2993. (3) The authority under § 63.8(f) to approve major alternatives (as defined in § 63.90) to the monitoring requirements in §§ 63.2996 and 63.2997. (4) The authority under § 63.10(f) to approve major alternatives (as defined in § 63.90) to recordkeeping, notification, and reporting requirements in §§ 63.2998 through 63.3000.

~~<sup>39</sup> The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.3094 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>40</sup> The following are not delegable: (1) § 63.3360(c), approval of alternate test method for organic HAP content determination; (2) § 63.3360(d), approval of alternate test method for volatile matter determination.~~

~~<sup>41</sup> The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.3493. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>42</sup> The following are not delegable: (1) Approval of alternatives to the requirements in § 63.3881 through 3883 and § 63.3890 through 3893. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(92) Subpart OOOO	Subpart OOOO <sup>44</sup>	<u>§63.4370(c)</u> §
335-3-11-.06(93) Subpart PPPP	Subpart PPPP <sup>45</sup>	<u>§63.4580(c)</u> §
335-3-11-.06(94) Subpart QQQQ	Subpart QQQQ <sup>46</sup>	See Footnote
335-3-11-.06(95) Subpart RRRR	Subpart RRRR <sup>47</sup>	<u>§63.4980(c)</u> §
335-3-11-.06(96) Subpart SSSS	Subpart SSSS <sup>48</sup>	<u>§63.5200(c)</u> § ee Footnote

~~<sup>43</sup>The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.4093 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>44</sup>The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.4293 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>45</sup>The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.4481 through 4483 and §§ 63.4490 through 4493. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>46</sup>The following are not delegable: (1) Approval of alternatives to the work practice standards under § 63.4693. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>47</sup>The following are not delegable: (1) Approval of alternatives to the work practice standards in § 63.4893 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>48</sup>The following are not delegable: (1) Approval of alternatives to the emission limitation in §63.5120. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in §63.5160. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in §63.5150.~~

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(97) Reserved	Reserved	
335-3-11-.06(98) Reserved	Reserved	
335-3-11-.06(99) Subpart VVVV	Subpart VVVV <sup>49</sup>	<del>§63.5776(b)6</del> §63.5728 §63.5731(a) §63.5734 §63.5740(a) §63.5743 §63.5746(g)
335-3-11-.06(100) Subpart WWWW	Subpart WWWW <sup>50</sup>	<del>§63.5930(c)S</del>
335-3-11-.06(101) Subpart XXXX	Subpart XXXX <sup>51</sup>	<del>§63.6014(c)S</del>
335-3-11-.06(102) Subpart YYYY	Subpart YYYY <sup>52</sup>	<del>§63.6170(c)e</del>

~~(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in §§ 63.5180 and 63.5190.~~

~~<sup>49</sup>The following are also not delegable: Pursuant to § 63.7(e)(2)(ii) and (f), the authority to approve alternatives to the test methods in §§ 63.5719(b), 63.5719(c), 63.5725(d)(1), and 63.5758; pursuant to § 63.8(f), the authority to approve major alternatives to the monitoring requirements in § 63.5725; pursuant to § 63.10(f), the authority to approve major alternatives to the reporting and recordkeeping requirements listed in §§ 63.5764, 63.5767, and 63.5770.~~

~~<sup>50</sup>The following are not delegable: (1) Approval of alternatives to the organic HAP emissions standards in § 63.5805 under § 63.6(g). (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>51</sup>The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.5981 through 63.5984, 63.5986, and 63.5988. (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>52</sup>The following are not delegable: (1) Approval of alternatives to the emission limitations or operating limitations in § 63.6100 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as~~

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(103) Subpart ZZZZ	Subpart ZZZZ	§63.6670(c) <del>(1)-(5)</del>
335-3-11-.06(104) Subpart AAAAA	Subpart AAAAA <sup>53</sup>	<u>§63.7141(c)</u> See
335-3-11-.06(105) Subpart BBBBB	Subpart BBBBB <sup>54</sup>	See Footnote
335-3-11-.06(106) Subpart CCCCC	Subpart CCCCC <sup>55</sup>	See Footnote
335-3-11-.06(107) Subpart DDDDD	Subpart DDDDD	§63.7570(b)

~~defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90. (5) Approval of a performance test which was conducted prior to the effective date of the rule to determine outlet formaldehyde concentration as specified in § 63.6110(b).~~

~~<sup>53</sup>The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations in § 63.7090(a). (2) Approval of alternative opacity emission limitations in § 63.7090(a). (3) Approval of alternatives to the operating limits in § 63.7090(b). (4) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (5) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (6) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<sup>54</sup> The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations in § 63.7184 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and defined in § 63.90.

<sup>55</sup> The following are not delegable: (1) Approval of alternatives to work practice standards for fugitive pushing emissions in § 63.7291(a) for a by-product coke oven battery with vertical flues, fugitive pushing emissions in § 63.7292(a) for a by-product coke oven battery with horizontal flues, fugitive pushing emissions in § 63.7293 for a non-recovery coke oven battery, soaking for a by-product coke oven battery in § 63.7294(a), and quenching for a coke oven battery in § 63.7295(b) under § 63.6(g). (2) Approval of alternatives opacity emission limitations for a by-product coke oven battery under § 63.6(h)(9). (3) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90, except for alternative procedures in § 63.7334(a)(7). (4) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90. (6) Approval of the work practice plan for by-product coke oven batteries with horizontal flues submitted under § 63.7292(a)(1).

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(108) Subpart EEEEE	Subpart EEEEE <sup>56</sup>	<u>§63.7761(c)§</u>
335-3-11-.06(109) Subpart FFFFF	Subpart FFFFF <sup>57</sup>	<u>§63.7851(c)§</u>
335-3-11-.06(110) Subpart GGGGG	Subpart GGGGG <sup>58</sup>	<u>§63.7956(c)§</u>
335-3-11-.06(111) Subpart HHHHH	Subpart HHHHH <sup>59</sup>	<u>§63.8100(b)§</u>
335-3-11-.06(112) Subpart IIIII	Subpart IIIII <sup>60</sup>	See Footnote

~~<sup>56</sup>The following are not delegable: (1) Approval of alternatives to non-opacity emissions limitations in § 63.7690 and work practice standards in § 63.7700 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>57</sup>The following are not delegable: (1) Approval of alternative opacity emission limits in Table 1 to this subpart under § 63.6(h)(9). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90, except for approval of an alternative method for the oil content of the sinter plant feedstock or volatile organic compound measurements for the sinter plant windbox exhaust stream stack as provided in § 63.7824(f). (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>58</sup>The following are not delegable: (1) Approval of alternatives to the non-opacity emissions limitations and work practice standards in this subpart under § 63.6(g). (2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>59</sup>The following are not delegable: (1) Approval of alternatives to the non-opacity emission limits and work practice standards in § 63.8000(a) under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<sup>60</sup> The following are not delegable: (1) Approval of alternatives under § 63.6(g) to the non-opacity emission limitations in § 63.8190 and work practice standards in § 63.8192. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(113) Subpart JJJJJ	Subpart JJJJJ	§63.8510(c)
335-3-11-.06(114) Subpart KKKKK	Subpart KKKKK	§63.8660(c)
335-3-11-.06(115) Subpart LLLLL	Subpart LLLLL <sup>61</sup>	<del>§63.8697(b)§</del>
335-3-11-.06(116) Reserved	Reserved	
335-3-11-.06(117) Subpart NNNNN	Subpart NNNNN <sup>62</sup>	<del>§63.9070(c)§</del>
335-3-11-.06(118) Reserved	Reserved	
335-3-11-.06(119) Subpart PPPPP	Subpart PPPPP <sup>63</sup>	<del>§63.9370(c)§</del>
335-3-11-.06(120) Subpart QQQQQ	Subpart QQQQQ <sup>64</sup>	See Footnote
335-3-11-.06(121) Subpart RRRRR	Subpart RRRRR <sup>65</sup>	<del>§63.9651(c)§</del> See Footnote

~~<sup>61</sup>The following are not delegable: (1) Approval of alternatives to the requirements in §§ 63.8681, 63.8682, 63.8683, 63.8684(a) through (c), 63.8686, 63.8687, 63.8688, 63.8689, 63.8690, and 63.8691. (2) Approval of major changes to test methods under § 63.7(e)(2)(iii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>62</sup>The following are not delegable: (1) Approval of alternatives to requirements in §§ 63.8980, 63.8985, 63.8990, 63.8995, and 63.9000. (2) Approval of major changes to test methods under § 63.7(e)(2)(iii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

~~<sup>63</sup>The following are not delegable: (1) Approval of alternatives to the emission limitations in § 63.9300 under § 63.6(g). (2) Approval of major changes to test methods under § 63.7(e)(2)(iii) and (f) and as defined in § 63.90. (3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<sup>64</sup> The following are not delegable: (1) Approval of alternatives to the emission limitations in § 63.9500(a) and (b) under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

~~<sup>65</sup>The following are not delegable: (1) Approval of non opacity emission limitations and work practice standards under § 63.6(h)(9) and as defined in~~

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(122) Reserved	Reserved	
335-3-11-.06(123) Subpart TTTTT	Subpart TTTTT <sup>66</sup>	See Footnote
335-3-11-.06(124)SubpartUUUUU	Subpart UUUUU	§63.10041(b) <del>(1)-(4)</del>
335-3-11-.06(125) Reserved	Reserved	
335-3-11-.06(126) Reserved	Reserved	
335-3-11-.06(127) Reserved	Reserved	
335-3-11-.06(128) Subpart YYYYY	Subpart YYYYY	§63.10691(c)(1)-(6)
335-3-11-.06(129) Subpart ZZZZZ	Subpart ZZZZZ	§63.10905(c) <del>(1)-(6)</del>
335-3-11-.06(130) Reserved	Reserved	
335-3-11-.06(131) Reserved	Reserved	
335-3-11-.06(132) Reserved	Reserved	
335-3-11-.06(133) Subpart DDDDDD	Subpart DDDDDD	§63.11145(b)
335-3-11-.06(134) Subpart EEEEE	Subpart EEEEE <sup>67</sup>	See Footnote

~~§ 63.90. (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.~~

<sup>66</sup> The following are not delegable: (1) Approval of alternatives to the non-opacity emission limitations in § 63.9890 and work practice standards in § 63.9891 under § 63.6(g). (2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90. (3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90. (4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

<sup>67</sup> The following are not delegable: (1) Approval of an alternative non-opacity emissions standard under § 63.6(g). (2) Approval of an alternative opacity emissions standard under § 63.6(h)(9). (3) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90. (4) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (5) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.



<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(135) Subpart FFFFFFFF	Subpart FFFFFFFF <sup>68</sup>	See Footnote
335-3-11-.06(136) Subpart GGGGGG	Subpart GGGGGG <sup>69</sup>	See Footnote
335-3-11-.06(137) Reserved	Reserved	
335-3-11-.06(138) Reserved	Reserved	
335-3-11-.06(139) Reserved	Reserved	
335-3-11-.06(140) Reserved	Reserved	
335-3-11-.06(141) Subpart LLLLLL	Subpart LLLLLL	§63.11399(b)(1)-(4)
335-3-11-.06(142) Subpart MMMMMM	Subpart MMMMMM	§63.11406(b)(1)-(4)
335-3-11-.06(143) Reserved	Reserved	
335-3-11-.06(144) Subpart OOOOOO	Subpart OOOOOO	§63.11420(b)(1)-(4)
335-3-11-.06(145) Reserved	Reserved	
335-3-11-.06(146) Subpart QQQQQQ	Subpart QQQQQQ <sup>70</sup>	See Footnote

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<sup>68</sup> The following are not delegable: (1) Approval of an alternative non-opacity emissions standard under §63.6(g). (2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90. (3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

<sup>69</sup> For primary zinc production facilities, the following are not delegable: (1) Approval of an alternative non-opacity emissions standard under § 63.6(g). (2) Approval of an alternative opacity emissions standard under § 63.6(h)(9). (3) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90. (4) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90. (5) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90. For primary beryllium manufacturing facilities, the following are not delegable: (1) Approval of an alternative non-opacity emissions standard under 40 CFR 61.12(d). (2) Approval of a major change to test methods under 40 CFR 61.13(h). A "major change to test method" is defined in §63.90. (3) Approval of a major change to monitoring under 40 CFR 61.14(g). A "major change to monitoring" is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under 40 CFR 61.10. A "major change to recordkeeping/reporting" is defined in § 63.90.

<sup>70</sup> The following are not delegable: (1) Approval of an alternative nonopacity emissions standard under § 63.6(g). (2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined

<b>ADEM Chapter 335-3-11</b>	<b>40 CFR Part 63</b>	<b>Exceptions</b>
335-3-11-.06(147) Reserved	Reserved	
335-3-11-.06(148) Reserved	Reserved	
335-3-11-.06(149) Subpart TTTTTT	Subpart TTTTTT	§63.11473(c)(1)-(4)
335-3-11-.06(150) Reserved	Reserved	
335-3-11-.06(151) Subpart VVVVVV	Subpart VVVVVV	§63.11503(b)(1)-(4)
335-3-11-.06(152) Reserved	Reserved	
335-3-11-.06(153) Reserved	Reserved	
335-3-11-.06(154) Subpart YYYYYY	Subpart YYYYYY	§63.11531(c)(1)-(5)
335-3-11-.06(155) Subpart ZZZZZZ	Subpart ZZZZZZ	§63.11557(c)(1)-(5)
335-3-11-.06(156) Subpart AAAAAA	Subpart AAAAAA	§63.11567(b)
335-3-11-.06(157) Reserved	Reserved	
335-3-11-.06(158) Subpart CCCCCC	Subpart CCCCCC <sup>71</sup>	See Footnote
335-3-11-.06(159) Subpart DDDDDD	Subpart DDDDDD <sup>72</sup>	See Footnote
335-3-11-.06(160) Reserved	Reserved	
335-3-11-.06(161) Reserved	Reserved	
335-3-11-.06(162) Reserved	Reserved	
335-3-11-.06(163) Subpart HHHHHH	Subpart HHHHHH	§63.12000(b)

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in § 63.90 (3) Approval of a major change to monitoring under § 63.8(f). A “major change to monitoring” is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A “major change to recordkeeping/reporting” is defined in § 63.90.

<sup>71</sup> The following are not delegable: (1) Approval of an alternative nonopacity emissions standard under § 63.6(g). (2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A “major change to test method” is defined in § 63.90 (3) Approval of a major change to monitoring under § 63.8(f). A “major change to monitoring” is defined in § 63.90. (4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A “major change to recordkeeping/reporting” is defined in § 63.90.

<sup>72</sup> The following are not delegable: (1) Approval of an alternative nonopacity emissions standard under § 63.6(g). (2) Approval of an alternative opacity emissions standard under § 63.6(h)(9). (3) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A “major change to test method” is defined in § 63.90. (4) Approval of a major change to monitoring under § 63.8(f). A “major change to monitoring” is defined in § 63.90. (5) Approval of a major change to recordkeeping and reporting under § 63.10(f). A “major change to recordkeeping/reporting” is defined in § 63.90.

#### **ADEM Chapter 335-3-11**

#### **40 CFR Part 63**

#### **Exceptions**

**History:** Effective Date: November 23, 1995.

**Amended:** November 21, 1996; September 25, 1997; March 27, 1998; November 19, 1998; July 15, 1999; January 13, 2000; September 7, 2000; March 14, 2002; October 3, 2002; April 3, 2003; October 2, 2003; March 22, 2005; December 12, 2005; July 11, 2006; April 3, 2007; January 22, 2008; August 5, 2008; January 19, 2009; March 30, 2010; May 23, 2011; May 29, 2012; January 22, 2013; May 28, 2013; September 24, 2013; November 24, 2015; June 9, 2017; Amended: **Proposed: July 20, 2021.**

### **335-3-8-.72 NO<sub>x</sub> Budget Program Monitoring and Reporting.**

(1) Monitoring and reporting requirements. The owners and operators and, to the extent applicable, the NO<sub>x</sub> authorized account representative of each NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit at the source shall implement a monitoring and reporting system necessary to attribute ozone season NO<sub>x</sub> mass emissions to each NO<sub>x</sub> Budget Unit at the source and provide a compliance certification report to be received by the Department by the 30th of November following each ozone season:

(a) A NO<sub>x</sub> Budget Unit that is required by any regulation or permit, or elects to monitor and report NO<sub>x</sub> mass emissions in accordance with 40 CFR Part 75 shall adhere to the monitoring and reporting requirements of 40 CFR Part 75 and the data from the Part 75 monitoring system shall be utilized by the Department.

1. For purposes of a source subject to the monitoring and reporting provisions of Part 75, the definitions in 40 CFR 72.2 shall apply, and the terms “affected unit”, “designated representative”, and “continuous emission monitoring system” (or “CEMS”) in 40 CFR Part 75 shall be replaced by the terms “NO<sub>x</sub> Budget unit”, “NO<sub>x</sub> authorized account representative”, and “continuous emission monitoring system” (or “CEMS”), respectively, as defined in 335-3-8-.71(2).

(b) A NO<sub>x</sub> Budget Unit that elects to monitor and report NO<sub>x</sub> mass emissions utilizing a continuous emissions rate monitoring system (CERMS) shall adhere to the QA/QC requirements of 40 CFR Part 60, Performance Specification 2 and 40 CFR Part 60 Appendix F for the NO<sub>x</sub> CEMS, 40 CFR Part 60, Performance Specification 3 for a O<sub>2</sub> or CO<sub>2</sub> CEMS, and 40 CFR Part 60, Performance Specification 6 for Stack Gas Flow CEMS. The data from the CEMS shall be utilized by the Department.

(c) A NO<sub>x</sub> Budget Unit that is required by any regulation or permit, or elects to operate a NO<sub>x</sub> CEMS and is not subject to subparagraph (1)(a) of this rule, shall comply with the applicable monitoring and reporting regulations and utilize the CEMS data in conjunction with one of the following methods:

1. NO<sub>x</sub> budget sources utilizing this alternative monitoring option will calculate the NO<sub>x</sub> mass emissions (tons) for each ozone season and report the total as part of the compliance certification report to the Department no later

than November 30th following that ozone season. The calculation for NO<sub>x</sub> mass emissions shall be as follows:

$$M = (R)*(HI)/2000$$

Where M is the NO<sub>x</sub> mass emissions (tons),

R is the NO<sub>x</sub> emissions rate (lb/mmBtu)

HI is the heat input (mmBtu)

(i) The NO<sub>x</sub> emission rate would be calculated from CEMS measurements using Method 19 in Appendix A of 40 CFR Part 60. For multi-fuel fired units, a worst case F-factor may be utilized for the purpose of calculating the NO<sub>x</sub> emission rate;

(i) The heat input shall be calculated by totaling the heating value of the fuels used multiplied by the amount of each respective fuel utilized. The heat input due to the firing of wood waste may be calculated from steam production, less the heat input from other fuels. The calculation method for determining wood waste heat input must be detailed in the monitoring protocol required under subparagraph (e) of this paragraph; and

(ii) Each CEMS monitor shall meet the requirements of 40 CFR Part 60 Appendix B, Performance Specifications 2 and Appendix F.

Or,

2. NO<sub>x</sub> budget sources utilizing this alternative monitoring option will calculate the NO<sub>x</sub> mass emissions (tons) for each ozone season and report the total as part of the compliance certification report to the Department no later than November 30th following that ozone season. The calculation for NO<sub>x</sub> mass emissions shall be as follows:

$$M = 0.1194(R)*(Q)*t_{op}/2000$$

Where M is the NO<sub>x</sub> mass emissions (tons),

R is the NO<sub>x</sub> emissions concentration (ppm<sub>w</sub>)

Q is the flow rate (mmscf/hr), and

t<sub>op</sub> is the operating time (hr).

(i) The NO<sub>x</sub> emission concentration shall be determined from CEMS measurements.

(ii) The flow rate shall be determined by:

(I) The average flow rate of the unit under normal operating conditions as demonstrated by previous 40 CFR Part 75 monitoring, or

(II) The flow rate of the unit as determined by 40 CFR Part 60, Appendix A, Methods 1-4.

(iii) Each CEMS monitor shall meet the requirements of 40 CFR Part 60 Appendix B, Performance Specifications 2 and Appendix F.

~~3. A stack test shall be performed at least once every five years to verify historical NO<sub>x</sub> concentration and flow rate factors used to compute NO<sub>x</sub> mass emissions.~~

(d) A NO<sub>x</sub> Budget Unit that is not subject to subparagraph (1)(a), (1)(b) or 1(c) shall calculate the NO<sub>x</sub> concentration for each ozone season and report the total as part of the compliance certification report to the Department no later than November 30th following that ozone season. The calculation for NO<sub>x</sub> concentration shall be that of rule 335-3-8-.72(1)(c)2. with use of the following:

1. For sources which have previously operated CEMS subject to the requirements of 40 CFR Part 75:

(i) The average NO<sub>x</sub> concentration of the unit under normal operating conditions as demonstrated by previous 40 CFR Part 75 monitoring,

(ii) The average flow rate of the unit under normal operating conditions as demonstrated by previous 40 CFR Part 75 monitoring,

(iii) If the unit operating parameters, such as fuel composition, change beyond normal conditions from that of the Part 75 monitoring, additional testing may be required to verify the NO<sub>x</sub> concentration and the flow rate, or to establish new NO<sub>x</sub> concentration and flow rate factors.

2. For units which do not have NO<sub>x</sub> concentration and flow rate factors from Part 75 CEMS, initial testing utilizing 40 CFR Part 60, Appendix A, Methods 1-4 and 7 or 7e shall be performed, followed by at least two annual tests which shall be used to establish NO<sub>x</sub> concentration and flow rate factors. If the unit operating parameters, such as fuel composition, change beyond normal conditions during the initial testing, additional testing may be required to verify the NO<sub>x</sub> concentration and the flow rate, or to establish new NO<sub>x</sub> concentration- and flow rate factors, as approved by the Department.

3. Any source subject to the requirements of subparagraph (d) of this paragraph must include in the annual report required under subparagraph (2)(a) of this rule a statement of whether the unit operating parameters were within the historical parameters used to establish the appropriate NO<sub>x</sub> concentration and flow rate factors.

4. The monitoring protocol would be approved if the Department finds that the protocol is designed to provide all information necessary to accurately attribute NO<sub>x</sub> emissions to the unit, and would be sufficient to determine whether the sources are collectively in compliance with the State of Alabama NO<sub>x</sub> Budget.

5. After the testing required under subparagraph (1)(d)2 of this rule has been completed, a test in accordance with the methods used in 40 CFR Part 60, Appendix A, Methods 1-4 and 7 or 7E shall be performed at least once every five years to verify historical NO<sub>x</sub> concentration and flow rate factors used to compute NO<sub>x</sub> mass emissions.

4.

(e) A monitoring protocol shall be submitted for review and approval by the Department for each NO<sub>x</sub> Budget Unit. Minimum information in the monitoring protocol would be the monitoring method in subparagraphs (a), (b), or (c) of this paragraph; the normal operating conditions of the unit, including fuel type and operating rate; and any unit specific NO<sub>x</sub> concentration factors and flow rate factors utilized to calculate emissions. Additional information such as multiple operating scenarios or missing data substitution methods should be included as relevant.

1. For units which commenced operation prior to May 1, 2020, the pre-existing monitoring requirements must be met until a monitoring protocol is approved by the Department.

2. For units which commence operation on or after May 1, 2020, a monitoring protocol must be approved by the Department prior to operation during the initial ozone season.

3. Whenever the monitoring is changed, the pre-existing monitoring requirements shall be met until a new monitoring protocol is approved by the Department.

(2) Annual Compliance Report and Certification.

(a) For each control period in which one or more NO<sub>x</sub> Budget units at a source are subject to the NO<sub>x</sub> Budget program, the NO<sub>x</sub> authorized account representative of the source shall submit to the Department by November 30 of that year, a compliance certification report for each source covering all such units.

1. The NO<sub>x</sub> authorized account representative shall include in the compliance certification report under subparagraph (a) of this paragraph identification of each NO<sub>x</sub> Budget unit, all NO<sub>x</sub> mass emissions produced by the

given unit for the control period covered by the report, supporting documentation, and the following certifications:

(i) the NO<sub>x</sub> authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO<sub>x</sub> Budget units at the source in compliance with the NO<sub>x</sub> Budget Program, whether each NO<sub>x</sub> Budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NO<sub>x</sub> Budget Program applicable to the unit, including whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NO<sub>x</sub> emissions to the unit, in accordance with rule 335-3-8-.72(1).

**Author:** Ronald W. Gore

**Statutory Authority:** Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

**History:** Filed: February 28, 2020; Effective: April 13, 2020; Amended:

**Proposed:** July 20, 2021.



### **335-3-10-.01 General.**

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Standards of Performance for New Stationary Sources (40 CFR 60 and Appendices) designated in rules 335-3-10-.02 and -.03 are incorporated by reference as they exist in 40 CFR 60 (July 1, ~~2019~~2021), as amended by the word or phrase substitutions given in rule 335-3-10-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations. Authorities which are not delegable to the state are also listed in Appendix C.

**[NOTE: The standards pertaining to the Consolidated Federal Air rule are located in chapter 335-3-11A.]**

(a) The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

(2) The emission standards in this chapter shall supercede the emission standards in chapters 335-3-3, -4, -5, -6, -7, and -8 if both of the following criteria are met:

(a) the source category is subject to the regulations in this chapter for the specific pollutants to which an emission standard under this chapter applies, and

(b) the emission standard under chapters 335-3-3, -4, -5, -6, -7, and -8 is more stringent than the emission standard in this chapter for the specific pollutants regulated.

(3) Definitions. For purposes of this chapter, the definitions listed in 40 CFR §60.2 will apply.

#### **Author:**

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

**History:** Effective: May 25, 1976. **Amended:** Effective: February 13, 1985.

**Amended:** Effective: June 9, 1987. **Amended:** Effective: June 16, 1988. **Amended:** Effective: September 21, 1989. **Amended:** Effective: November 1, 1990.

**Amended:** Effective: March 28, 1991. **Amended:** Effective: July 31, 1991.

**Amended:** Effective: September 19, 1991. **Amended:** Effective: October 24, 1991.

**Amended:** Effective: December 28, 1993. **Amended:** Effective: April 27, 1995.

**Amended:** Effective: November 21, 1996. **Amended:** Effective: September 25, 1997.

**Amended:** Effective: March 27, 1998. **Amended:** Effective: July 15, 1999.

**Amended:** Effective: January 13, 2000. **Amended:** Effective: September 7, 2000.

**Amended:** Effective: March 14, 2002. **Amended:** Effective: October 3, 2002.

**Amended:** Effective: April 3, 2003. **Amended:** Effective: October 2, 2003. **Amended:**

Effective: March 22, 2005. **Amended:** Effective: December 12, 2005. **Amended:**

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January 22, 2008. **Amended:** Effective: August 5, 2008. **Amended:** Effective: January 19, 2009. **Amended:** Effective: March 30, 2010. **Amended:** Effective: May 23, 2011. **Amended:** Effective: May 29, 2012. **Amended:** Effective: January 22, 2013. **Amended:** Effective: May 28, 2013. **Amended:** Effective: September 24, 2013. **Amended:** Effective: November 24, 2015. **Amended:** Effective: June 2, 2017. **Amended:** Filed: August 21, 2018; **Amended:** Effective: October 5, 2018. **Amended:** Filed: February 28, 2020; Effective: April 13, 2020. **Amended:** **Proposed: July 20, 2021.**

**335-3-10-.02 Designated Standards of Performance.**

(1) Subpart A - General Provisions.

(2) Subpart D - Fossil Fuel-Fired Steam Generators for which construction is commenced after August 17, 1971.

(a) Subpart Da - Electric Utility Steam Generating Units for which construction is commenced after September 18, 1978.

(b) Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.

(c) Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

(3) Subpart E - Incinerators.

(a) Subpart Ea - Municipal Waste Combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994.

(b) Subpart Eb - Municipal Waste Combustors for which construction is commenced after September 20, 1994.

(c) Subpart Ec - Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which construction is commenced after June 20, 1996.

(4) Subpart F - Portland Cement Plants.

(5) Subpart G - Nitric Acid Plants.

(a) Subpart Ga - Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced After October 14, 2011.

(6) Subpart H - Sulfuric Acid Plants.

(7) Subpart I - Hot Mix Asphalt Facilities.

(8) Subpart J - Petroleum Refineries.

(a) Subpart Ja - Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After May 14, 2007.

(9) Subpart K - Storage Vessels for Petroleum Liquids constructed after June 11, 1973 and prior to May 19, 1978.

(a) Subpart Ka - Storage Vessels for Petroleum Liquids constructed after May 18, 1978.

(b) Subpart Kb - Volatile Organic Liquid Storage Vessels (Including

Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 12, 1984.

(10) Reserved.

(11) Reserved.

(12) Subpart L - Secondary Lead Smelters.

(13) Subpart M - Secondary Brass and Bronze Ingot Production Plants.

(14) Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for which construction is commenced after June 11, 1973.

(a) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which construction is commenced after January 20, 1983.

(15) Subpart O - Sewage Treatment Plants.

(16) Subpart P - Primary Copper Smelters.

(17) Subpart Q - Primary Zinc Smelters.

(18) Subpart R - Primary Lead Smelters.

(19) Subpart S - Primary Aluminum Reduction Plants.

(20) Subpart T - Wet Process Phosphoric Acid Plants.

(21) Subpart U - Superphosphoric Acid Plants.

(22) Subpart V - Diammonium Phosphate Plants.

(23) Subpart W - Triple Superphosphate Plants.

(24) Subpart X - Granular Triple Superphosphate Storage Facilities.

(25) Subpart Y - Coal Preparation Plants.

(26) Subpart Z - Ferroalloy Production Facilities.

(27) Subpart AA - Steel Plants (Electric arc furnaces and dust-handling equipment).

(a) Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon Oxygen-Decarburization Vessels.

(28) Subpart BB - Kraft Pulp Mills.

(a) Subpart BBa - Standards of Performance for Kraft Pulp Mill Affected

Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.

(29) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

(30) Subpart DD - Grain Elevators.

(31) Subpart EE - Surface Coating of Metal Furniture.

(32) Subpart FF - Reserved.

(33) Subpart GG - Stationary Gas Turbines.

(34) Subpart HH - Lime Manufacturing Plants.

(35) Subpart II - Reserved.

(36) Subpart JJ - Reserved.

(37) Subpart KK - Lead-Acid Battery Manufacture.

(38) Subpart LL - Metallic Mineral Processing Plants.

(39) Subpart MM - Automobile and Light-Duty Truck Surface Coating Operations.

(40) Subpart NN - Phosphate Rock Plants.

(41) Subpart OO - Reserved.

(42) Subpart PP - Ammonium Sulfate Manufacturing.

(43) Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

(44) Subpart RR - Pressure Sensitive Tape and Label Surface Coating Industry.

(45) Subpart SS - Industrial Surface Coating - Large Appliances.

(46) Subpart TT - Metal Coil Surface Coating Operations.

(47) Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.

(48) Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006.

(a) Subpart VVa - Equipment Leaks of VOC in the Synthetic Organic

Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After November 7, 2006.

- (49) Subpart WW - Beverage Can Surface Coating Industry.
- (50) Subpart XX - Bulk Gasoline Terminals.
- (51) Subpart YY - Reserved.
- (52) Subpart ZZ - Reserved.
- (53) Subpart AAA - Reserved.
- (54) Subpart BBB - Rubber Tire Manufacturing Industry.
- (55) Subpart CCC - Reserved.
- (56) Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
- (57) Subpart EEE - Reserved.
- (58) Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.
- (59) Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006.
- (60) (a) Subpart GGGa - Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After November 7, 2006.
- (61) Subpart HHH - Synthetic Fiber Production Facilities.
- (62) Subpart III - VOC Emissions from SOCOMI Air Oxidation Unit Processes.
- (63) Subpart JJJ - Petroleum Dry Cleaners.
- (64) Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants for which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011.
- (65) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing for which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011: SO<sub>2</sub> Emissions.
- (66) Subpart MMM - Reserved.
- (67) Subpart NNN - VOC Emissions from SOCOMI Distillation Operations.

- (68) Subpart OOO - Nonmetallic Mineral Processing Plants.
- (69) Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.
- (70) Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.
- (71) Subpart RRR - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry Reactor Processes.
- (72) Subpart SSS - Magnetic Tape Manufacturing Industry.
- (73) Subpart TTT - Industrial Surface Coating; Plastic Parts for Business Machines.
- (74) Subpart UUU - Calciners and Dryers in Mineral Industries.
- (75) Subpart VVV - Polymeric Coating of Supporting Substrates.
- (76) Subpart WWW - Municipal Waste Landfills.
- (77) Subpart XXX - Municipal Solid Waste Landfills that commenced construction, reconstruction, or modification after July 17, 2014.
- (78) Subpart YYY - Reserved.
- (79) Subpart ZZZ - Reserved.
- (80) Subpart AAAA – Small Municipal Waste Combustion Units for which construction is commenced after August 30, 1999 or for which modification or reconstruction is commenced After June 6, 2001.
- (81) Subpart BBBB - Reserved.
- (82) Subpart CCCC - Commercial and Industrial Solid Waste Incineration Units for which construction is commenced after June 4, 2010 or for which modification or reconstruction is commenced on or after August 7, 2013.
- (83) Subpart DDDD – Reserved.
- (84) Subpart EEEE – Reserved.
- (85) Subpart FFFF – Reserved.
- (86) Subpart GGGG – Reserved.
- (87) Subpart HHHH – Reserved.
- (88) Subpart IIII – Stationary Compression Ignition Internal Combustion Engines.

(89) Subpart JJJJ – Stationary Spark Ignition Internal Combustion Engines.

(90) Subpart KKKK – Stationary Combustion Turbines.

(91) Subpart LLLL – New Sewage Sludge Incineration Units.

(92) Subpart OOOO – Crude Oil and Natural Gas Production, Transmission and Distribution.

(91)(a) Subpart OOOOa – Crude Oil and Natural Gas Facilities for which construction, modification or reconstruction commenced after September 18, 2015.

(93) Subpart PPPP – Reserved.

(94) Subpart QQQQ – Reserved.

(95) Subpart RRRR – Reserved.

(96) Subpart SSSS – Reserved.

(97) Subpart TTTT – Greenhouse Gas Emissions from Electric Generating Units.

**Author:**

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

**History:** Effective Date: May 25, 1976. **Amended:** Effective: June 23, 1981; **Amended:** Effective: February 13, 1985; **Amended:** Effective: April 15, 1987; **Amended:** Effective: June 16, 1988; **Amended:** Effective: September 21, 1989; November 1, 1990; **Amended:** Effective: March 28, 1991; **Amended:** Effective: July 31, 1991; **Amended:** Effective: September 19, 1991; **Amended:** Effective: October 24, 1991; **Amended:** Effective: December 28, 1993; **Amended:** Effective: April 27, 1995; **Amended:** Effective: November 21, 1996; **Amended:** Effective: September 25, 1997; **Amended:** Effective: March 27, 1998; **Amended:** Effective: July 15, 1999; **Amended:** Effective: January 13, 2000; **Amended:** Effective: September 7, 2000; **Amended:** Effective: March 14, 2002; **Amended:** Effective: October 3, 2002; **Amended:** Effective: April 3, 2003; **Amended:** Effective: October 2, 2003; **Amended:** Effective: March 22, 2005; **Amended:** Effective: December 12, 2005; **Amended:** Effective: July 11, 2006; **Amended:** Effective: November 14, 2006; **Amended:** Effective: April 3, 2007; **Amended:** Effective: January 22, 2008; **Amended:** Effective: August 5, 2008; **Amended:** Effective: January 19, 2009; **Amended:** Effective: March 30, 2010; **Amended:** Effective: May 23, 2011; **Amended:** Effective: May 29, 2012; **Amended:** Effective: January 22, 2013; **Amended:** Effective: May 28, 2013; **Amended:** Effective: September 24, 2013; **Amended:** Effective: November 24, 2015; **Amended:** Effective: June 2, 2017; **Amended:** Filed: February 28, 2020; Effective: April 13, 2020. **Amended:** Proposed: July 20, 2021.



**335-3-10-.03 Appendices to 40 CFR 60.**

- (1) Appendix A - Reference Method.
- (2) Appendix B - Performance Specifications.
- (3) Appendix F - Quality Assurance Procedures.

**Author:** Robert Cowne.

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

**History:** Effective Date: June 16, 1988. **Amended:** Effective: November 1, 1990.

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### **335-3-11-.01 General.**

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Hazardous Air Pollutants, 40 CFR, Part 61 and Appendices, designated in rules 335-3-11-.02 and 335-3-11-.03 and 40 CFR Part 63, and Appendices designated in rules 335-3-11-.06 and 335-3-11-.07 are incorporated by reference as they exist in 40 CFR 61 (~~2016~~2021), ~~and 81 FR 59800 [08/30/2016, amendments to Subparts A and Appendix B]~~, and 40 CFR 63 (July 1, ~~2019~~2021), as amended by the word or phrase substitutions given in rule 335-3-11-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations. Authorities which are not delegable to the state are also listed in Appendix C.

**[NOTE: The standards pertaining to the Consolidated Federal Air rule are located in chapter 335-3-11A.]**

(a) The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

(2) In the event of any conflict between the regulations contained in this chapter and regulations contained in other chapters, the more stringent regulations will take precedence.

(3) Definitions. For purposes of this chapter, the definitions listed in 40 CFR 61.02, Subpart A will apply in rules 335-3-11-.02 and 335-3-11-.03 and the definitions listed in 40 CFR 63.2, Subpart A will apply in rules 335-3-11-.06 and 335-3-11-.07.

#### **Author:**

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

**History:** Effective Date: May 25, 1976. **Amended:** Effective: February 13, 1985.

**Amended:** Effective: June 9, 1987. **Amended:** Effective: June 16, 1988. **Amended:**

Effective: November 1, 1990. **Amended:** Effective: March 28, 1991. **Amended:**

Effective: July 31, 1991. **Amended:** Effective: September 19, 1991. **Amended:**

Effective: October 30, 1992. **Amended:** Effective: December 28, 1993. **Amended:**

Effective: November 23, 1995. **Amended:** Effective: November 21, 1996.

**Amended:** Effective: September 25, 1997. **Amended:** Effective: March 27, 1998.

**Amended:** Effective: November 19, 1998. **Amended:** Effective: July 15, 1999.

**Amended:** Effective: January 13, 2000. **Amended:** Effective: September 7, 2000.

**Amended:** Effective: March 14, 2002. **Amended:** Effective: October 3, 2002.

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January 22, 2008. **Amended:** Effective: August 5, 2008. **Amended:** Effective:

January 19, 2009. **Amended:** Effective: March 30, 2010. **Amended:** Effective: May

23, 2011. **Amended:** Effective: May 29, 2012. **Amended:** Effective: January 22,

2013. **Amended:** Effective: May, 28, 2013. **Amended:** Effective: September 24,

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**335-3-11-.03 Appendices to 40 CFR 61.**

(1) Appendix B - Test Methods

**Author:** Robert W. Cowne.

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

**History:** Effective Date: June 16, 1988

**Amended:** March 28, 1991; November 21, 1996; March 14, 2002; November 24, 2015; June 2, 2017. **Amended: Proposed: July 20, 2021.**

**335-3-11-.06 National Emission Standards for Hazardous Air Pollutants for Source Categories.**

(1) Subpart A – General Provisions.

(2) Subpart B - Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j).

**[NOTE: The requirements for implementation of §112(g) are found in rule 335-3-14-.06]**

(3) Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants.

(4) Reserved.

(5) Subpart F - National Emission Standards for Hazardous Air Pollutants From Synthetic Organic Chemical Manufacturing Industry.

(6) Subpart G - National Emission Standards for Organic Hazardous Air Pollutants From Synthetic Organic Chemical Manufacturing Industry Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(7) Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

(8) Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

(9) Reserved.

(10) Reserved.

(11) Subpart L - National Emission Standards for Coke Oven Batteries.

(12) Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(13) Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(14) Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.

(15) Reserved.

(16) Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

(17) Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(18) Subpart S - National Emission Standards for Hazardous Air Pollutants for Pulp and Paper Production.

(19) Subpart T - National Emission Standards for Halogenated Solvent Cleaning.

(20) Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(21) Reserved.

(22) Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.

(23) Subpart X - National Emission Standards from Secondary Lead Smelting.

(24) Subpart Y - National Emission Standards for Marine Tank Vessel Loading Operations [with the exceptions of those subsections referencing the Valdez Marine Terminal (VMT) in Alaska].

(25) Reserved.

(26) Subpart AA - National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants.

(27) Subpart BB - National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants.

(28) Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(29) Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(30) Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.

(31) Reserved.

(32) Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(33) Subpart HH - National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.

(34) Subpart II - National Emission Standards for Shipbuilding and Ship Repair (Surface Coating) Operations.

(35) Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.

(36) Subpart KK - National Emission Standards for the Printing and Publishing Industry.

(37) Reserved.

(38) Subpart MM – National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfitte, and Stand-Alone Semichemical Pulp Mills.

(39) Reserved.

(40) Subpart OO - National Emission Standards for Tanks - Level 1.

(41) Subpart PP - National Emission Standards for Containers.

(42) Subpart QQ – National Emission Standards for Surface Impoundments.

(43) Subpart RR - National Emission Standards for Individual Drain Systems.

(44) Subpart SS – National Emission Standards Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.

(45) Subpart TT – National Emission Standards for Equipment Leaks – Control Level 1.

(46) Subpart UU – National Emission Standards for Equipment Leaks – Control Level 2 Standards.

(47) Subpart VV National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(48) Subpart WW – National Emission Standards for Storage Vessels (Tanks) – Control Level 2.

(49) Subpart XX – National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(50) Subpart YY – National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.

(51) Reserved.

(52) Reserved.

(53) Reserved.

- (54) Subpart CCC – National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- (55) Subpart DDD – National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- (56) Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.
- (57) Reserved.
- (58) Subpart GGG - National Emission Standards for Hazardous Air Pollutants for Source Categories: Pharmaceuticals Production.
- (59) Subpart HHH – National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities.
- (60) Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- (61) Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
- (62) Reserved.
- (63) Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
- (64) Subpart MMM – National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- (65) Subpart NNN – National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- (66) Subpart OOO – National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production.
- (67) Subpart PPP – National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.
- (68) Reserved.
- (69) Subpart RRR – National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- (70) Reserved.
- (71) Reserved.
- (72) Subpart UUU – National Emission Standards for Hazardous Air



Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(73) Subpart VVV – National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(74) Reserved.

(75) Subpart XXX – National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.

(76) Reserved.

(77) Reserved.

(78) Subpart AAAA – National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.

(79) Reserved.

(80) Subpart CCCC – National Emission Standards for Hazardous Air Pollutants: Nutritional Yeast.

(81) Subpart DDDD – National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.

(82) Subpart EEEE – National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).

(83) Subpart FFFF – National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.

(84) Subpart GGGG – National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.

(85) Subpart HHHH – National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.

(86) Subpart IIII – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.

(87) Subpart JJJJ – National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.

(88) Subpart KKKK – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.

(89) Reserved.

(90) Subpart MMMM – National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

- (91) Subpart NNNN – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
- (92) Subpart OOOO – National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
- (93) Subpart PPPP – National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
- (94) Subpart QQQQ – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
- (95) Subpart RRRR – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
- (96) Subpart SSSS – National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
- (97) Reserved.
- (98) Reserved.
- (99) Subpart VVVV – National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
- (100) Subpart WWWW – National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
- (101) Subpart XXXX – National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
- (102) Subpart YYYY – National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
- (103) Subpart ZZZZ – National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (major source provisions only).
- (104) Subpart AAAAA – National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
- (105) Subpart BBBB – National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
- (106) Subpart CCCCC – National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
- (107) Subpart DDDDD – National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters.

(108) Subpart EEEEE – National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(109) Subpart FFFFF – National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.

(110) Subpart GGGGG – National Emission Standards for Hazardous Air Pollutants: Site Remediation.

(111) Subpart HHHHH – National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.

(112) Subpart IIIII – National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.

(113) Subpart JJJJJ – National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(114) Subpart KKKKK – National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(115) Subpart LLLLL – National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.

(116) Reserved.

(117) Subpart NNNNN – National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.

(118) Reserved.

(119) Subpart PTTTT – National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards.

(120) Subpart QQQQQ – National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities

(121) Subpart RRRRR – National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.

(122) Reserved.

(123) Subpart TTTTT – National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(124) Subpart UUUUU – National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired Electric Utility Steam Generating Units.

(125) Reserved.

(126) Reserved.

(127) Reserved.

(128) Subpart YYYYYY– National Emission Standards for Hazardous Air Pollutants for Electric arc Furnace Steelmaking Facilities Area Sources.

(129) Subpart ZZZZZZ – National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(130) Reserved.

(131) Reserved.

(132) Reserved.

(133) Subpart DDDDDD – National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(134) Subpart EEEEEEE – National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(135) Subpart FFFFFFFF – National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(136) Subpart GGGGGG – National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources – Zinc, Cadmium, and Beryllium.

(137) Reserved.

(138) Reserved.

(139) Reserved.

(140) Reserved.

(141) Subpart LLLLLL – National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(142) Subpart MMMMMM – National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(143) Reserved.

(144) Subpart OOOOOO – National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(145) Reserved.

(146) Subpart QQQQQQ – National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(147) Reserved.

(148) Reserved.

(149) Subpart TTTTTT– National Emission Standards for Hazardous Air Pollutants for Secondary nonferrous Metals Processing Area Sources.

(150) Reserved.

(151) Subpart VVVVVV– National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.

(152) Reserved.

(153) Reserved.

(154) Subpart YYYYYY– National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production Facilities Area Sources.

(155) Subpart ZZZZZZ – National Emission Standards for Hazardous Air Pollutants for Aluminum, Copper, and Other Nonferrous Foundries Area Sources.

(156) Subpart AAAAAA – National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing Area Sources

(157) Reserved.

(158) Subpart CCCCCC – National Emission Standards for Hazardous Air Pollutants for Paints and Allied Products Manufacturing Area Sources.

(159) Subpart DDDDDDD – National Emission Standards for Hazardous Air Pollutants for Prepared Feeds Manufacturing Area Sources.

(160) Reserved.

(161) Reserved.

(162) Reserved.

(163) Subpart HHHHHHH – National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production.

**Author:** Richard E. Grusnick.

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

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**335-3-11-.07 Appendices to 40 CFR 63.**

- (1) Appendix A - Test Methods.
- (2) Appendix B - Sources Defined for Early Reduction Provisions.
- (3) Appendix C - Determination of the Fraction Biodegraded ( $F_{bio}$ ) in a Biological Treatment Unit.
- (4) Appendix D - Alternative Validation Procedure for EPA Waste and Wastewater Methods.
- (5) Appendix E - Monitoring Procedure for Nonthoroughly Mixed Open Biological Treatment System Systems at Kraft Pulp Mills Under Unsafe Sampling Conditions.

**Author:** Richard E. Grusnick.

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-9.

**History:** Effective Date: November 23, 1995. **Amended:** Effective: November 21, 1996. **Amended:** Effective: September 25, 1997. **Amended:** Effective: November 19, 1998. **Amended:** Effective: July 15, 1999. **Amended:** Effective: January 13, 2000. **Amended:** Effective: March 14, 2002. **Amended:** Effective: March 30, 2010. **Amended:** Effective: May 23, 2011. **Amended:** Effective: May 28, 2013.

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**335-3-19-.01 Reserved Definitions.** For the purposes of this Chapter and rules 335-3-10-.02(75) and 335-3-10-.02(76) only, the following words and phrases, unless a different meaning is plainly required by the content, shall have the following meanings.

(a) "Active collection system" means a gas collection system that uses gas mover equipment.

(b) "Active landfill" means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

(c) "Closed area" means a separately lined area of an MSW landfill in which solid waste is no longer being placed. If additional solid waste is placed in that area of the landfill, that landfill area is no longer closed. The area shall be separately lined to ensure that the landfill gas does not migrate between open and closed areas.

(d) "Closed landfill" means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under § 60.7(a)(4), 40 CFR. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

(e) "Closed landfill subcategory" means a closed landfill that has submitted a closure report as specified in rule 335-3-19-.03(6)(e) on or before September 27, 2017.

(f) "Closure" means that point in time when a landfill becomes a closed landfill.

(g) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(h) "Controlled landfill" means any landfill at which collection and control systems are required under this Chapter as a result of the nonmethane organic compounds emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with rule 335-3-19-.03(1)(d)2.(i).

(i) "Corrective action analysis" means a description of all reasonable interim and long-term measures, if any, that are available, and an explanation of why the selected corrective action(s) is/are the best alternative(s), including, but not limited to, considerations of cost effectiveness, technical feasibility, safety, and secondary impacts.



(j) "Design capacity" means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the Department, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually.

(k) "Disposal facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

(l) "Emission rate cutoff" means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

(m) "Enclosed combustor" means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

(n) "Flare" means an open combustor without enclosure or shroud.

(o) "Gas mover equipment" means the equipment (i.e., fan, blower, compressor) used to transport landfill gas through the header system.

(p) "Gust" means the highest instantaneous wind speed that occurs over a 3-second running average.

(q) "Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard waste. Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities. Household waste does not include construction, renovation, or demolition wastes, even if originating from a household.

(r) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include fly ash waste, bottom ash waste, boiler slag waste, or flue gas emission control waste which result from the combustion of coal or other fossil fuels at electric or steam generating plants. Additionally, this term does not include mining waste or oil and gas wastes, or small quantity generator waste as defined in ADEM Admin. Code r. 335-14-2-.01(5). Uncontaminated concrete, soil, brick, rock, and similar materials are excluded from this definition.

(s) "Interior Well" means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfilled waste is not an interior well.

(t) "Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under ADEM Admin. Code r. 335-13-1-.03.

(u) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

(v) "Leachate recirculation" means the practice of taking the leachate collected from the landfill and reapplying it to the landfill by any of one of a variety of methods, including pre-wetting of the waste, direct discharge into the working face, spraying, infiltration ponds, vertical injection wells, horizontal gravity distribution systems, and pressure distribution systems.

(w) "Modification" means an increase in the permitted volume design capacity of the landfill by either lateral or vertical expansion based on its design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the lateral or vertical expansion.

(x) "Municipal solid waste landfill" or "MSW landfill" means an entire disposal facility in a contiguous geographic space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (ADEM Admin. Code r. 335-13-1-.03) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and

industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

(y) "Municipal solid waste landfill emissions" or "MSW landfill emissions" means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

(z) "NMOC" means nonmethane organic compounds, as measured according to the provisions of rule 335-3-19-.03(3).

(aa) "Nondegradable waste" means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

(bb) "Passive collection system" means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

(cc) "Root cause analysis" means an assessment conducted through a process of investigation to determine the primary cause, and any other contributing causes, of positive pressure at a wellhead.

(dd) "Sludge" means any nonhazardous solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(ee) "Solid waste" means any garbage or rubbish, construction/demolition debris, ash, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities or materials intended for or capable of recycling, but which have not been diverted or removed from the solid waste stream. The term "solid waste" does not include recovered material, solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to National Pollutant Discharge permits under the Federal Water Pollution Control Act 33 U.S.C. 1342, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.). Also excluded from this definition are wastes from silvicultural operations, land application of crop residues, animal residues, animal manure and ash resulting exclusively from the combustion of fossil fuels or wood during normal agricultural operations or mining refuse as defined and regulated pursuant to the Alabama Mining Act.

(ff) "Sufficient density" means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors,

and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this Chapter.

(gg) "Sufficient extraction rate" means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

(hh) "Treated landfill gas" means landfill gas processed in a treatment system as defined in this rule.

(i) "Treatment system" means a system that filters, de-waters, and compresses landfill gas for sale or beneficial use.

(jj) "Untreated landfill gas" means any landfill gas that is not treated landfill gas.

**Author:** Ronald W. Gore

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.

**History:** Effective Date: Proposed: July 20, 2021.

**335-3-19-.02 Reserved General Provisions.**

(1) The provisions of this Chapter apply to each existing MSW landfill for which construction, reconstruction or modification was commenced on or before July 17, 2014. Physical or operational changes made to an existing MSW landfill solely to comply with this Chapter are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements of Subpart XXX as incorporated by reference in rule 335-3-10-.02(76), [see §60.760 of Subpart XXX, 40 CFR].

(a) The requirements of this rule shall become effective upon final approval by EPA.

(2) Collection and control of MSW landfill emissions shall be required at each MSW landfill meeting the following four conditions:

(a) The landfill has accepted municipal solid waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.

(b) The landfill has a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the design capacity report; and

(c) The landfill has a nonmethane organic compound emission rate greater than or equal to 34 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(d) The landfill in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

(3) For purposes of obtaining an operating permit under Chapter 335-3-16 of this Division, the owner or operator of a MSW landfill subject to this Chapter with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under Chapter 335-3-16, unless the landfill is otherwise subject to Chapter 335-3-16. For purposes of submitting a timely application for an operating permit, the owner or operator of a MSW landfill subject to this Chapter with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of EPA's approval of the state's program [December 7, 1998], and not otherwise subject to Chapter 335-3-16, becomes subject to the requirements of Chapter 335-3-16, 90 days after the effective date [March 7, 1999] of said program approval, even if the design capacity report is submitted earlier.

(4) When a MSW landfill subject to this Chapter is closed as defined in this rule, the owner or operator is no longer subject to the requirement to maintain an operating permit under Chapter 335-3-16 for the landfill if the landfill is not otherwise subject to the requirements of Chapter 335-3-16 and if either of the following conditions are met.

(a) The landfill was never subject to the requirement to install and operate a gas collection and control system under rule 335-3-19-.03; or

(b) The owner or operator meets the condition for control system removal specified in rule 335-3-19-.03(1)(e).

(5) When an MSW landfill subject to this rule is in the closed landfill subcategory, the owner or operator is not subject to the following reports of this rule, provided the owner or operator submitted these reports under the provisions of Subpart WWW as incorporated by reference in rule 335-3-10-.02(75); or under the provisions of this rule on or before July 17, 2014;

(a) Initial design capacity report specified in subparagraph 335-3-19-.03(6)(a) of this rule.

(b) Initial or subsequent NMOC emission rate report specified in subparagraph 335-3-19-.03(6)(b) of this rule, provided that the most recent NMOC emission rate report indicated the NMOC emissions were below 50 Mg/yr.

(c) Collection and control system design plan specified in subparagraph 335-3-19-.03(6)(c) of this rule.

(d) Closure report specified in subparagraph 335-3-19-.03(6)(e) of this rule.

(e) Equipment removal report specified in subparagraph 335-3-19-.03(6)(f) of this rule.

(f) Initial annual report specified in subparagraph 335-3-19-.03(6)(g) of this rule.

(g) initial performance test report in subparagraph 335-3-19-.03(6)(h) of this rule.

**Author:** Ronald W. Gore

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.

**History:** Effective Date: Proposed: July 20, 2021.

**335-3-19-.03 Reserved Standards for Existing Municipal Solid Waste Landfills.**

(1) Standards for Air Emissions from Existing Municipal Solid Waste Landfills.

(a) Collection system. Each MSW landfill meeting the conditions in 335-3-19-.02(2) shall install a gas collection as specified in subparagraphs (a)1. through (a)3. of this paragraph.

1. Collection system. Install and start up a collection and control system that captures the gas generated within the landfill within 30 months after:

(i) The first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in subparagraph (6)(c)4. of this rule; or

(ii) The first annual NMOC emission rate report for a landfill in the closed landfill subcategory in which the NMOC emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 50 megagrams per year, as specified in subparagraph (6)(c)4. of this rule; or

(iii) The most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in subparagraph (6)(c)4.(iii) of this rule.

2. Active. An active collection system shall:

(i) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control system equipment.

(ii) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of 5 years or more if active; or 2 years or more if closed or at final grade.

(iii) Collect gas at a sufficient extraction rate.

(iv) Be designed to minimize off-site migration of subsurface gas.

3. Passive. A passive collection system shall:

(i) Comply with the provisions specified in subparagraphs (1)(a)2.(i), (ii), and (iv) of this paragraph.

(ii) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners shall be installed as required under 40 CFR § 258.40.

(b) Control system. Each MSW landfill meeting the conditions in rule 335-3-19-.02(2) shall control gas collected from within the landfill through the use of control devices meeting the following requirements, except as provided in 40 CFR § 60.24.

1. A non-enclosed flare designed and operated in accordance with the parameters established in 40 CFR § 60.18 except as noted in subparagraph (5)(d) of this rule; or

2. A control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen or less. The reduction efficiency or concentration in parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in subparagraph (3)(d) of this rule. The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this Chapter.

(i) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone.

(ii) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in paragraph (5) of this rule.

(iii) For the closed landfill subcategory, the initial or most recent performance test conducted to comply with 40 CFR 60 Subpart WWW of this; or any other requirement of this Chapter on or before July 17, 2014 is sufficient for compliance with this Chapter.

3. Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas shall be controlled according to either subparagraph (b)1. or 2. of this paragraph.

4. All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of subparagraph (a) or (b) of this paragraph. For purposes of this Chapter, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of subparagraph (a) or (b) of this paragraph.



(c) Design capacity. Each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an initial design capacity report to the Director as provided in subparagraph (6)(a) of this rule. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. Submittal of the initial design capacity report shall fulfill the requirements of this rule except as provided for in subparagraphs (a)1. and (a)2. below.

1. The owner or operator shall submit to the Director an amended design capacity report, as provided for in subparagraph (6)(a)3. [Guidance: Note that if the design capacity increase is the result of a modification, as defined in rule 335-3-19-.01, that was commenced after July 17, 2014, the landfill will become subject to Rule 335-3-10-.02(76), 40 CFR 60, Subpart XXX. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification as the defined in rule 335-3-19-.01, the landfill remains subject to this Chapter.]

2. When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with the provision of subparagraph (d) below.

(d) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, shall either install a collection and control system as provided in subparagraphs (a) and (b) of this paragraph comply with subparagraph (d)2. of this paragraph or calculate an NMOC emission rate for the landfill using the procedures specified in paragraph (3) of this rule. The NMOC emission rate shall be recalculated annually, except as provided in subparagraph(6)(b)3. of this rule. The owner or operator of an MSW landfill subject to this Chapter with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters is subject to major source operating permitting requirements in Chapter 335-3-16.

1. If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator shall:

(i) submit an annual NMOC emission report to the Director, except as provided for in subparagraph(6)(b)3. of this rule; and

(ii) recalculate the NMOC emission rate annually using the procedures specified in subparagraph (3)(a) of this rule until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed.

(I) If the NMOC emission rate, upon initial calculation or annual recalculation required in subparagraph (d)1.(ii) above, is equal to or greater than 34 megagrams per year, the owner or operator shall install a collection and control system in compliance with subparagraph (b)2. below; calculate NMOC emission using the next higher tier in subparagraph (3) of this rule; or conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

(II) If the landfill is permanently closed, a closure report shall be submitted to the Director as provided for in subparagraph (6)(e) of this rule, except for exemption allowed under 335-3-19-.02(5)(d).

(III) For the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator shall either: Submit a gas collection and control system design plan as specified in subparagraph (6)(c) of this rule, except for exemptions allowed under rule 335-3-19-.02(5)(c), and install a collection and control system as provided in subparagraphs (a) and (b) of this paragraph; calculate NMOC emissions using the next higher tier in paragraph (3) of this rule; or conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

2. If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either:

(i) submit a collection and control system design plan prepared by a professional engineer to the Director within 1 year as specified in subparagraph (6)(c) of this rule, except for exemptions allowed under rule 335-3-19-.02(5)(c);

(ii) calculate NMOC emissions using a higher tier in paragraph (3) of this rule; or

(iii) conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

3. For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either:

(i) Submit a collection and control system design plan as specified in subparagraph (6)(c) of this rule, except for exemptions allowed under rule 335-3-19-.02(5)(c);

(ii) calculate NMOC emissions using a higher tier in paragraph (3) of this rule; or

(iii) conduct a surface emission monitoring demonstration using the procedures specified in subparagraph (3)(a)6. of this rule.

(e) *Removal criteria.* The collection and control system may be capped, removed, or decommissioned provided that the following criteria are met:

1. The landfill is a closed landfill as defined in rule 335-3-19-.01(d). A closure report shall be submitted to the Director as provided in subparagraph (6)(e) of this rule;

2. The collection and control system shall have been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow.

3. Following the procedures specified in subparagraph (3)(b) of this rule, the calculated NMOC gas produced by the landfill shall be less than 34 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

4. For the closed landfill subcategory (as defined in rule 335-3-19-.01(e)), following the procedures specified in subparagraph (3)(b) of this rule, the calculated NMOC emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates shall be no less than 90 days apart, and no more than 180 days apart.

(2) Operational Standards for Collection and Control Systems. For a MSW landfill with a gas collection and control system used to comply with subparagraphs (1)(a) and (b) of this rule, the owner or operator of an MSW landfill shall operate the gas collection and control system in accordance with the operational standards in this paragraph (as well as the provisions in paragraphs (4) and (5) of this rule, or the operational standards in 40 CFR § 63.1958, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78) (as well as the provisions in 40 CFR §§ 63.1960 and 63.1961, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78)), or both as alternative means of compliance. Once the owner or operator begins to comply with the provisions of 40 CFR §63.1958, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78), the owner or operator shall continue to operate the collection and control device according to those provisions and cannot return to the provisions of this paragraph. Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of subparagraph (1)(a) and (b) of this rule shall:

(a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

1. 5 years or more if active; or
2. 2 years or more if closed or at final grade;

(b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

1. a fire or increased well temperature. The owner or operator shall record instances when positive pressure occurs in efforts to avoid a fire. These

records shall be submitted with the annual reports as provided in subparagraph (6)(g) of this rule;

2. use of a geomembrane or synthetic cover. The owner or operator shall develop acceptable pressure limits in the design plan;

3. a decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes shall be approved by the Director as specified in subparagraph 335-3-19-.03(6)(c) of this rule;

(c) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55°C (131°F). The owner or operator may establish a higher operating temperature value at a particular well. A higher operating value demonstration shall be submitted to the Director for approval and shall include supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration shall satisfy both criteria in order to be approved (i.e., neither causing fires nor killing methanogens is acceptable).

(d) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in subparagraph (4)(d) of this rule. The owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. Thus the owner or operator shall monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator shall establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan shall be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30 meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(e) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with subparagraph (1)(b) of this rule. In the event the collection or control system is inoperable, the gas mover system shall be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere shall be closed within 1 hour of the collection or control system not operating.

(f) Operate the control system at all times when the collected gas is routed to the system.

(g) If monitoring demonstrates that the operational requirements in subparagraphs (b), (c), or (d) of this paragraph are not met, corrective action shall be taken as specified in subparagraphs (4)(a)3. and 5. or subparagraph (4)(c) of this rule. If corrective actions are taken as specified in paragraph (4) of this rule, the monitored exceedance is not a violation of the operational requirements in this paragraph.

(3) Test Methods and Procedures.

(a) NMOC Emission Rate. The landfill owner or operator shall calculate the NMOC emission rate using either the equation provided in subparagraph (a)1. of this paragraph or the equation provided in subparagraph (a)1.(ii) of this paragraph. Both equations may be used if the actual year-to-year solid waste acceptance rate is known, as specified in subparagraph (a)1. of this paragraph, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in subparagraph (a)1.(ii) of this paragraph, for part of the life of the landfill. The values to be used in both equations are 0.05 per year for k, 170 cubic meters per megagram for L<sub>o</sub>, and 4,000 parts per million by volume as hexane for the C<sub>NMOC</sub>. For landfills located in geographical areas with a 30-year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorological site, the k value to be used is 0.02 per year.

1. The following equation shall be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{NMOC} = \sum_{i=1}^n 2kL_oM_i(e^{-kt_i})(C_{NMOC})(3.6 \times 10^{-9})$$

where,

M<sub>NMOC</sub> = Total NMOC emission rate from the landfill, megagrams per year

k = methane generation rate constant, year<sup>-1</sup>

L<sub>o</sub> = methane generation potential, cubic meters per megagram solid waste

M<sub>i</sub> = mass of solid waste in the i<sup>th</sup> section, megagrams

t<sub>i</sub> = age of the i<sup>th</sup> section, years

C<sub>NMOC</sub> = concentration of NMOC, parts per million by volume as hexane

3.6 x 10<sup>-9</sup> = conversion factor

(i) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for  $M_i$  if the documentation of the nature and amount of such wastes is maintained.

(ii) The following equation shall be used if the actual year-to-year solid waste acceptance rate is unknown.

$$M_{NMOC} = 2L_o R (e^{-kc} - e^{-kt}) (C_{NMOC}) (3.6 \times 10^{-9})$$

where,

$M_{NMOC}$  = mass emission rate of NMOC, megagrams per year

$L_o$  = methane generation potential, cubic meters per megagram solid waste

$R$  = average annual acceptance rate, megagrams per year

$k$  = methane generation rate constant, year<sup>-1</sup>

$t$  = age of landfill, years

$C_{NMOC}$  = concentration of NMOC, parts per million by volume as hexane

$c$  = time since closure, years. For active landfill  $c = 0$  and  $e^{-kc} = 1$

$3.6 \times 10^{-9}$  = conversion factor

(iii) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating a value for  $R$ , if the documentation of the nature and amount of such wastes is maintained.

2. Tier 1. The owner or operator shall compare the calculated NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC emission rate calculated in subparagraph (a) of this paragraph is less than 34 megagrams per year, then the landfill owner or operator shall submit an NMOC emission rate report as provided in subparagraph (6)(b)1. of this rule, and shall recalculate the NMOC mass emission rate annually as required under subparagraph (1)(d)1. of this rule.

(ii) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, then the landfill owner or operator shall either:

(I) Submit a gas collection and control system design plan within 1 year as specified in subparagraph (6)(c) of this rule, and install and operate a gas

collection and control system within 30 months according to subparagraphs (1)(a) and (b) of this rule;

(II) Determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the Tier 2 procedures provided in subparagraph (3)(a)3. of this paragraph; or

(III) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the Tier 3 procedures provided in subparagraph (3)(a)4. of this paragraph.

3. Tier 2. The landfill owner or operator shall determine the site-specific NMOC concentration using the following sampling procedure. The landfill owner or operator shall install at least two sample probes per hectare, evenly distributed over the landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The probes should be evenly distributed across the sample area. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator shall collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25 or 25C of Appendix A of 40 CFR Part 60. Taking composite samples from different probes into a single cylinder is allowed; however, equal sample volumes shall be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements shall be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples is taken, all samples shall be used in the analysis. The landfill owner or operator shall divide the NMOC concentration from Method 25 or 25C by six to convert from  $C_{\text{NMOC}}$  as carbon to  $C_{\text{NMOC}}$  as hexane. If the landfill has an active or passive gas removal system in place, Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probe per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe shall be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples shall be collected from the header pipe. **[NOTE: Test Methods found in Appendix A of 40 CFR part 60 are incorporated by reference in ADEM Admin. Code r. 335-3-10-.03.]**

(i) Within 60 days after the date of determining the NMOC concentration and corresponding NMOC emission rate, the owner or operator shall submit the results according to subparagraph (6)(i)2. of this rule.

(ii) The landfill owner or operator shall recalculate the NMOC mass emission rate using the equations provided in subparagraph (3)(a)1. or (a)1.(ii) of this paragraph and using the average site-specific NMOC concentration from the collected samples instead of the default value in the equation provided in subparagraph (a) of this paragraph.

(iii) If the resulting NMOC mass emission rate is less than 34 megagrams per year, the owner or operator shall submit a periodic estimate of the NMOC emissions in an NMOC emission rate report as provided in subparagraph (6)(b)1. of this rule and shall recalculate the NMOC mass emission rate annually as required under subparagraphs (1)(a) and (b) of this rule. The site-specific NMOC concentration shall be retested every 5 years using the methods specified in this paragraph.

(iv) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration is equal to or greater than 34 megagrams per year, the owner or operator shall either:

(I) Submit a gas collection and control system design plan within 1 year as specified in subparagraph (6)(c) of this rule, and install and operate a gas collection and control system within 30 months according to subparagraphs (1)(a) and (b) of this rule;

(II) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the Tier 3 procedures specified in subparagraph (3)(a)4. of this paragraph; or

(III) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in subparagraph (a)6 of this paragraph.

4. Tier 3. The site-specific methane generation rate constant shall be determined using the procedures provided in Method 2E of Appendix A. The landfill owner or operator shall estimate the NMOC mass emission rate using equations in subparagraph (a)1. or (a)1.(ii) of this paragraph and using a site-specific methane generation rate constant  $k$ , and the site-specific NMOC concentration as determined in subparagraph (a)3. of this paragraph instead of the default values provided in subparagraph (a) of this paragraph. The landfill owner or operator shall compare the resulting NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC mass emission rate as calculated using the Tier site-specific methane generation rate and concentration of NMOC is equal to or greater than 50 megagrams per year, the owner or operator shall comply with subparagraph (1)(b)2. of this Rule.

(I) Submit a gas collection and control system design plan within 1 year as specified in subparagraph (6)(c) of this rule, and install and operate a gas



collection and control system within 30 months according to subparagraphs (1)(a) and (b) of this rule; or

(II) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in subparagraph (3)(a)6. of this paragraph.

(ii) If the NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator shall recalculate the NMOC mass emission rate annually using either equation in subparagraph (a)1. of this paragraph and using the site-specific Tier 2 NMOC concentration and Tier 3 methane generation rate constant and submit a periodic NMOC emission rate report as provided in subparagraph (6)(b) of this rule. The calculation of the methane generation rate constant is performed only once, and the value obtained from this test shall be used in all subsequent annual NMOC emission rate calculations.

5. Other methods. The owner or operator may use other methods to determine the NMOC concentration or a site-specific k as an alternative to the methods required in subparagraphs (a)3. and (a)4. of this paragraph if the method has been approved by the Administrator.

6. Tier 4. The landfill owner or operator shall demonstrate that surface methane emissions are below 500 parts per million. Surface emission monitoring shall be conducted on a quarterly basis using the following procedures. Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg/yr but less than 50 Mg/yr using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate NMOC emissions are 50 Mg/yr or greater, then Tier 4 cannot be used. In addition, the landfill shall meet the criteria in subparagraph (a)6.(viii) of this paragraph.

(i) The owner or operator shall measure surface concentrations of methane along the entire perimeter of the landfill and along a pattern that traverses the landfill at no more than 30-meter intervals using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in subparagraph (4)(d) of this rule.

(ii) The background concentration shall be determined by moving the probe inlet upwind and downwind at least 30 meters from the waste mass boundary of the landfill.

(iii) Surface emission monitoring shall be performed in accordance with section 8.3.1 of Method 21 of appendix A of 40 CFR Part 60, except that the probe inlet shall be placed no more than 5 centimeters above the landfill surface; the constant measurement of distance above the surface should be based on a mechanical device such as with a wheel on a pole.

(I) The owner or operator shall use a wind barrier, similar to a funnel, when onsite average wind speed exceeds 4 miles per hour or 2 meters per second or gust exceeding 10 miles per hour. Average on-site wind speed shall also be determined in an open area at 5-minute intervals using an on-site

anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The wind barrier shall surround the SEM monitor, and shall be placed on the ground, to ensure wind turbulence is blocked. SEM cannot be conducted if average wind speed exceeds 25 miles per hour.

(II) Landfill surface areas where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover, and all cover penetrations shall also be monitored using a device meeting the specifications provided in subparagraph (4)(d) of this rule.

(iv) Each owner or operator seeking to comply with the Tier 4 provisions in subparagraph (a)6. of this paragraph shall maintain records of surface emission monitoring as provided in subparagraph(7)(g) of this rule, and submit a Tier 4 surface emissions report as provided in subparagraph (6)(c)4.(iii) of this rule.

(v) If there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall submit a gas collection and control system design plan within 1 year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill according to subparagraph (6)(c) of this rule, and install and operate a gas collection and control system according to subparagraphs (1)(a) and (b) of this rule, within 30 months of the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2.

(vi) If after four consecutive quarterly monitoring periods at a landfill, other than a closed landfill, there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall continue quarterly surface emission monitoring using the methods specified in this paragraph.

(vii) If after four consecutive quarterly monitoring periods at a closed landfill there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator shall conduct annual surface emission monitoring using the methods specified in this paragraph.

(viii) If a landfill has installed and operates a collection and control system that is not required by this Chapter, then the collection and control system shall meet the following criteria:

(I) The gas collection and control system shall have operated for at least 6,570 out of 8,760 hours preceding the Tier 4 surface emissions monitoring demonstration.

(II) During the Tier 4 surface emissions monitoring demonstration, the gas collection and control system shall operate as it normally would to collect and control as much landfill gas as possible.

(b) After the installation and startup of a collection and control system in compliance with paragraph (4) of this rule, the owner or operator shall calculate the NMOC emission rate for purposes of determining when the system can be capped, removed, or decommissioned as provided in subparagraph (1)(e) of this rule, using the following equation:

$$\underline{M_{NMOC} = 1.89 \times 10^{-3} (Q_{LFG}) (C_{NMOC})}$$

where,

$M_{NMOC}$  = mass emission rate of NMOC, megagrams per year

$Q_{LFG}$  = flow rate of landfill gas, cubic meters per minute

$C_{NMOC}$  = NMOC concentration, parts per million by volume as hexane

1. The flow rate of landfill gas,  $Q_{LFG}$ , shall be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control device using a gas flow measuring device calibrated according to the provisions of Section 10 of Method 2E of Appendix A.

2. The average NMOC concentration,  $C_{NMOC}$ , shall be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25 or 25C or Method 18 of Appendix A. If using Method 18, the minimum list of compounds to be tested shall be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42). The sample location on the common header pipe shall be before any condensate removal or other gas refining units. The landfill owner or operator shall divide the NMOC concentration from Method 25 or 25C by six to convert from  $C_{NMOC}$  as carbon to  $C_{NMOC}$  as hexane.

3. The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the Director.

(i) Within 60 days after the date of calculating the NMOC emission rate for purposes of determining when the system can be capped or removed, the owner or operator shall submit the results according to subparagraph (6)(i)2. of this rule.

(ii) [Reserved]

(c) When calculating emissions for PSD purposes, the owner or operator of each MSW landfill subject to the provisions of this Chapter shall estimate the NMOC emission rate for comparison to the PSD major source and significance levels in rule 335-3-14-.04(2)(w) using AP-42 or other approved measurement procedures.

(d) For the performance test required in subparagraph (1)(b)1. of this rule, the net heating value of the combusted landfill gas as determined in 40 CFR §60.18(f)(3) is calculated from the concentration of methane in the landfill gas as measured by Method 3C. A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under 40 CFR § 60.18(f)(4).

1. Within 60 days after the date of completing each performance test (as defined in 40 CFR § 60.8), the owner or operator shall submit the results of the performance tests required by paragraph (b) or (d) of this section, including any associated fuel analyses, according to subparagraph (6)(i)1. of this rule.

2. [Reserved].

(e) For the performance test required in subparagraph (i)(b)2., Method 25 or 25C or Method 18 (Method 25C may be used at the inlet only) shall be used to determine compliance with 98 weight-percent efficiency or the 20 ppmv outlet NMOC concentration level, unless another method to demonstrate compliance has been approved by the Director as provided by subparagraph (6)(c)2. of this rule. If using Method 18, the minimum list of compounds to be tested shall be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42). Method 3, 3A, or 3C shall be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. In cases where the outlet concentration is less than 50 ppm NMOC as carbon (8 ppm NMOC as hexane), Method 25A should be used in place of Method 25. Method 18 may be used in conjunction with Method 25A on a limited basis (compound specific, e.g., methane) or Method 3C may be used to determine methane. The methane as carbon should be subtracted from the Method 25A total hydrocarbon value as carbon to give NMOC concentration as carbon. The landfill owner or operator shall divide the NMOC concentration as carbon by 6 to convert the  $C_{\text{NMOC}}$  as carbon to  $C_{\text{NMOC}}$  as hexane. The following equation shall be used to calculate efficiency:

$$\text{Control Efficiency} = \frac{(NMOC_{in} - NMOC_{out})}{NMOC_{in}}$$

where,

$NMOC_{in}$  = mass of NMOC entering control device

$NMOC_{out}$  = mass of NMOC exiting control device

1. Within 60 days after the date of completing each performance test (as defined in 40 CFR § 60.8), the owner or operator shall submit the results of the performance tests, including any associated fuel analyses, according to subparagraph (6)(i)1. of this rule.

2. [Reserved].

(4) Compliance Provisions: For an MSW landfill with a gas collection and control system used to comply with subparagraphs (1)(a) and (b) of this rule, the owner or operator shall operate the gas collection and control system in accordance with the compliance provisions in this section (as well as the provisions in paragraphs (2) and (5) of this rule, or the compliance provisions in 40 CFR §63.1960, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78) (as well as the provisions in 40 CFR §§ 63.1958 and 63.1961, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78)), or both as alternative means of compliance. For a MSW landfill with a gas collection and control system used to comply with the provisions of subparagraphs (1)(a) and (b) of this rule, once the owner or operator begins to comply with the provisions of 40 CFR § 63.1960, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78), the owner or operator shall continue to operate the collection and control device according to those provisions and cannot return to the provisions of this paragraph.

(a) Except as provided in subparagraph (6)(c)2. of this rule, the specified methods in subparagraphs (a)1. through (a)6. of this paragraph shall be used to determine whether the gas collection system is in compliance with subparagraph (1)(b)2.(ii) of this rule.

1. For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with subparagraph (1)(a)2.(i) of this rule, one of the following equations shall be used. The k and L<sub>o</sub> kinetic factors should be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42) or other site-specific values demonstrated to be appropriate and approved by the Director. If k has been determined as specified in subparagraph (3)(a)4. of this rule, the value of k determined from the test shall be used. A value of no more than 15 years shall be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$$Q_m = 2L_oR(e^{-kc} - e^{-kt})$$

where,

Q<sub>m</sub> ≡ maximum expected gas generation flow rate, cubic meters per year

- L<sub>o</sub> = methane generation potential, cubic meters per megagram solid waste
- R = average annual acceptance rate, megagrams per year
- k = methane generation rate constant, year<sup>-1</sup>
- t = age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years
- c = time since closure, years (for an active landfill c = 0 and e<sup>-kc</sup> = 1)

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_m = \sum_{i=1}^n 2kL_o M_i (e^{-kt_i})$$

where,

- Q<sub>m</sub> = maximum expected gas generation flow rate, cubic meters per year
- k = methane generation rate constant, year<sup>-1</sup>
- L<sub>o</sub> = methane generation potential, cubic meters per megagram solid waste
- M<sub>i</sub> = mass of solid waste in the i<sup>th</sup> section, megagrams
- t<sub>i</sub> = age of the i<sup>th</sup> section, years

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, the equations in subparagraphs (a) 1.(i) and (ii) of this paragraph. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using the equations in subparagraphs (a) 1.(i) or (ii) or other methods shall be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

2. For the purposes of determining sufficient density of gas collectors for compliance with subparagraph (1)(a)2.(ii) of this rule., the owner or operator shall design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the Director, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

3. For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with subparagraph (1)(a)2.(iii) of this rule, the owner or operator shall measure gauge pressure in the gas collection header at each individual well, monthly. If a positive pressure exists, action shall be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under subparagraph (2)(b) of this rule. Any attempted corrective measure shall not cause exceedances of other operational or performance standards.

(i) If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement of positive pressure, the owner or operator shall conduct a root cause analysis and correct the exceedance as soon as practicable, but not later than 60 days after positive pressure was first measured. The owner or operator shall keep records according to subparagraph (7)(e)3 of this rule.

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator shall also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit) or positive pressure. The owner or operator shall submit the items listed in subparagraph (6)(g)7. of this rule as part of the next annual report. The owner or operator shall keep records according to subparagraph (7)(e)4. of this rule.

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Director, according to subparagraph (6)(g)7. and (j) of this rule. The owner or operator shall keep records according to subparagraph (7)(e)5. of this rule.

4. [Reserved].

5. For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator shall monitor each well monthly for temperature as provided in subparagraph (2)(c) of this rule. If a well exceeds the operating parameter for temperature, action shall be initiated to correct the exceedance within 5 calendar days. Any attempted corrective measure shall not cause exceedances of other operational or performance standards.

(i) If a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit) cannot be achieved within 15 calendar days of the first measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit), the owner or operator shall conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after a landfill gas temperature greater than 55 degrees Celsius (131 degrees

Fahrenheit) was first measured. The owner or operator shall keep records according to subparagraph (7)(e)3. of this rule.

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure measurement for which the root cause analysis was required, the owner or operator shall also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator shall submit the items listed in subparagraph (6)(g)7. of this rule, as part of the next annual report. The owner or operator shall keep records according to subparagraph (7)(e)4. of this rule.

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Director, according to subparagraphs (6)(g)7. and (j) of this rule. The owner or operator shall keep records according to subparagraph (7)(e)5. of this rule.

6. An owner or operator seeking to demonstrate compliance with subparagraph (l)(a)2.(iv) of this rule through the use of a collection system not conforming to the specifications provided in paragraph (8) of this rule shall provide information satisfactory to the Director as specified in subparagraph (6)(c)3. of this rule demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with subparagraph (2)(a) of this rule, each owner or operator of a controlled landfill shall place each well or design component as specified in the approved design plan as provided in subparagraph (6)(c) of this rule. Each well shall be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

1. 5 years or more if active; or
2. 2 years or more if closed or at final grade.

(c) The following procedures shall be used for compliance with the surface methane operational standard as provided in subparagraph (2)(d) of this rule.

1. After installation and startup of the gas collection system, the owner or operator shall monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at no more than 30 meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in subparagraph (d) of this paragraph.



2. The background concentration shall be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

3. Surface emission monitoring shall be performed in accordance with Section 8.3.1 of Method 21 of Appendix A of 40 CFR Part 60, except that the probe inlet shall be placed within 5 to 10 centimeters of the ground. Monitoring shall be performed during typical meteorological conditions.

4. Any reading of 500 parts per million or more above background at any location shall be recorded as a monitored exceedance and the actions specified in subparagraphs (c)4.(i) through (v) of this paragraph below shall be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of subparagraph (2)(d) of this rule.

(i) The location of each monitored exceedance shall be marked and the location and concentration recorded. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates shall be in decimal degrees with at least five decimal places.

(ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance shall be made and the location shall be re-monitored within 10 calendar days of detecting the exceedance.

(iii) If the re-monitoring of the location shows a second exceedance, additional corrective action shall be taken and the location shall be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in subparagraph (c)4.(v) of this paragraph shall be taken, and no further monitoring of that location is required until the action specified in subparagraph (c)4.(v) has been taken.

(iv) Any location that initially showed an exceedance but has a methane concentration less than 500 ppm methane above background at the 10-day re-monitoring specified in subparagraph (c)4.(ii) or (iii) of this paragraph shall be re-monitored 1 month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified in subparagraph (c)4.(iii) or (v) of this paragraph shall be taken.

(v) For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device shall be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and

a corresponding timeline for installation may be submitted to the Director for approval.

5. The owner or operator shall implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(d) Each owner or operator seeking to comply with the provisions in subparagraph (c) of this paragraph shall comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

1. The portable analyzer shall meet the instrument specifications provided in Section 6 of Method 21 of Appendix A, except that "methane" shall replace all references to VOC.

2. The calibration gas shall be methane, diluted to a nominal concentration of 500 parts per million in air.

3. To meet the performance evaluation requirements in Section 8.1 of Method 21 of Appendix A, the instrument evaluation procedures of Section 8.1 of Method 21 of Appendix A shall be used.

4. The calibration procedures provided in Section 8 and 10 of Method 21 of Appendix A shall be followed immediately before commencing a surface monitoring survey.

(e) The provisions of this paragraph apply at all times, including periods of startup, shutdown, or malfunction. During periods of startup, shutdown, and malfunction, the owner or operator shall comply with the work practice specified in subparagraph (2)(e) of this rule, in lieu of the compliance provisions in paragraph (4) of this rule.

(5) Monitoring of Operations: For an MSW landfill with a gas collection and control system used to comply with subparagraphs (1)(a) and (b) of this rule, the owner or operator shall operate the gas collection and control system in accordance with the monitoring provisions in this section (as well as the provisions in paragraphs (2) and (4) of this rule, except as provided in subparagraph (6)(d)2., or the monitoring provisions in 40 CFR § 63.1961, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78) (as well as the provisions in 40 CFR §§ 63.1958 and 63.1960, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78)), or both as alternative means of compliance. Once the owner or operator begins to comply with the provisions of 40 CFR § 63.1961, as incorporated by reference under ADEM Admin. Code r. 335-3-11-.06(78), the owner or operator shall continue to operate the collection and control device according to those provisions and cannot return to the provisions of this paragraph. Except as provided in subparagraph (6)(c)2. of this rule,

(a) Each owner or operator seeking to comply with subparagraph (1)(a)2. of this rule for an active gas collection system shall install a sampling port and

a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

1. Measure the gauge pressure in the gas collection header on a monthly basis as provided in subparagraph (4)(a)3. of this rule; and

2. Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as follows:

(i) The nitrogen level shall be determined using Method 3C, unless an alternative test method is established as allowed by subparagraph (6)(c)2. of this rule.

(ii) Unless an alternative test method is established as allowed by subparagraph (6)(c)2. of this rule, the oxygen level shall be determined by an oxygen meter using Method 3A, 3C, or ASTM D6522-11 (incorporated by reference, see 40 CFR § 60.17). Determine the oxygen level by an oxygen meter using Method 3A, 3C, or ASTM D6522-11 (if sample location is prior to combustion) except that:

(I) The span shall be set between 10 and 12 percent oxygen;

(II) A data recorder is not required;

(III) Only two calibration gases are required, a zero and span;

(IV) A calibration error check is not required; and

(V) The allowable sample bias, zero drift, and calibration drift are  $\pm 10$  percent.

(iii) A portable gas composition analyzer may be used to monitor the oxygen levels provided:

(I) The analyzer is calibrated; and

(II) The analyzer meets all quality assurance and quality control requirements for Method 3A or ASTM D6522-11 (incorporated by reference, see 40 CFR § 60.17).

3. Monitor temperature of the landfill gas on a monthly basis as provided in subparagraph (4)(a)5. of this rule. The temperature measuring device shall be calibrated annually using the procedure in this 40 CFR Part 60, Appendix A-1, Method 2, Section 10.3.

(b) Each owner or operator seeking to comply with subparagraph (1)(b)2.(iii) of this rule using an enclosed combustor shall calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment.

1. A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of  $\pm 1$  percent of the temperature being measured expressed in  $^{\circ}\text{Celsius}$  or  $\pm 0.5$   $^{\circ}\text{C}$ , whichever is greater. A temperature

monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts.

2. A device that records flow to the control device and bypass of the control device (if applicable). The owner or operator shall:

(i) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(c) Each owner or operator seeking to comply with subparagraph (1)(b) of this rule using an open flare shall install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

1. A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

2. A device that records flow to the flare and bypass of the flare (if applicable). The owner or operator shall:

(i) Install, calibrate, and maintain a gas flow rate measuring device that shall record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(d) Each owner or operator seeking to demonstrate compliance with subparagraph (1)(b)2.(iii) of this rule using a device other than an open flare or an enclosed combustor or a treatment system shall provide information satisfactory to the Director as provided in subparagraph (6)(c)2. of this rule describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Director shall review the information and either approve it, or request that additional information be submitted. The Director may specify additional appropriate monitoring procedures.

(e) Each owner or operator seeking to install a collection system that does not meet the specifications in paragraph (8) of this rule or seeking to monitor alternative parameters to those required by paragraphs (2) through (5) of this rule shall provide information satisfactory to the Director as provided in subparagraphs (6)(c)2. And 3. of this rule describing the design and operation of

the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Director may specify additional appropriate monitoring procedures.

(f) Each owner or operator seeking to demonstrate compliance with the 500 parts per million surface methane operational standard in subparagraph (2)(d) of this rule, shall monitor surface concentrations of methane according to the procedures provided in subparagraph (4)(c) of this rule, and the instrument specifications in subparagraph (4)(d) of this rule. Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 ppm or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Each owner or operator seeking to demonstrate compliance with the control system requirements in subparagraph (l)(b) of this rule, using a landfill gas treatment system shall maintain and operate all monitoring systems associated with the treatment system in accordance with the site-specific treatment system monitoring plan required in subparagraph (7)5.(ii) of this rule, and shall calibrate, maintain, and operate according to the manufacturer's specifications a device that records flow to the treatment system and bypass of the treatment system (if applicable). The owner or operator shall:

1. Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

2. Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(h) The monitoring requirements of subparagraphs (b), (c) (d) and (g) of this paragraph apply at all times the affected source is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. The owner or operator shall complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(6) Reporting Requirements. Except as provided 40 CFR § 60.24 and in subparagraph (6)(c)2. of this rule,

(a) Design capacity report. Each owner or operator subject to the requirements of this Chapter shall submit an initial design capacity report to the Director.

1. The initial design capacity report shall fulfill the requirements of the notification of the date construction is commenced as required under § 60.7(a)(1), 40 CFR and shall be submitted no later than 90 days from the effective date of these rules.

2. The initial design capacity report shall contain the following information:

(i) A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the provisions of the State permit;

(ii) The maximum design capacity of the landfill. Where the maximum design capacity is specified in the State permit, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity shall be calculated using good engineering practices. The calculations shall be provided, along with the relevant parameters as part of the report. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation shall include a site-specific density, which shall be recalculated annually. Any density conversions shall be documented and submitted with the design capacity report. The Director may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

(b) Amended design capacity report. An amended design capacity report shall be submitted to the Director providing notification of any increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in subparagraph (7)(f) of this rule.

(c) NMOC emission rate report. Each owner or operator of an existing MSW landfill subject to the requirements of this Chapter with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, shall submit an NMOC emission rate report to the Director annually following the procedure specified in subparagraph (i)2. of this paragraph, except as provided for in subparagraph (b)3. of this paragraph. The Director may request such additional information as may be necessary to verify the reported NMOC emission rate.

1. The NMOC emission rate report shall contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in subparagraphs (3)(a) or (b) of this rule, as applicable.

(i) The NMOC emission rate report shall be submitted following the procedure specified in subparagraph (i)2. of this paragraph no later than 90 days from the effective date of these rules. 2. The NMOC emission rate report shall include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

3. If the estimated NMOC emission rate as reported in the annual report to the Director is less than 34 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit, following the procedure specified in subparagraph (i)2. of this paragraph, an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based shall be provided to the Director. This estimate shall be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the Director. The revised estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

4. Each owner or operator subject to the requirements of this Chapter is exempted to submit an NMOC emission rate report after the installation of a collection and control system in compliance with subparagraphs (l)(a) and (b) of this rule, during such time as the collection and control system is in operation and in compliance with paragraphs (2) and (4) of this rule.

(d) *Collection and control system design plan.* A design plan for each gas collection and control system shall be prepared and approved by a professional engineer and shall meet the following requirements:

1. The collection and control system as described in the design plan shall meet the design requirements in subparagraphs (l)(a) and (b) of this rule.

2. The collection and control system design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions of paragraphs (4) through (7) of this rule, proposed by the owner or operator.

3. The collection and control system design plan shall either conform to specifications for active collection systems in paragraph (8) of this rule, or include a demonstration to the Director's satisfaction of the sufficiency of the alternative provisions to paragraph (8) of this rule.

4. Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall submit a copy of the collection and control system design plan cover page that contains the engineer's seal to the Director within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year, except as follows::

(i) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in subparagraph (3)(a)3. of this rule and the resulting rate is less than 34 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated NMOC emission rate is equal to or greater than 34 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated NMOC emission rate based on NMOC sampling and analysis, shall be submitted, following the procedures in subparagraph (6)(i)2. of this rule, within 180 days of the first calculated exceedance of 34 megagrams per year.

(ii) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant (k), as provided in Tier 3 in subparagraph (3)(a)4. of this rule, and the resulting NMOC emission rate is less than 34 Mg/yr, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant (k) shall be used in the NMOC emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of subparagraph (3)(a)4. of this rule and the resulting site-specific methane generation rate constant (k) shall be submitted to the Director within 1 year of the first calculated NMOC emission rate equaling or exceeding 34 megagrams per year.

(iii) If the owner or operator elects to demonstrate that site-specific surface methane emissions are below 500 parts per million methane, based on the provisions of subparagraph (3)(a)6. of this rule, then the owner or operator shall submit annually a Tier 4 surface emissions report as specified in this subparagraph (d)4.(iii) following the procedure specified in subparagraph (6)(i)2. of this paragraph until a surface emissions readings of 500 parts per million methane or greater is found. If the Tier 4 surface emissions report shows no surface emissions readings of 500 parts per million methane or greater for four consecutive quarters at a closed landfill, then the landfill owner or operator may reduce Tier 4 monitoring from a quarterly to an annual frequency. The Director may request such additional information as may be necessary to verify the reported instantaneous surface emission readings. The Tier 4 surface emissions report shall clearly identify the location, date and time (to the nearest second), average wind speeds including wind gusts, and reading (in parts per million) of any value 500 parts per million methane or greater, other than non-repeatable, momentary readings. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at



least 4 meters. The coordinates shall be in decimal degrees with at least five decimal places. The Tier 4 surface emission report should also include the results of the most recent Tier 1 and Tier 2 results in order to verify that the landfill does not exceed 50 Mg/yr of NMOC.

(I) The initial Tier 4 surface emissions report shall be submitted annually, starting within 30 days of completing the fourth quarter of Tier 4 surface emissions monitoring that demonstrates that site-specific surface methane emissions are below 500 parts per million methane, and following the procedure specified in subparagraph (6)(i)2. of this paragraph.

(II) The Tier 4 surface emissions rate report shall be submitted within 1 year of the first measured surface exceedance of 500 parts per million methane, following the procedure specified in subparagraph (6)(i)2. of this paragraph.

(iv) If the landfill is in the closed landfill subcategory, the owner or operator shall submit a collection and control system design plan to the Director within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 50 megagrams per year, except as follows:

(I) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in subparagraph (3)(a)3. of this rule, and the resulting rate is less than 50 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated NMOC emission rate is equal to or greater than 50 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated NMOC emission rate based on NMOC sampling and analysis, shall be submitted, following the procedure specified in subparagraph (6)(i)2. of this paragraph, within 180 days of the first calculated exceedance of 50 megagrams per year.

(II) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant  $k$ , as provided in Tier 3 in subparagraph (3)(a)4. of this rule, and the resulting NMOC emission rate is less than 50 megagrams per year, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant  $k$  shall be used in the NMOC emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of subparagraph (3)(a)4. of this rule, and the resulting site-specific methane generation rate constant  $k$  shall be submitted, following the procedure specified in subparagraph (6)(i)2. of this paragraph, to the Director within 1 year of the first calculated NMOC emission rate equaling or exceeding 50 megagrams per year.

(III) The landfill owner or operator elects to demonstrate surface emissions are low, consistent with the provisions in subparagraph (d)4.(iii) of this paragraph.

(IV) The landfill has already submitted a gas collection and control system design plan consistent with the provisions of Subpart WWW of 40 CFR part 60 or any other requirements of this Chapter.

5. The landfill owner or operator shall notify the Director that the design plan is completed and submit a copy of the plan's signature page. The Director has 90 days to decide whether the design plan should be submitted for review. If the Director chooses to review the plan, the approval process continues as described in subparagraph (c)6. of this paragraph. However, if the Director indicates that submission is not required or does not respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that the owner or operator is proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner or operator shall take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

6. Upon receipt of an initial or revised design plan, the Director shall review the information submitted under subparagraphs (6)(c)1. through 3. of this paragraph, and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems. If the Director does not approve or disapprove the design plan, or does not request that additional information be submitted within 90 days of receipt, then the owner or operator may continue with implementation of the design plan, recognizing they would be proceeding at their own risk.

7. If the owner or operator chooses to demonstrate compliance with the emission control requirements of this Chapter using a treatment system as defined in this Chapter, then the owner or operator shall prepare a site-specific treatment system monitoring plan as specified in subparagraph (7)(b)5. of this rule.

(e) Revised design plan. The owner or operator who has already been required to submit a design plan under subparagraph (c) of this paragraph, or under Subpart WWW of 40 CFR part 60; or any other requirements of this Chapter shall submit a revised design plan to the Director for approval as follows:

1. At least 90 days before expanding operations to an area not covered by the previously approved design plan.

2. Prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Director according to subparagraph (c) of this paragraph.

(f) Closure report. Each owner or operator of a controlled landfill shall submit a closure report to the Director within 30 days of waste acceptance cessation. The Director may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of ADEM Admin. Code Chapter 335-13-4. If a closure report has been submitted to the Director, no additional wastes may be placed into the landfill without filing a notification of modification as described under §60.7(a)(4), 40 CFR.

(g) Equipment removal report. Each owner or operator of a controlled landfill shall submit an equipment removal report to the Director 30 days prior to removal or cessation of operation of the control equipment.

1. The equipment removal report shall contain all of the following items:

(i) A copy of the closure report submitted in accordance with subparagraph (e) of this paragraph;

(ii) A copy of the initial performance test report demonstrating that the 15 year minimum control period has expired, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX, or information that demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flows. In the equipment removal report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX; and

(iii) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 34 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports; or

(iv) For the closed landfill subcategory, dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports.

2. The Director may request such additional information as may be necessary to verify that all of the conditions for removal in subparagraph (l)(e)2. of this rule have been met.

(h) Annual report. Each owner or operator of a landfill seeking to comply with subparagraph (1)(d) of this rule using an active collection system designed in accordance with subparagraph (1)(a) of this rule shall submit to the Director annual reports of the recorded information in subparagraphs (g)1. through (g)6. of this paragraph. The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under §60.8, 40 CFR as applicable, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX. In the initial annual report, the process unit(s) tested, the pollutant(s) tested and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX. The initial performance test report shall be submitted, following the procedure specified in subparagraph (i)1. of this paragraph, no later than the date that the initial annual report is submitted. For enclosed combustion devices and flares, reportable exceedances are defined under subparagraph (7)(c) of this rule. If complying with the operational provisions of 40 CFR §§ 63.1958, 63.1960, and 63.1961, as allowed in paragraphs (2), (4), and (5) of this rule, the owner or operator shall follow the semi-annual reporting requirements in §63.1981(h) in lieu of this paragraph.

1. Value and length of time for exceedance of applicable parameters monitored under subparagraphs (5)(a)1., (b), (c), (d), and (g) of this rule.

2. Description and duration of all periods when the gas stream was diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under paragraph (5) of this rule.

3. Description and duration of all periods when the control device or treatment system was not operating and length of time the control device or treatment system was not operating.

4. All periods when the collection system was not operating.

5. The location of each exceedance of the 500 parts per million methane concentration as provided in subparagraph (2)(d) of this rule and the concentration recorded at each location for which an exceedance was recorded in the previous month. For location, the owner or operator shall determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates shall be in decimal degrees with at least five decimal places.

6. The date of installation and the location of each well or collection system expansion added pursuant to subparagraphs (a)3., (a)5., (b), and (c)4. of paragraph (4).

7. For any corrective action analysis for which corrective actions are required in subparagraph (4)(a)3. or 5. of this rule, and that take more than 60 days to correct the exceedance, the root cause analysis conducted, including a

description of the recommended corrective action(s), the date for corrective action(s) already completed following the positive pressure or elevated temperature reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(i) *Initial performance test report.* Each owner or operator seeking to comply with subparagraph (l)(b) of this rule shall include the following information with the initial performance test report required under §60.8, 40 CFR:

1. A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

2. The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

3. The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

4. The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area;

5. The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

6. The provisions for the control of off-site migration.

(j) *Electronic reporting.* The owner or operator shall submit reports electronically according to subparagraphs (i)1. and 2. of this paragraph.

1. Within 60 days after the date of completing each performance test (as defined in 40 CFR § 60.8), the owner or operator shall submit the results of each performance test according to the following procedures:

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site ([https://www3.epa.gov/ttn/chief/ert/ert\\_info.html](https://www3.epa.gov/ttn/chief/ert/ert_info.html)) at the time of the test, the owner or operator shall submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). Performance test data shall be submitted in a file format generated through the use of the EPA's ERT or an alternative file format consistent with the extensible markup language (XML) schema listed on the

EPA's ERT Web site, once the XML schema is available. If the owner or operator claim that some of the performance test information being submitted is confidential business information (CBI), the owner or operator shall submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage media to the EPA. The electronic media shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404-02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this subparagraph (i)1.(i) of this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator shall submit the results of the performance test to the Director at the appropriate address listed in 40 CFR § 60.4.

2. Each owner or operator required to submit reports following the procedure specified in this paragraph shall submit reports to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) The owner or operator shall use the appropriate electronic report in CEDRI for this Chapter or an alternate electronic file format consistent with the XML schema listed on the CEDRI Web site (<https://www3.epa.gov/ttn/chief/cedri/index.html>). If the reporting form specific to this Chapter is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Director at the appropriate address listed in §60.4. Once the form has been available in CEDRI for 90 calendar days, the owner or operator shall begin submitting all subsequent reports via CEDRI. The reports shall be submitted by the deadlines specified in this Chapter, regardless of the method in which the reports are submitted.

(k) *Corrective action and the corresponding timeline.* The owner or operator shall submit according to subparagraphs (k)1. and 2. of this paragraph. If complying with the operational provisions of 40 CFR §§ 63.1958, 63.1960, and 63.1961, as allowed in paragraphs (2), (4), and (5) of this rule, the owner or operator shall follow the corrective action and the corresponding timeline reporting requirements in 40 CFR §63.1981(j) in lieu of subparagraphs (k)(1) and (2) of this paragraph.

1. For corrective action that is required according to subparagraphs (4)(a)3.(iii) or (a)5.(iii) of this rule, and is expected to take longer than 120 days after the initial exceedance to complete, the owner or operator shall submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Director as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above. The

Director shall approve the plan for corrective action and the corresponding timeline.

2. For corrective action that is required according to subparagraphs (4)(a)3.(iii) or (a)5.(iii) of this rule, and is not completed within 60 days after the initial exceedance, the owner or operator shall submit a notification to the Director as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance.

(l) Liquids addition. The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit (issued through Resource Conservation and Recovery Act, subtitle D, part 258) within the last 10 years shall submit to the Director, annually, following the procedure specified in subparagraph (j)2. of this paragraph, the following information:

1. Volume of leachate recirculated (gallons per year) and the reported basis of those estimates (records or engineering estimates).

2. Total volume of all other liquids added (gallons per year) and the reported basis of those estimates (records or engineering estimates).

3. Surface area (acres) over which the leachate is recirculated (or otherwise applied).

4. Surface area (acres) over which any other liquids are applied.

5. The total waste disposed (megagrams) in the areas with recirculated leachate and/or added liquids based on on-site records to the extent data are available, or engineering estimates and the reported basis of those estimates.

6. The annual waste acceptance rates (megagrams per year) in the areas with recirculated leachate and/or added liquids, based on on-site records to the extent data are available, or engineering estimates.

7. The initial report shall contain items in subparagraph (k)1. through 6. of this paragraph per year for the most recent 365 days as well as for each of the previous 10 years, to the extent historical data are available in on-site records, and the report shall be submitted no later than:

(i) September 27, 2017, for landfills that commenced construction, modification, or reconstruction after July 17, 2014 but before August 29, 2016; or

(ii) 365 days after the date of commenced construction, modification, or reconstruction for landfills that commence construction, modification, or reconstruction after August 29, 2016.

8. Subsequent annual reports shall contain items in subparagraph (k)1. through 6. of this paragraph for the 365-day period following the 365-day

period included in the previous annual report, and the report shall be submitted no later than 365 days after the date the previous report was submitted.

9. Landfills in the closed landfill subcategory are exempt from reporting requirements contained in subparagraphs (k)1. through 7. of this paragraph.

10. Landfills may cease annual reporting of items in subparagraphs (k)1. through 6. of this paragraph once they have submitted the closure report in subparagraph (e) of this paragraph.

(m) Tier 4 notification.

1. The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall provide a notification of the date(s) upon which it intends to demonstrate site-specific surface methane emissions are below 500 parts per million methane, based on the Tier 4 provisions of subparagraph (3)(a)6. of this rule. The landfill shall also include a description of the wind barrier to be used during the SEM in the notification. Notification shall be postmarked not less than 30 days prior to such date.

2. If there is a delay to the scheduled Tier 4 SEM date due to weather conditions, including not meeting the wind requirements in subparagraph (3)(a)6.(iii)(I) of this rule, the owner or operator of a landfill shall notify the Director by email or telephone no later than 48 hours before any known delay in the original test date, and arrange an updated date with the Director by mutual agreement.

(n) Each owner of operator that chooses to comply with the provisions in 40 CFR §§ 63.1958, 63.1960, and 63.1961, as allowed in paragraphs (2), (4), and (5) of this rule , the owner or operator shall submit the high temperature report according to §63.1981(k).

(7) Recordkeeping Requirements.

(a) Except as provided in subparagraph (6)(c)2. of this rule, each owner or operator of an MSW landfill subject to the provisions of subparagraph (1)(d) of this rule shall keep for at least 5 years up-to-date, readily accessible, on-site records of the design capacity report which triggered subparagraph (1)(d), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(b) Except as provided in subparagraph (6)(c)2. of this rule, each owner or operator of a controlled landfill shall keep up-to-date, readily accessible records for the life of the control equipment of the data listed in subparagraphs (b)1. through (b)5. of this paragraph as measured during the



initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of 5 years. Records of the control device vendor specifications shall be maintained until removal.

1. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph (l)(a) of this Rule:

(i) The maximum expected gas generation flow rate as calculated in subparagraph (4)(a)1. of this rule. The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Director.

(ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in subparagraph (8)(a)1. of this rule.

2. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph (l)(b) of this rule through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(i) The average combustion temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

(ii) The percent reduction of NMOC determined as specified in subparagraph (l)(b)2. of this paragraph achieved by the control device.

3. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph (l)(b)2.(i) of this rule through use of a boiler or process heater of any size: a description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

4. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph (l)(b)1. of this rule through use of an open flare, the flare type (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in §60.18, 40 CFR; continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flame of the flare flame is absent.

5. Where an owner or operator subject to the provisions of this Chapter seeks to demonstrate compliance with subparagraph (l)(b)3. of this rule through use of a landfill gas treatment system:

(i) *Bypass records.* Records of the flow of landfill gas to, and bypass of, the treatment system.

(ii) *Site-specific treatment monitoring plan,* to include:

(I) Monitoring records of parameters that are identified in the treatment system monitoring plan and that ensure the treatment system is operating properly for each intended end use of the treated landfill gas. At a minimum, records should include records of filtration, de-watering, and compression parameters that ensure the treatment system is operating properly for each intended end use of the treated landfill gas.

(II) Monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for each intended end use of the treated landfill gas.

(III) Documentation of the monitoring methods and ranges, along with justification for their use.

(IV) Identify who is responsible (by job title) for data collection.

(V) Processes and methods used to collect the necessary data.

(VI) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

(c) Except as provided in subparagraph (6)(c)2. of this rule, each owner or operator of a controlled landfill subject to the provisions of this Chapter shall keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in paragraph (5) of this rule as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

1. The following constitute exceedances that shall be recorded and reported under subparagraph (6) of this rule:

(i) For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal unit per hour) or greater, all 3-hour periods of operation during which the average combustion temperature was more than 28 °C (82 degrees Fahrenheit) below the average combustion temperature during the most recent performance test at which compliance with subparagraph (l)(b) of this rule was determined.

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under subparagraph (b)3. of this paragraph.

2. Each owner or operator subject to the provisions of this Chapter shall keep up-to-date, readily accessible continuous records of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under paragraph (5) of this rule.

3. Each owner or operator subject to the provisions of this Chapter who uses a boiler or process heater with a design heat input capacity of

44 megawatts or greater to comply with subparagraph (l)(b) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other State regulatory requirements.)

4. Each owner or operator seeking to comply with the provisions of this Chapter by use of an open flare shall keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under subparagraph (5)(c) of this rule, and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

5. Each owner or operator of a landfill seeking to comply with subparagraph (l)(d) of this rule using an active collection system designed in accordance with subparagraph (l)(d) of this rule shall keep records of periods when the collection system or control device is not operating.

(d) Except as provided in subparagraph (6)(c)2. of this rule, each owner or operator subject to the provisions of this Chapter shall keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label for each collector that matches the labeling on the plot map.

1. Each owner or operator subject to the provisions of this Chapter shall keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under subparagraph (4)(b) of this rule.

2. Each owner or operator subject to the provisions of this Chapter shall keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in subparagraph (8)(a)3.(i) of this rule as well as any nonproductive areas excluded from collection as provided in subparagraph (8)(a)3.(ii) of this rule.

(e) Except as provided in subparagraph (6)(d)2. of this rule, each owner or operator subject to the provisions of this Chapter shall keep for at least 5 years up-to-date, readily accessible records of the items in subparagraphs (e)(1) through (5) of this paragraph. Each owner or operator that chooses to comply with the provisions in 40 CFR §§ 63.1958, 63.1960, and 63.1961, as allowed in paragraphs (2), (4), and (5) of this rule, shall keep the records in subparagraph (e)(6) of this paragraph and must keep records according to 40 CFR § 63.1983(e)(1) through (5) in lieu of subparagraphs (e)(1) through (5) of this paragraph.

1. All collection and control system exceedances of the operational standards in paragraph (2) of this rule, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

2. Each owner or operator subject to the provisions of this Chapter shall also keep records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each wellhead nitrogen level at or above 20 percent, and each wellhead oxygen level at or above 5 percent.

3. For any root cause analysis for which corrective actions are required in subparagraph (4)(a)3. or 5. of this rule, keep a record of the root cause analysis conducted, including a description of the recommended corrective action(s) taken, and the date(s) the corrective action(s) were completed.

4. For any root cause analysis for which corrective actions are required in subparagraph (4)(a)3.(ii) or (a)5.(ii) of this rule, keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

5. For any root cause analysis for which corrective actions are required in subparagraph (4)(a)3.(iii) or (a)5.(iii) of this rule, keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates, and a copy of any comments or final approval on the corrective action analysis or schedule from the regulatory agency.

6. Each owner or operator that chooses to comply with the provisions in 40 CFR §§ 63.1958, 63.1960, and 63.1961, shall keep records of the date upon which the owner or operator started complying with the provisions in §§ 63.1958, 63.1960, and 63.1961.

(f) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", shall keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic format are acceptable.

(g) Landfill owners or operators seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emission monitoring under the Tier 4 procedures specified in subparagraph (3)(a)6. of this rule shall keep for at least 5 years up-to-date, readily accessible records of all surface emissions monitoring and information related to monitoring instrument calibrations conducted according to sections 8 and 10 of Method 21 of appendix A of 40 CFR Part 60, including all of the following items:

1. Calibration records:

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value.

(v) If an owner or operator makes their own calibration gas, a description of the procedure used.

2. Digital photographs of the instrument setup. The photographs shall be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration.

3. Timestamp of each surface scan reading:

(i) Timestamp should be detailed to the nearest second, based on when the sample collection begins.

(ii) A log for the length of time each sample was taken using a stopwatch (e.g., the time the probe was held over the area).

4. Location of each surface scan reading. The owner or operator shall determine the coordinates using an instrument with an accuracy of at least 4 meters. Coordinates shall be in decimal degrees with at least five decimal places.

5. Monitored methane concentration (parts per million) of each reading.

6. Background methane concentration (parts per million) after each instrument calibration test.

7. Adjusted methane concentration using most recent calibration (parts per million).

8. For readings taken at each surface penetration, the unique identification location label matching the label specified in subparagraph (d) of this paragraph.

9. Records of the operating hours of the gas collection system for each destruction device.

(h) Except as provided in subparagraph (6)(c)2. of this rule, each owner or operator subject to the provisions of this Chapter shall keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in subparagraphs (5)(a)1., 2., and 3. of this rule.

(i) Any records required to be maintained by this Chapter that are submitted electronically via the EPA's CDX may be maintained in electronic format.

(j) For each owner or operator reporting leachate or other liquids addition under subparagraph (6)(k) of this rule, keep records of any engineering calculations or company records used to estimate the quantities of leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

#### (8) Specifications for Active Collection Systems.

(a) Each owner or operator seeking to comply with subparagraph (1)(a) of this rule shall site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the Director.

1. The collection devices within the interior and along the perimeter areas shall be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues shall be addressed in the design: depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, resistance to the refuse decomposition heat, and ability to isolate individual components or sections for repair or troubleshooting without shutting down entire collection system.

2. The sufficient density of gas collection devices determined in subparagraph (a)1. of this paragraph shall address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

3. The placement of gas collection devices determined in subparagraph (a)1. of this paragraph shall control all gas producing areas, except as provided by subparagraphs (a)3.(i) and (a)3.(ii) of this paragraph.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under subparagraph (7)(d) of this rule. The documentation shall provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and shall be provided to the Director upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The

amount, location, and age of the material shall be documented and provided to the Director upon request. A separate NMOC emissions estimate shall be made for each section proposed for exclusion, and the sum of all such sections shall be compared to the NMOC emissions estimate for the entire landfill.

(I) The NMOC emissions from each section proposed for exclusion shall be computed using the following equation:

$$Q_i = 2kL_oM_i(e^{-kt_i})(C_{NMOC})(3.6 \times 10^{-9})$$

where,

$Q_i$  = NMOC emission rate from the  $i^{\text{th}}$  section, megagrams per year

$k$  = methane generation rate constant, year<sup>-1</sup>

$L_o$  = methane generation potential, cubic meters per megagram solid waste

$M_i$  = mass of the degradable solid waste in the  $i^{\text{th}}$  section, megagram

$t_i$  = age of the solid waste in the  $i^{\text{th}}$  section, years

$C_{NMOC}$  = concentration of nonmethane organic compounds, parts per million by volume

$3.6 \times 10^{-9}$  = conversion factor

(II) If the owner or operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated (e.g., separately lined) closed areas that already have gas collection systems, NMOC emissions from each physically separated closed area shall be computed using either equation in subparagraph (3)(b) of this rule, or the equation in subparagraph (a)3.(ii)(I) of this paragraph.

(iii) The values for  $k$ , and  $C_{NMOC}$  determined in field testing shall be used, if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for  $k$ ,  $L_o$  and  $C_{NMOC}$  provided in paragraph (3) of this rule or the alternative values from paragraph (3) of this rule shall be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in subparagraph (a)3.(i) of this paragraph.

(b) Each owner or operator seeking to comply with subparagraph (I)(a) of this rule shall construct the gas collection devices using the following equipment or procedures:

1. The landfill gas extraction components shall be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system shall extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors shall be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations shall be situated with regard to the need to prevent excessive air infiltration.

2. Vertical wells shall be placed so as not to endanger underlying liners and shall address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors shall be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices shall be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

3. Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly shall include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices shall be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with subparagraph (l)(b) of this rule shall convey the landfill gas to a control system in compliance with subparagraph (l)(b) of this rule through the collection header pipe(s). The gas mover equipment shall be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

1. For existing collection systems, the flow data shall be used to project the maximum flow rate. If no flow data exists, the procedures in subparagraph (c)2. of this paragraph shall be used.

2. For new collection systems, the maximum flow rate shall be in accordance with subparagraph (4)(a)1. of this rule.

**Author:** Ronald W. Gore

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.

**History:** Effective Date: Proposed: July 20, 2021.



**335-3-19-.04 Reserved Compliance Schedules.**

(1) Planning, awarding of contracts, installing, and starting up MSW landfill air emission collection and control equipment that is capable of meeting the emission standards under this Chapter shall be completed within 30 months after the date an NMOC emission rate report shows NMOC emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory); or (2) Within 30 months after the date of the most recent NMOC emission rate report that shows NMOC emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory), if Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

**Author:** Ronald W. Gore

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.

**History:** Effective Date: Proposed: July 20, 2021.

**335-3-19-.05 Reserved Petition for Alternative Standards and Compliance Schedules.**

(1) A MSW landfill owner or operator may request through petition, alternative emission standards or a longer compliance schedule that is/are not specified in this Chapter through the following procedures.

(a) Petition Requirements. To enable the Department to rule on the Petition, the following information, where determined applicable by the Department, shall be included in the petition:

1. A clear and complete statement of the precise extent of the relief sought including specific identification of the particular provisions of the regulations from which the relief is sought. The criteria for relief include:

(i) Unreasonable cost of control resulting from landfill age, location, or basic design:

(ii) Physical impossibility of installing necessary control equipment; or

(iii) Other factors specific to the landfill that make application of a less stringent standard or final compliance time significantly more reasonable.

(2) An assessment, with supporting factual information, of the impact that the petition will impose on the public health and the environment in the affected area.

(3) Any additional information requested by the Department as necessary to evaluate the petition.

(4) A concise factual statement of the reasons the petitioner believes that alternative emission limits or a longer compliance schedule will not threaten the public health or unreasonably create environmental pollution.

(b) Extension of Prior or Existing Alternative Emission Standards or Compliance Schedule. A petition to extend a prior or existing petition granted by the Department shall be commenced by filing a new petition with the Department in accordance with the requirements of paragraph (1) of this rule. To the extent that the information required by paragraph (1) of this rule has been included in the prior petition for which extension is sought, a submission of that information shall not be required provided that the petition shall request the incorporation of the record, opinion and order in the prior proceeding into the new petition.

(c) Department Actions on Petitions. On receipt of a petition, the Department will authorize one of the following actions, as they shall determine:

1. The petition may be dismissed if the Department determines that it is not adequate under paragraph (1) of this rule.

2. The Department may grant the request of the petition, as petitioned or by imposing such conditions as this Division may require in the Major Source Operating Permit, including the establishment of schedules of compliance and monitoring requirements, if EPA consents to the alternative emission standards or compliance schedule as submitted to EPA by the Department.

3. The Department may deny the petition. If such a denial is made, the Department shall notify the petitioner in writing, state the reasons for denial and outline procedures for appeal.

(d) Termination Procedures. Any petition granted by the Department may be terminated by the Department whenever the Department finds, after an opportunity for the petitioner to demonstrate compliance and after notice and an opportunity for hearing, that the petitioner is in violation of any requirement, condition, schedule, limitation or any other provision of the petition or that operation under the petition does not meet the minimum requirements established by state and federal laws and regulations or is unreasonably threatening the public health.

**Author:** Ronald W. Gore

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.

**History:** Effective Date: Proposed: July 20, 2021.

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT  
PLAN FOR THE CONTROL OF LANDFILL GAS  
EMISSIONS AT EXISTING MUNICIPAL SOLID  
WASTE LANDFILLS**

**~~2017~~2021**

# ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT PLAN FOR THE CONTROL OF LANDFILL GAS EMISSIONS AT EXISTING MUNICIPAL SOLID WASTE LANDFILLS

## Executive Summary

On March 12, 1996, the USEPA promulgated New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills (MSWLFs) and Emission Guidelines for Existing MSWLFs. The Emission Guidelines (EG) implement §111(d) of the Clean Air Act (the Act). USEPA finalized updates to the EG and the NSPS on August 29, 2016. The EG require a State to submit a plan that will establish emission standards for existing sources when an NSPS have been promulgated for a designated pollutant, such as landfill gas (LFG). Landfill gas is composed of many constituents, including methane and nonmethane organic compounds (NMOC). Since it would be difficult to measure all compounds in LFG, the EPA has specified NMOC as a surrogate for LFG.

An existing MSWLF is a landfill for which construction, modification, or reconstruction commenced on or before July 17, 2014. An existing landfill may be active; i.e., currently accepting waste, or have additional capacity available to accept waste, or may be closed; i.e., no longer accepting waste nor having available capacity for future waste deposition. The designated facility for which this plan applies is each existing MSWLF that has accepted waste since November 8, 1987.

The final rules require affected and designated MSWLFs having design capacities below 2.5 million megagrams (or 2.5 million cubic meters) to file a design capacity report. Those existing landfills having design capacities greater than 2.5 million megagrams or (2.5 million cubic meters) are subject to the EG and those that emit more than 34 megagrams/year (37.5 tons/year) are required to install controls. The EG requires the reduction of LFG from the affected existing MSWLFs by: (1) installing a well-designed and well-operated gas collection system and (2) routing those gases to a control device capable of reducing NMOC in the collected gas by 98 weight-percent, or to 20 parts per million.

[The final rules also allow the affected and designated MSWLFs the option to comply with the operating, compliance, and monitoring requirements of either 40 CFR 60, Subpart Cf or 40 CFR 63, Subpart AAAA.](#)

Subpart B [\(with the exception of § 60.23\)](#) of 40 CFR 60, [and Subpart Ba § 60.23a of 40 CFR 60](#) ~~specifies~~ [specify](#) the contents of the state plan. The Department's plan provides for proposed regulations that will provide for the incorporation of the EG requirements into the Air Division Administrative Code. The plan demonstrates the Department's determination of the regulated universe, as well as the legal authority for implementing this plan.

## CONTENTS OF STATE PLAN

Contents	Reference
Certification that a public hearing was held prior to adoption of the State Plan.	§60.23 <del>(f)(1)</del> <u>a</u>
A list of attendees at the hearing and their affiliation; summary of their presentation and handouts.	§60.23 <del>(f)(2)</del> <u>a</u>
Emission Standards and compliance schedules.	§60.24(a)
Test methods and procedures used for determining compliance with the emission standards.	§60.24(b)(2)
Legally enforceable increments of progress for facilities to achieve compliance.	§60.24(e)(1)
May provide that compliance schedules for individual facilities will be formulated after plan submittal, if certain procedures are followed.	§60.24(e)(2)
For particular facilities, a case-by-case basis for less stringent standards or compliance times.	§60.24(f)
An inventory of all designated facilities, including emission data for the designated pollutants and information related to emissions.	§60.25(a)
Provide for monitoring a facility's compliance status as follows:	§60.25(b)
1. Legally enforceable procedures for requiring the maintenance of records and periodic reporting to the State for the determination of compliance, and	
2. Periodic inspections and testing	
Information obtained under 60.25(b) shall be correlated with applicable emission standards and made available to the public.	§60.25(c)
Show that the State has legal authority to carry out the plan.	§60.26
<u>Indicate the State's non-delegated authority.</u>	<u>§60.30f</u>

### **§60.23a Adoption and Submittal of State Plans; Public Hearings**

The Alabama Administrative Procedures Act (Title 41, Chapter 22, Code of Alabama 1975, as amended) prescribes the procedures for which all state agencies must adhere when filing revisions or new rules to the Administrative Code. Per §60.23(d), a legal notice is placed in the four regional newspapers of the State which describes the notice of the date, time and location of a public hearing. The notice describes the locations in which the material for review is located as well as procedures for obtaining copies. The Department places copies of the material for viewing in its four offices located in Decatur, Birmingham, Montgomery, and Mobile. Notification and copies of supporting materials are sent to the Regional Administrator and the State's two local air programs; i.e., the City of Huntsville and the Jefferson County Department of Health. The public hearing gives interested parties an opportunity to comment on the agency's proposal; however, it is not necessary for persons to be present at the hearing. Written comments are accepted during the public comment period. Pursuant to §60.23(f), the State will submit to EPA documentation certifying that proper notice and public participation procedures were followed.

### **§60.24 Emission Standards and Compliance Schedules**

The Department proposes to adopt equivalent emission standards and compliance times to the federal Emission Guidelines [40 CFR 60, Subpart Cf] in the proposed ADEM Admin. Code Chapter 335-3-19 [Appendix A].

The affected facilities are expected to fulfill the requirements of the State's rules. Compliance is expected to occur within 30 months of the effective date of the State's rules. Thus, the increments of progress would be as follows:

Milestone	Compliance Schedule
1. Design Capacity Report	Within 30-90 days after the effective date of the State standard
2. NMOC Emission Rate Report	Within 30-90 days after the effective date of the State standard, and then annually
3. Collection and Control System Design Plan	Within 1 year after reporting NMOC emissions $\geq 34$ Mg/yr
4. Installation of Collection and Control System Completed	Within 30 months after the effective date of the State standard or the date of the first annual NMOC emission rate is $\geq 34$ Mg/yr
5. Initial Performance Test of Collection and Control System to Document Compliance	Within 180 days of control system startup

As early as possible within the first twelve months following the reporting of NMOC emissions  $\geq 34$  MG/yr, the MSWLF owner/operator should submit to the Department, the collection and control system design plan. Within ninety (90) days of receipt, the Department shall review and evaluate the design plan. Within this same period, the Department will provide the owner/operator written notification of deficiencies or final design approval, as applicable. The owner/operator should correct deficiencies within 60 days of receipt of notice.

The test methods and procedures for determining compliance are specified in the proposed rules which reference the Methods found in Appendix A of 40 CFR, Part 60. These test methods were previously incorporated by reference into the ADEM Code which were effective November 21, 1996.

**§60.25 Emission Inventories, Source Surveillance, Reports.**

An initial inventory of MSWLFs was performed in 1996, when the original NSPS and EG were promulgated. A review of that inventory, and of the permitting of new facilities since 1996 was performed to determine the facilities which would be subject to the proposed regulations. A table illustrating the regulated universe and the estimated emissions of NMOCs is included in Appendix B of this document. If there are significant changes, a revised emission inventory will be submitted after the initial design capacity and NMOC emission rate reports are received.



Compliance status is generally accomplished by providing the following:

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

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

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

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

In general, the first two items of the list apply to landfills affected by the EG. The State must report any enforcement action and any increments of progress made by landfills such as submittal of a final control plan or initiation of on-site construction.

The third item is most applicable to emission sources that cease to emit air pollutants upon ceasing operation. Landfills may continue to emit NMOC after the facility has ceased to accept MSW; however, the landfill must continue to operate control equipment after closure. The State will list landfills that have removed control devices

after closure and after their emissions have decreased to less than the emission rate cutoff. The fourth item does not apply to landfills affected by the EG since by definition these landfills were existing during plan development.

The fifth and sixth items are clearly applicable to landfills. Updated facility information or emission data will be reported. The EG and the proposed rules require that facilities above the minimum size exemption limit submit NMOC emission rate reports if not controlled or annual reports if controlled. Therefore, the requirements of the fifth item can be met. Regarding the sixth item, the EG requires that the initial performance test be submitted with the initial annual report. However, State progress reports are to include concurrent process data with performance test reports. Since landfill emissions are not generated by a manufacturing process, the concurrent process data is not applicable. Control device operating conditions during the tests will be reported.

## **§60.26 LEGAL AUTHORITY**

The following is a discussion of the State's authority to carry out this plan. Copies of Alabama's statutes referenced are found in Appendix C.

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

The Department is authorized to adopt emission requirements through regulation that are necessary to prevent, abate or control air pollution<sup>1</sup>. See §22-28-11, Code of Alabama 1975, as amended. Section 22-28-14 specifically gives the Department the authority to adopt regulations that prescribe emissions standards. That same section generally grants the Department the authority to adopt compliance schedules to implement new or additional standards. Furthermore, §22-22A-5(10) states that the Department can issue orders citations, notices of violation, licenses, certifications or permits. Consequently, the Department may develop compliance schedules in orders

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

or permits it is authorized to issue. Section 22-22A-5(20) states that the Department may perform any other duty that is necessary to implement and enforce the Environmental Management Act (§22-22A-1 et seq.) which incorporates the Alabama Air Pollution Control Act (§22-28-1 et seq.).

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

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

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

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

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

Section 22-28-18 states that the Department may require owners and operators of air contaminant sources to maintain records and make reports to the Department as it prescribes. See also ADEM Admin. Code R. 335-3-1-.04. Section 22-28-19(b) and ADEM Admin. Code R. 335-3-1-.05 also authorize the Department to conduct tests and take samples of air contaminants, etc. from any source.<sup>2</sup> Section 22-28-19(a) states that the Department's inspectors are authorized to enter and inspect any property or premises on, or at, which an air contaminant source is located or being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with the Alabama Air Pollution Control Act and the regulations adopted pursuant to that Act.

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

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

Section 22-28-20 states that all records, reports or information obtained pursuant to the Alabama Air Pollution Control Act must be available to the public. The only exception to this requirement is if the information in the Department's possession

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

would divulge production or sales figures or methods, processes or productions unique to the particular entity about which the information is requested or would tend to affect adversely the competitive position of the entity by revealing trade secrets. In those instances, the information can be considered confidential by the Department. However, emission data is not subject to the exception and the exception does not apply to federal state or local representatives that request the information for the purpose of administering federal, state or local air pollution control laws.

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

Section 22-28-23 specifically authorizes certain local agencies the ability to establish and administer local air pollution control programs. In doing so, those local agencies that elect to establish and administer a local air pollution control program must craft their programs so as to be consistent with, or ~~more strict~~stricter, than the air pollution control program that is administered by the Department. The afore-referenced statutory provision [specifically §22-28-23(b)(2)] also affords local programs the same enforcement power for issuing administrative orders with penalties that the Department is authorized to exercise. Finally, the statutory provision also provides that in the event the local program is, or becomes, inadequate, the Department may preempt the local enforcement authority of said program. The local air programs in the Jefferson County Department of Health and the City of Huntsville will be delegated authority to carry out the State's plan upon promulgation of equivalent Rules in their jurisdiction.

#### **§60.30f Scope and delegated authorities.**

Under §60.30f(c)(1) of Subpart Cf of 40 CFR 60, the State does not have the delegation of authority for approving alternative methods for determining the site-specific NMOc concentrations or methane generation rate constants.

**APPENDIX A  
PROPOSED RULES**

# **APPENDIX B INVENTORY**

Active Sanitary Landfills

	LANDFILL DATA (ACTIVE)	4/9/1997		landfilo.xls								
					NMOC			Date	Date	Date	Waste	
	LANDFILL NAME	LOCATION	DESIGN	Units	Mg/yr	Status	constructed	modified	first Waste	Acc Rate	NSPS	
			CAPACITY		(by facility)	Tier				tpd		
1	Cedar Hill MSWLF	St. Clair	52,372,187	m3	31.63	II existing	before 1990	1995	unknown	600	X	
2	Arrowhead MSWLF	Perry	51,076,967	Mg	3.25	II existing	June 2007		Oct 2007	15000	X	
3	Three Corners MSWLF	Cherokee	32,789,459	Mg	28.73	II existing			1998		X	
4	Star Ridge MSWLF	St. Clair	32,040,585	m3	26.88	II existing	1983	aft 1991	unknown	1500	X	
5	Brundidge MSWLF	Pike	28,289,064	m3	3.01	II existing	Oct. 1993		no waste	1500	X	
6	North Montgomery MSWLF	Montgomery	25,000,000	Mg	4.38	II existing	July 1995		Oct.1995	1165	X	
7	Turkey Trot MSWLF	Washington	19,829,621	m3	22.34	II existing				4000	X	
8	Stone's Throw MSWLF	Tallapoosa	19,749,068	Mg	144.49	II existing		2015		1500	X	
9	Chastang MSWLF	Mobile	19,600,000	Mg	10.50	II existing	1976		1976	1725	X	
10	Sand Valley MSWLF	Dekalb	19,458,810	Mg	29.56	II existing				1500	X	
11	Salem MSWLF	Lee	19,402,857	m3	21.37	II existing	1985	1994	1985	1500	X	
12	Pineview MSWLF	Walker	12,000,000	Mg	15.22	II existing	1993		Oct.1993	1500	X	
13	Decatur/Morgan County	Morgan	10,127,000	m3	29.75	II existing	Sept. 1980	1996 cell	Sept. 1980	700	X	
14	Black Warrior MSWLF	Tuscaloosa	8,913,263	Mg	15.27	II existing	1987	1996 cell	unknown	300	X	
15	City of Dothan Sanitary Landfill	Houston	8,913,,263	Mg	7.11	II existing		2019		400	X	
16	Morris Farms MSWLF	Lawerence	7,700,000	Mg	11.33	II existing	1995		Oct. 1996	1500	X	
17	Magnolia MSWLF	Baldwin	7,542,100	m3	34.66	II existing	1972	1997	new 10/97	1500	X	
18	Coffee County MSWLF	Coffee	6,136,363	Mg	3.76	II existing	Feb. 1993		Oct. 1993	1200	X	
19	Timberlands MSWLF	Escambia	4,300,000	Mg	46.98	II existing	1993		1994	2500	X	
20	Shelby County MSWLF	Shelby	3,174,500	Mg	46.08	II existing	1982		1982	1500	X	
					536.30							



**APPENDIX C**  
**LEGAL AUTHORITY**

## **Chapter 28 ALABAMA AIR POLLUTION CONTROL ACT.**

- [Section 22-28-1](#) Short title.
- [Section 22-28-2](#) Definitions.
- [Section 22-28-3](#) Declaration of policy; purpose of chapter.
- Section 22-28-4 through 22-28-8 Repealed.
- [Section 22-28-9](#) Authority of commission to hire consultants, assistants and other employees.
- [Section 22-28-10](#) Powers of commission generally; advisory committees.
- [Section 22-28-11](#) Emission control requirements.
- [Section 22-28-12](#) Motor vehicle emissions.
- [Section 22-28-13](#) Variances.
- [Section 22-28-14](#) Regulations — Authority of commission.
- [Section 22-28-15](#) Regulations — Hearings; procedure for adoption.
- [Section 22-28-16](#) Permits.
- [Section 22-28-17](#) Review of plans and specifications.
- [Section 22-28-18](#) Providing of information.
- [Section 22-28-19](#) Right of entry for inspection; tests and samples.
- [Section 22-28-20](#) Availability of records, reports or information.
- [Section 22-28-21](#) Air pollution emergencies.
- [Section 22-28-22](#) Proceedings upon violation of chapter; penalties; subpoenas; injunctions.
- [Section 22-28-23](#) Local air pollution control programs.

### **Section 22-28-1**

#### **Short title.**

This chapter shall be known and may be cited as the "Alabama Air Pollution Control Act of 1971."

*(Acts 1971, No. 769, p. 1481, §1.)*

### **Section 22-28-2**

#### **Definitions.**

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) Air pollution.

The presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property or would interfere with the enjoyment of life or property throughout the state and in such territories of the state as shall be affected thereby.

(2) Air contaminant.

Any solid, liquid or gaseous matter, any odor or any combination thereof, from whatever source.

(3) Commission.

The Alabama Department of Environmental Management.

(4) Person.

Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

(5) Emission.

A release into the outdoor atmosphere of air contaminants.

(6) Director.

The Director of the Alabama Department of Environmental Management.

(7) State Health Officer.

The Director of the Alabama Department of Environmental Management.

(8) Chairman.

The director of the Alabama Department of Environmental Management.

(9) State Air Pollution Control Commission.

The Alabama Department of Environmental Management.

(10) Environmental Management Commission.

The Environmental Management Commission of the Alabama Department of Environmental Management.

***(Acts 1971, No. 769, p. 1481, §3; Acts 1982, No. 82-612, p. 1111, §11(g).)***

### **Section 22-28-3**

#### **Declaration of policy; purpose of chapter.**

(a) It is hereby declared to be the public policy of this state and the purpose of this chapter to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the social development of this state and facilitate the enjoyment of the natural attractions of this state.

(b) It is also declared that local air pollution control programs are to be provided for to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

(c) To these ends, it is the purpose of this chapter to provide for a coordinated statewide program of air pollution prevention, abatement and control; to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions and to provide a framework within which all values may be balanced in the public interest.

***(Acts 1971, No. 769, p. 1481, §2.)***

**Sections 22-28-4 through 22-28-8 Repealed by Acts 1982, No. 82-612, p. 1111, §14(a)(1), effective October 1, 1982.**

**Section 22-28-9**

**Authority of commission to hire consultants, assistants and other employees.**

The commission may employ and compensate, within appropriations available therefor, consultants and such assistants and employees as may be necessary to carry out the provisions of this chapter and may prescribe their powers and duties. Employees of the commission shall be employed in accordance with the State Merit System.

***(Acts 1971, No. 769, p. 1481, §4.)***

**Section 22-28-10**

**Powers of commission generally; advisory committees.**

In addition to other powers conferred on it by law, the commission shall have power to:

(1) Hold hearings relating to any aspect of or matter in the administration of this chapter and, in connection therewith, compel the attendance of witnesses and the production of evidence through subpoena, as provided in this chapter;

(2) Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings;

(3) Require access to records relating to emissions which cause or contribute to air contamination;

(4) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

(5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state;

(6) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(7) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control;

(8) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof;

(9) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state, and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto;

(10) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution;

(11) Advise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government and with interested persons or groups;

(12) Consult, upon request, with any person proposing to construct, install or otherwise acquire an air contaminant source or device or system for the control thereof concerning the efficacy of such device or system or the air pollution problem which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this chapter, rules and regulations in force pursuant thereto or any other provision of law;

(13) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. Such funds received by the commission pursuant to this section shall be deposited in the State Treasury to the account of the commission. In addition to the authority to accept, receive and administer grants or other funds from the federal government, the commission is hereby designated as the State Air Pollution Control Agency for the purposes of the Federal Clean Air Act, as amended;

(14) Provide for the performance by its officers and employees, in the name of the commission, of any act or duty necessary or incidental to the administration of this chapter; and

(15) Provide for the establishment of advisory committees, appointment of the membership of such committees, scope of investigation and other duties of such committees. The period of duration of such committees and the terms of members of such committees shall be established by the commission. No salary or compensation shall be allowed any member of such committees for services thereon. Travel, subsistence and other expenses incurred by members of such committees in the discharge of their official duties as members of such committees, and when approved by the chairman or the director, by direction of the commission shall be paid at the rate allowed other state employees as provided by Article 2 of Chapter 7 of Title 36 of this Code from any funds which are, or may become, available for the purpose of this chapter.

***(Acts 1971, No. 769, p. 1481, §6.)***

### **Section 22-28-11**

#### **Emission control requirements.**

The commission may establish such emission control requirements, by rule or regulation, as in its judgment may be necessary to prevent, abate or control air pollution. Such requirements may be for the state as a whole or may vary from area to area, as may be appropriate, to facilitate accomplishment of the purposes of this chapter and in order to take account of varying local conditions.

***(Acts 1971, No. 769, p. 1481, §10.)***

## **Section 22-28-12**

### **Motor vehicle emissions.**

(a) As the state of knowledge and technology relating to the control of emissions from motor vehicles may permit or make appropriate, and in furtherance of the purposes of this chapter, the commission may provide by rules and regulations for the control of emissions from any class or classes of motor vehicles. Such rules and regulations may, in addition, prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of such equipment and of such vehicles.

(b) (1) The commission may establish standards and requirements providing for periodic inspections and testing of motor vehicles by the commission to enforce compliance with this section.

(2) The commission may establish reasonable fees for the inspection and testing of motor vehicles and provide by rules and regulations for the payment and collection of such fees.

(3) If, after inspecting and testing any motor vehicle, the commission determines that such motor vehicle complies in every respect with rules, regulations, standards and requirements issued by the commission pursuant to this section, the commission shall attach to such vehicle in a clearly visible location a certificate of inspection and approval.

(c) (1) The commission may suspend or revoke the certificate of inspection and approval of any motor vehicle not equipped with an air pollution control system or mechanism in good working order and adjustment as required by the rules and regulations of the commission. The vehicle shall not thereafter be eligible for such certificate until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(2) No motor vehicle shall be issued an official certificate of inspection and approval as required pursuant to this section unless all features or equipment required in or on the motor vehicle for the purpose of controlling emissions therefrom have been inspected in accordance with the standards and testing techniques required by the commission pursuant to subsection (b) of this section and have been found to meet these standards.

(3) No person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless the vehicle is equipped with an air pollution control system or mechanism in good working order and adjustment as required by rules and regulations of the commission.

(4) When, and if, the commission shall establish standards and requirements for periodic inspections and testing of motor vehicles pursuant to subsection (b) of this section, no person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless there is attached to such vehicle by the commission a valid certificate of inspection and approval which has not been suspended or revoked.

(5) Failure to comply with subdivisions (3) and (4) of this subsection shall subject the driver or owner to a penalty as provided in this chapter.

(d) The commission, in its discretion, is hereby authorized to delegate any, or all, of the authority vested in it by this section to any agency or instrumentality of the state now or hereafter authorized to inspect motor vehicles for any purpose.

(e) As used in this section, "motor vehicle" shall mean every self-propelled device in, or upon, or by which any person or property is or may be transported or drawn upon a public highway.

***(Acts 1971, No. 769, p. 1481, §16.)***

### **Section 22-28-13**

#### **Variances.**

(a) The commission may grant individual variances beyond the limitations prescribed in this chapter whenever it is found, upon presentation of adequate proof, that compliance with any rule or regulation, requirement or order of the commission would impose serious hardship without equal or greater benefits to the public and the emissions occurring, or proposed to occur, do not endanger or tend to endanger human health or safety, human comfort and aesthetic values. In granting or denying a variance, the commission shall file and publish a written opinion stating the facts and reasons leading to its decision.

(b) In granting a variance, the commission may impose such conditions as the policies of this chapter may require. If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of this chapter or of the commission regulations, the commission shall condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

(c) Any variance granted pursuant to the provisions of this section shall be granted for such period of time, not exceeding one year, as shall be specified by the commission at the time of the grant of such variance and upon the condition that the person who receives such variance shall make such periodic progress reports as the commission shall specify. Such variance may be extended from year to year by affirmative action of the commission, but only if satisfactory progress has been shown.

(d) Any person seeking a variance shall do so by filing a petition for variance with the commission, which shall promptly give notice of such petition in a newspaper of general circulation in the county in which the installation or property for which variance sought is located. The director shall promptly investigate such petition, consider the views of persons who might be adversely affected by the grant of a variance and make a recommendation to the commission as to the disposition of the petition. If the commission, in its discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within 21 days, then a hearing shall be held, under the rules prescribed in subsection (b) of Section 22-28-15, and the burden of proof shall be on the petitioner.

(e) If the commission fails to take final action upon a variance request within 90 days after the filing of the petition, the petitioner may deem the request denied under this chapter.

(f) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the commission; however, any person adversely affected by a variance or renewal granted by the commission may obtain judicial review by filing notice of appeal with the register or clerk of the circuit court in the county where the pollution source is located within 20 days from the action of the commission thereon. The case shall be heard by the court under the same rules and with the same requirements as a petition for injunction would be heard. On appeal, the circuit court shall grant said variance unless it finds the operation of the air contamination source in the manner allowed in the variance would amount to a private or public nuisance or unless it finds that the commission acted arbitrarily and capriciously.

***(Acts 1971, No. 769, p. 1481, §12.)***

#### **Section 22-28-14**

##### **Regulations — Authority of commission.**

The commission, pursuant to procedures prescribed in Section 22-28-15, may adopt regulations to promote the purposes of this chapter. Without limiting the generality of this authority, such regulations may among other things prescribe:

- (1) Ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various air contaminants in the atmosphere;
- (2) Emission standards specifying the maximum amounts or concentrations of air contaminants that may be discharged into the atmosphere;
- (3) Standards and conditions regarding the sale, offer or use of any fuel or other article determined to constitute an air pollution hazard or which could constitute an air pollution hazard;
- (4) Alert and abatement standards relative to air pollution episodes or emergencies constituting an acute danger to health or to the environment;
- (5) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel or aircraft that may cause or contribute to air pollution;
- (6) Requirements for making reports containing information as may be required by the commission concerning location, size and height of contaminant outlets, processes employed, fuels used and the nature and time periods or duration of emissions and such other information as is relevant to air pollution; and
- (7) Effective and application dates; however, unless otherwise specified by the commission, all rules, regulations, standards, requirements, procedures, orders, resolutions, prohibitions, amendments thereto or repeal thereof shall become effective and applicable upon adoption by the commission.

***(Acts 1971, No. 769, p. 1481, §5.)***

#### **Section 22-28-15**

##### **Regulations — Hearings; procedure for adoption.**

(a) No substantive regulations shall be adopted, amended or repealed until after a public hearing. At least 20 days prior to the scheduled date of the hearing, the commission shall give notice of such hearing by public advertisement in a newspaper of general circulation in the area of the state concerned of the date, time, place and purpose of such hearing and make available to any person upon request copies of the proposed regulations, together with summaries of the reasons supporting their adoption.



(b) Repealed by Acts 1982, No. 82-612, p. 1111, §14(a)(1).

(c) After such hearing, the commission may revise the proposed regulations before adoption in response to testimony made at the hearing without conducting a further hearing on the revisions.

(d) Any such regulations may make different provisions, as required by circumstances, for different contaminant sources and for different geographical areas; may apply to sources outside this state causing, contributing to or threatening environmental damage in Alabama and may make special provision for alert and abatement standards and procedures respecting occurrences or emergencies of pollution or on other short-term conditions constituting an acute danger to health or to the environment. In promulgating regulations under this chapter, the commission shall take into account the purpose of the chapter.

(e) Nothing in this section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to Section 22-28-21.

***(Acts 1971, No. 769, p. 1481, §13; Acts 1982, No. 82-612, p. 1111, §14(a)(1).)***

#### **Section 22-28-16**

##### **Permits.**

(a) The commission, by regulation, shall prohibit the construction, installation, modification or use of any equipment, device or other article which it finds may cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants unless a permit therefor has been obtained from the director.

(b) The commission may require that applications for such permits shall be accompanied by plans, specifications and such other information as it deems necessary.

(c) The commission shall provide for the issuance, suspension, revocation and renewal of any permits which it may require pursuant to this section.

(d) No person shall construct, install, modify or use any equipment, device or other article designated by regulations capable of causing, or contributing to, air pollution or designated to prevent air pollution without a permit from the director or in violation of any conditions imposed by such permits.

***(Acts 1971, No. 769, p. 1481, §18.)***

#### **Section 22-28-17**

##### **Review of plans and specifications.**

(a) The commission may require that notice be given to the director prior to the undertaking of the construction, installation or establishment of particular types or classes of new air contamination sources specified in its rules and regulations. Within 15 days of its receipt of such notice, the director may require, as a condition precedent to the construction, installation or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accord with applicable rules and regulations in force pursuant

to this chapter. If, within 60 days of the receipt of plans, specifications or other information required pursuant to this section, the director determines that the proposed construction, installation or establishment will not be in accord with the requirements of this chapter or applicable rules and regulations, he shall issue an order prohibiting the construction, installation or establishment of the air contaminant source or sources. Failure of such an order to issue within the time prescribed in this section shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(b) In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation or establishment, and prior to invoking any such remedies, the person or persons aggrieved thereby shall, upon request in accordance with rules of the commission, be entitled to a hearing on the order. Following such hearing, the order may be affirmed, modified or withdrawn.

(c) For the purposes of this chapter, addition to, or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction, installation or establishment of a new air contaminant source.

(d) Any features, machines and devices constituting parts of, or called for by, plans, specifications or other information submitted pursuant to subsection (a) of this section shall be maintained in good working order.

(e) Nothing in this section shall be construed to authorize the commission to require the use of machinery, devices or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices or equipment otherwise available.

(f) The absence or failure to issue a rule, regulation or order pursuant to this section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

(g) The commission, by rule or regulation, may prescribe and provide for the payment and collection of reasonable fees for the review of plans and specifications required to be submitted pursuant to this section. All such fees, when collected, shall be deposited in the State Treasury to the account of the Division of Air Pollution Control of the State Department of Health.

***(Acts 1971, No. 769, p. 1481, §8.)***

### **Section 22-28-18**

#### **Providing of information.**

The commission may require the owner or operator of any air contaminant source to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods, sample such emissions in accordance with such methods, at such locations, intervals and procedures as the commission shall prescribe, and provide such other information as the commission reasonably may require.

***(Acts 1971, No. 769, p. 1481, §7.)***

### **Section 22-28-19**

#### **Right of entry for inspection; tests and samples.**

(a) Any duly authorized officer, employee or representative of the department may enter and inspect any property, premises or place on, or at, which an air contaminant source is located or is being constructed, installed or established, at any reasonable time, for the purpose of ascertaining the state of compliance with this chapter and rules and regulations in force pursuant thereto. No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(b) The department may conduct tests and take samples of air contaminants, fuel, process material or other material which affects, or may affect, emission of air contaminants from any source. Upon request of the department, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized employee of the department during the course of an inspection obtains a sample of air contaminant, fuel, process material or other material, he shall give the owner or operator of the equipment or fuel facility a receipt for the sample obtained.

***(Acts 1971, No. 769, p. 1481, §9.)***

### **Section 22-28-20**

#### **Availability of records, reports or information.**

(a) Any records, reports or information obtained under this chapter shall be available to the public; except, that upon a showing satisfactory to the commission by any person that records, reports or information, or particular part thereof, other than emission data, to which the commission has access if made public would divulge production or sales figures or methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the commission shall consider such record, report or information, or particular portion thereof, confidential in the administration of this chapter.

(b) Nothing in this section shall be construed to prevent disclosure of such report, record or information to federal, state or local representatives as necessary for purposes of administration of any federal, state or local air pollution control laws or when relevant in any proceeding under this chapter.

***(Acts 1971, No. 769, p. 1481, §14.)***

### **Section 22-28-21**

#### **Air pollution emergencies.**

(a) Any other provisions of law to the contrary notwithstanding, if the director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the director shall order persons causing or contributing to the air pollution to reduce or discontinue immediately

the emission of air contaminants, and such order shall fix a place and time, not later than 24 hours thereafter, for a hearing to be held before the Environmental Management Commission. Not more than 24 hours after the commencement of such hearing, and without adjournment thereof, the Environmental Management Commission shall affirm, modify or set aside the order of the director.

(b) In the absence of a generalized condition of air pollution of the type referred to in subsection (a) of this section, but if the director finds that emissions from the operation of one or more air contaminants sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of Section 22-28-19. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (a) of this section shall apply.

(c) Nothing in this section shall be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision or inheres in the office.

(d) In addition to, and without in any way limiting the foregoing, if the State Health Officer, determines, at any time, that air pollution in any county, locality, place or other area in the state constitutes an emergency risk to health of those present within said area of the state and that the resources of the commission are not sufficient to abate said air pollution, such determination shall be communicated in writing, with the factual findings on which such determination is based, to the Governor; the State Health Officer may delegate in writing to any employee of the commission the power to make such determination and deliver the same to the Governor in the absence of the State Health Officer from the state. Upon being so advised, the Governor shall, by proclamation, declare, as to all or any part of said area mentioned in the aforesaid determination, that an air pollution emergency exists, and, upon making such declaration, the Governor shall have the following powers which he may exercise, in whole or in part, by the issuance of an order or orders:

(1) To prohibit, restrict or condition motor vehicle travel of every kind, including trucks and buses, in the area;

(2) To prohibit, restrict or condition the operation of retail, commercial, manufacturing, industrial or similar activity in the area;

(3) To prohibit, restrict or condition operation of incinerators in the area;

(4) To prohibit, restrict or condition the burning or other consumption of any type of fuel in the area;

(5) To prohibit, restrict or condition the burning of any materials whatsoever in the area; and

(6) To prohibit, restrict or condition any, and all, other activity in the area which contributes or may contribute to the air pollution emergency.

(e) The declaration by proclamation of the Governor of an air pollution emergency, and any order issued by the Governor pursuant to such declaration, shall be given maximum publicity throughout the state.

(f) Any gubernatorial order may be amended or modified by further gubernatorial orders. Said order or orders shall not require any judicial or other order or confirmation of any type in order to become immediately effective as the legal obligation of all persons, firms, corporations and other entities within the state. Said order shall remain in effect for the duration of the time set forth in same, and if no time limit is specified in said order, same shall remain in effect until the governor declares by further proclamation that the emergency has terminated.

(g) The aforesaid orders of the Governor shall be enforced by the state and county departments of health, the state and local police, commission personnel, the Alabama National Guard, if same is authorized in the Governor's order, and such other persons or agencies as may be designated by the Governor. Those enforcing any Governor's order shall require no further authority or warrant in executing same than the issuance of the order itself. Those authorized to enforce said orders may use such reasonable force as is required in the enforcement thereof and may take such reasonable steps as are required to assure compliance therewith, including, but without limiting the generality of the foregoing, the following:

(1) Entering any property or establishment whatsoever, commercial, industrial or residential, believed, on reasonable cause, to be violating said order, excepting single or double family homes or any dwelling unit within a multiple-dwelling unit larger than a double family home, and, if a request does not produce compliance, causing compliance with said order;

(2) Stopping, detouring, rerouting and prohibiting motor vehicle travel and traffic;

(3) Disconnecting incinerator or other types of combustion facilities;

(4) Terminating all burning activities;

(5) Closing down or restricting the use of any business, commercial, retail, manufacturing, industrial or other establishment.

Where any person authorized to enforce such an order believes, on reasonable cause, that same is being violated in a single or double family residence or within the dwelling portion of a larger multiple-dwelling unit, said residence, or dwelling portion thereof, may be entered only upon obtaining a search warrant from any magistrate having power to issue same.

(h) Any person, firm or corporation or other entity aggrieved by any gubernatorial order, upon application to the State Health Officer, shall be granted a public hearing on the question of whether or not the continuance of any such order, in whole or in part, is unreasonable in the light of the then prevailing conditions of air pollution, the contribution to the same of any particular activity and the purposes of this chapter. Said public hearing shall be conducted as quickly as possible by said State Health Officer or his delegate who shall give public notice of same. The State Health Officer or his delegate shall have the power to compel attendance, testimony and the production of documents by the use of subpoena powers. The number of witnesses and the extent of testimony shall be within his control. If the State Health Officer, upon conclusion of such hearing, determines that any such order should be terminated or modified in any way whatsoever, he shall report such findings and recommendations to the Governor for such action as he deems appropriate.

**(Acts 1971, No. 769, p. 1481, §11; Acts 1982, No. 82-612, p. 1111, §11(g).)**

## **Section 22-28-22**

### **Proceedings upon violation of chapter; penalties; subpoenas; injunctions.**

(a) Any person who knowingly violates or fails or refuses to obey or comply with this chapter, or any rule or regulation adopted thereunder, or knowingly submits any false information under this chapter, or any rule or regulation thereunder, including knowingly making a false material statement, representation, or certification, or knowingly rendering inaccurate a monitoring device or method, upon conviction, shall be punished by a fine not to exceed ten thousand dollars (\$10,000) for the violation and an additional penalty not to exceed ten thousand dollars (\$10,000) for each day thereafter during which the violation continues and may also be sentenced to hard labor for the county for not more than one year.

(b) Any local air pollution control program operating pursuant to subsection (b) of Section 22-28-23 may enforce violations of the local air pollution control program and its rules and regulations in the same manner described in subsection (a) of this section.

(c) Any duly designated employee of the commission, including any hearing officer, may administer oath to witnesses and may conduct hearings or investigations, and any such duly designated employee of the commission may sign and issue subpoenas requiring persons to appear before him or her or the commission to give testimony and requiring the production of any papers, books, accounts, payrolls, documents, or records. The commission, through its designated officers, shall have the power to serve subpoenas upon any person by sending a copy of the subpoena through the United States mail, postage prepaid, registered or certified, with return receipt attached, and the service shall be complete when the registered or certified mail is delivered to the person and the receipt is returned to the commission or its designated employee, signed by the person being subpoenaed. Obedience to a subpoena issued by the commission or any person authorized and designated by the commission to issue a subpoena may be enforced by application to any judge of the circuit court of the county in which the subpoena was issued or to the judge of any circuit court in which the person subpoenaed resides in the same manner as is provided by law for the grand jury of a county to enforce its subpoenas and with the same penalty as provided for the failure of any person failing or refusing to comply with a subpoena.

***(Acts 1971, No. 769, p. 1481, §17; Acts 1982, No. 82-612, p. 1111, §14(a)(1); Acts 1986, No. 86-542, p. 1053, §6; Acts 1996, No. 96-516, p. 660, §1.)***

## **Section 22-28-23**

### **Local air pollution control programs.**

(a) Except as provided in this section, it is the intention of this chapter to occupy by preemption the field of air pollution control within all areas of the State of Alabama. However, nothing in this section shall be construed to limit or abrogate any private remedies now available to any person for the alleviation, abatement, control, correction, or prevention of air pollution or restitution for damage resulting therefrom.

(b) Subject to the provisions of this section, each municipal governing body which had municipal ordinances in effect on, or before, July 1, 1969, which pertain to air pollution control and which provide for the creation and establishment of an air pollution control board and each county board of health shall have the authority to establish, and thereafter administer, within their jurisdictions, a local air pollution control program which:

(1) Provides, subject to subsection (d) of this section, by ordinance, regulation, or resolution, for requirements for the control or prevention of air pollution consistent with, or more strict than, those imposed by this chapter or the rules, regulations, and standards promulgated by the commission under this chapter;

(2) Provides for the enforcement of such requirement by appropriate administrative and judicial process, including a process for the administrative assessment of penalties substantially equivalent to that provided in subdivision (18) of Section 22-22A-5, provided however, that no person subject to the jurisdiction of the municipal or county program shall be subject to the administrative assessment of penalties by the municipal or county program if the department has issued an order that assesses a penalty or if the department or Attorney General has commenced a civil action to recover a penalty for the same violation pursuant to subdivision (18) of Section 22-22A-5. Each municipal governing body and each county board of health establishing a program under this section may advertise and adopt all rules and regulations in accordance with the same procedure provided in this chapter for the adoption of rules, regulations, and standards by the commission, and all judicial remedies provided by this chapter and Chapter 22A of this title shall be available and enforceable by the municipal governing body and by the county board of health; and

(3) Provides for administrative organization, staff, financial, and other resources necessary to effectively and efficiently carry out its program. The county commission of each county and the council or other governing body of each municipal governing body within the jurisdiction of a local air pollution control program established by a county board of health may appropriate such sums as they may determine necessary and desirable for the establishment, administration, and enforcement of the program.

(c) No county board of health shall have the authority to exercise air pollution control jurisdiction within the bounds of any incorporated municipality or the police jurisdiction thereof having an air pollution control program as authorized. Provided further, however, that no municipal governing body having an air pollution control program as authorized shall have the authority to exercise air pollution control jurisdiction over any agricultural and farming operations conducted within the corporate limits or police jurisdiction of the municipality.

(d) Any municipal governing body and each county board of health may adopt and enforce any ordinance, regulation, or resolution requiring the control or prevention of air pollution as follows:

(1) Where any ordinance, regulation, or resolution is identical in substance to requirements for the control or prevention of air pollution imposed by this chapter, or the rules, regulations, and standards promulgated by the commission under this chapter, then the ordinance, regulation, or resolution may be adopted and enforced without further approval of the commission.

(2) Where any ordinance, regulation, or resolution provides for the control or prevention of air pollution regarding classes or types of sources or classes or types of air contaminants for which the commission has not promulgated rules, regulations, or standards applicable to such sources of air contaminants within the area of

jurisdiction of the local air pollution control program of the municipal governing body or county board of health, then the ordinance, regulation, or resolution may be adopted and enforced without further approval of the commission.

(3) Where any ordinance, regulation, or resolution is adopted which provides for requirements for the control or prevention of air pollution for particular classes or types of sources or classes or types of air contaminants, which requirements are more strict than those imposed by this chapter, or the rules, regulations, and standards promulgated by the commission under this chapter, which are applicable within the area of jurisdiction of the local air pollution control program of the municipal governing body or county board of health, then the ordinance, regulation, or resolution may not be enforced unless the commission finds within 60 days of the adoption that the ordinance, regulation, or resolution is compatible with the purposes of this chapter and with any comprehensive plan adopted by the commission pursuant to Section 22-28-10.

(4) Each municipal governing body or county board of health shall notify the commission of the adoption of any ordinance, regulation, or resolution requiring the control or prevention of air pollution and provide to the commission a certified copy of the ordinance, regulation, or resolution within 15 days of adoption.

(e)(1) If the commission has reason to believe that a local air pollution control program established pursuant to subsection (b) of this section is inadequate to prevent and control air pollution in the jurisdiction to which the program relates or that the program is being administered in a manner inconsistent with the requirements of this chapter, the commission shall, on due notice, conduct a hearing on the matter; and

(2) If, after such hearing, the commission finds that the program is inadequate to prevent and control air pollution in the jurisdiction to which the program relates, that the program is not accomplishing the purposes of this chapter, that the program is not adhering to the requirements of subsection (f) of this section or that the program is being administered in a manner inconsistent with requirements of this chapter, the commission may preempt the local enforcement authority of that program.

(f)(1) Each municipal governing body or county board of health which has established and administers a local air pollution control program pursuant to this section shall submit to the commission a detailed report of its activities during the previous year. The annual report shall be submitted as of October 1, of each year. The reports shall include, but not be limited to, information regarding:

- a. Ordinances and resolutions adopted or under consideration requiring control or prevention of air pollution and administrative procedures followed in the adoption;
- b. Administrative organization;
- c. Staff, financial, and other resources;
- d. Enforcement activities;
- e. Emission inventories;
- f. Air quality monitoring systems and data;
- g. Progress and problems related to administration of the local air pollution control programs; and
- h. Any other information which the commission may reasonably require.



(2) The commission may also require special interim reports by the municipal governing body or county board of health regarding activities of its local air pollution control program.

(g) Any municipal governing body and any county board of health establishing a program under this section may, upon receipt of authorization from the commission, issue permits for the construction, installation, modification, or use of categories of equipment, devices, or articles specifically included in that authorization, provided however, that the commission may require the municipal governing body or county board of health to notify the commission of any permit proposed to be issued. Such permits shall be in lieu of those required by Section 22-28-16. The commission may enforce, suspend, or revoke any permit issued by a municipal governing body or county board of health pursuant to this subsection. Criteria for granting authorization and for suspension or revocation of that authorization, or permits issued pursuant to that authorization, whether in whole or in part, shall be established by the commission by regulation. No fee charged by a local air pollution control program shall exceed the fee charged by the commission for emissions and/or the review of plans and specifications for the same category of permit, except any county or municipality having a population of 55,000 or less according to the most recent federal census, which counties or cities may charge a higher fee.

(h) Nothing in this section shall be construed to prohibit the commission from enforcing any provision of this chapter or any rule or regulation issued thereunder, nor to supersede or oust the jurisdiction of the commission in any matter.

***(Acts 1971, No. 769, p. 1481, §15; Acts 1980, No. 80-439, p. 666; Acts 1986, No. 86-542, p. 1053, §7; Act 2000-798, p. 1896 §1.)***

## **Chapter 22A ENVIRONMENTAL MANAGEMENT.**

- [Section 22-22A-1](#) Short title.
- [Section 22-22A-2](#) Legislative intent and purposes of chapter.
- [Section 22-22A-3](#) Definitions.
- [Section 22-22A-4](#) Department of Environmental Management created; principal office; director; deputy director; divisions and division chiefs; transfer of functions; designation as State Environmental Control Agency, etc.; contract with Health Department for routine bacteriological analyses.
- [Section 22-22A-5](#) Powers and functions of department; representation of department by Attorney General in legal actions.
- [Section 22-22A-6](#) Environmental Management Commission; powers and duties; composition; appointments; vacancies; qualifications; terms; chairman; quorum; regular and special meetings; effect of failure to attend three consecutive meetings; record of proceedings; compensation; expenses; ethical requirements.
- [Section 22-22A-7](#) Hearings and procedures before commission; appeal and review.[Section 22-22A-8](#) Adoption of rules, regulations and standards; review by director; public notice and hearing.
- [Section 22-22A-9](#) Transfer of functions, personnel, equipment, funds, etc., to Department of Environmental Management.
- [Section 22-22A-10](#) Transfer of functions, personnel, equipment, etc., of coastal area board to Office of State Planning and Federal Programs; exception.
- [Section 22-22A-11](#) Alabama Department of Environmental Management Fund.
- [Section 22-22A-12](#) Coastal Resources Advisory Committee; composition; terms; chairman; meetings.
- [Section 22-22A-13](#) Effect of chapter on powers of Attorney General.
- .
- [Section 22-22A-15](#) Chapter does not repeal Section 22-30-5.1.
- [Section 22-22A-16](#) Pollution Control Grant Fund.

### **Section 22-22A-1**

#### **Short title.**

This chapter shall be known and may be cited as "the Alabama Environmental Management Act."

*(Acts 1982, No. 82-612, p. 1111, §1.)*

### **Section 22-22A-2**

#### **Legislative intent and purposes of chapter.**

The Legislature finds the resources of the state must be managed in a manner compatible with the environment, and the health and welfare of the citizens of the state. To respond to the needs of its environment and citizens, the state must have a comprehensive and coordinated program of environmental management. It is therefore the intent of the Legislature to improve the ability of the state to respond in an efficient, comprehensive and coordinated manner to environmental problems, and thereby assure for all citizens of the state a safe, healthful and productive environment.

(1) To this end an Alabama Department of Environmental Management is created by this chapter within the Executive Branch of State Government in order to effect the grouping of state agencies which have primary responsibility for administering environmental legislation into one department, to promote economy and efficiency in the operation and management of environmental programs, to eliminate overlapping or duplication of effort within the environmental programs of the state, to provide for timely resolution of permitting actions, to improve services to the citizens of the state, to protect human health and safety, to develop and provide for a unified environmental regulatory and permit system, to provide that the responsibility within the Executive Branch for the implementation of environmental programs and policies is clearly fixed and ascertainable, and to insure that government is responsive to the needs of the people and sufficiently flexible to meet changing conditions.

(2) It is also declared to be the intent of the Legislature to retain for the state, within the constraints of appropriate federal law, the control over its air, land and water resources and to secure cooperation between agencies of the state, agencies of other states, interstate agencies and the federal government in carrying out these objectives.

(3) It is the intent of the Legislature to recognize the unique characteristics of the Alabama coastal region and to provide for its protection and enhancement through a continued coastal area program.

(4) It is not the intent of the Legislature to abrogate any of the powers or duties of the State Board of Health which are found in Sections 22-2-1 through 22-2-14.

*(Acts 1982, No. 82-612, p. 1111, §2.)*

### **Section 22-22A-3**

#### **Definitions.**

For the purposes of this chapter, the following words and phrases, unless a different meaning is plainly required by the context or by legislation governing functions transferred by this chapter, shall have the following meanings:

(1) Department.

The Alabama Department of Environmental Management, established by this chapter.

(2) Director.

The director of the Alabama Department of Environmental Management.

(3) Division.

A subdivision of the Alabama Department of Environmental Management, which may be headed by a division chief. Such divisions may be divided into sections where appropriate.

(4) Environmental Management Commission.

The Environmental Management Commission of the Alabama Department of Environmental Management.

(5) Function(s).

A duty, power or program exercised by or assigned to a commission, board or the State Health Department, including all positions and personnel relating to the performance of such function, unless otherwise provided by this chapter.

(6) Hearing officer.

An attorney licensed to practice law in the State of Alabama, designated by the Environmental Management Commission to hear appeals for the Environmental Management Commission and to make findings of fact, conclusions of law and recommendations to the Environmental Management Commission for its final decision.

(7) Person.

Any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

(8) Administrative action(s).

The issuance, modification, repeal or denial of any permit, license, certification, or variance, or the issuance, modification or repeal of any order, notice of violation, citation, rule or regulation by the department.

(9) All definitions of the Alabama Water Pollution Control Act, Section 22-22-1, shall be the definitions of the department for its Water Pollution Control Program.

(10) All definitions found in Section 22-23-31, relating to safe drinking water, shall be the definitions of the department for its Safe Drinking Water Program.

(11) All definitions of the Alabama Air Pollution Control Act, Section 22-28-2, shall be the definitions of the department for its Air Pollution Control Program.

(12) All definitions found in Section 22-24-1, relating to water well standards, shall be the definitions of the department for its Water Well Standards Program.

(13) All definitions found in Section 22-25-1, relating to water and wastewater systems and treatment plants, shall be the definitions of the department for its Water and Wastewater Systems and Treatment Plant Operator Program.

(14) All definitions found in Section 22-27-2, relating to solid wastes, shall be the definitions of the department for its Solid Waste Program.

(15) All definitions found in Section 9-7-10, relating to the coastal area Management Program, shall be the definitions of the Department and the Office of State Planning and Federal Programs for their Coastal Area Program.

(16) All definitions found in Section 22-30-3, relating to hazardous wastes, Shall be the definitions of the department for its Hazardous Waste Program.

*(Acts 1982, No. 82-612, p. 1111, §3.)*

#### **Section 22-22A-4**

**Department of Environmental Management created; principal office; director; deputy director; divisions and division chiefs; transfer of functions; designation as State Environmental Control Agency, etc.; contract with Health Department for routine bacteriological analyses.**

(a) There is hereby created and established the Alabama Department of Environmental Management to carry out the purposes of this chapter and to administer and enforce the provisions of this chapter and all functions transferred to the department by this chapter. The department shall maintain its principal office in the City of Montgomery, Montgomery County, Alabama.

(b) The department shall be under the supervision and control of an officer who shall be designated as the director of the Alabama Department of Environmental Management. The director shall be an individual knowledgeable and experienced in environmental matters. The director shall employ such officers, agents and employees as he deems necessary to properly administer and enforce the programs and activities of the department and to fully implement the requirements of this chapter and the intent of the Legislature. All powers, duties and functions transferred to the department by this chapter, except those specifically granted to the Environmental Management Commission, shall be performed by the director; provided that the director may delegate the performance of such of his powers, duties and functions, to employees of the department, wherever it appears desirable and practicable in fulfilling the policies and purposes of this chapter. The director shall be appointed by and serve at the pleasure of the Environmental Management Commission. The director shall be exempt from Chapter 26 of Title 36. The pay of the director shall be set by the Environmental Management Commission and shall be consistent with that of cabinet level appointees.

(c) There shall be a deputy director of the department who shall be a Merit System employee. The deputy director shall assist the director and shall have charge and general supervision of the department in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall become the acting director of the department and shall have the full powers of the office of director until the Environmental Management Commission appoints a successor to the director.

(d) The department shall be divided into such divisions as the director deems appropriate. Each division shall be supervised by a division chief who shall be selected by the director and shall be a Merit System employee.

(e) The functions of the Air Pollution Control Commission and of the Division of Air Pollution Control in the State Health Department as set forth in Sections 22-28-1 through 22-28-23 are transferred to the department on October 1, 1982.

(f) The functions of the Water Improvement Commission, as set forth in Sections 22-22-1 through 22-22-14 are transferred to the department on October 1, 1982.

(g) The functions of the State Health Department with respect to public water systems, as set forth in Sections 22-23-30 through 22-23-53 are transferred to the department on October 1, 1982.

(h) The functions of the Alabama Water Well Standards Board, as set forth in Sections 22-24-1 through 22-24-12 are transferred to the department on October 1, 1982.

(i) The functions of the State Health Department with respect to solid waste collection and disposal, as set forth in Sections 22-27-1 through 22-27-7, which are specified below, are transferred to the department on October 1, 1982. Specifically, those functions of Section 22-27-3 relating to the location and control of solid waste disposal by sanitary landfill, incineration, or composting; and the burning of solid wastes are transferred to the department. Those provisions of Section 22-27-4 relating to the control of unauthorized dumping are transferred to the department. Those provisions of Section 22-27-5 relating to the issuance of permits to individuals or corporations engaging in the disposal of solid wastes are transferred to the department. Those provisions of Section 22-27-7 relating to the supervision and regulation of solid waste management are transferred to the department. Nothing in this chapter shall be construed to limit or curtail the authority of the State Health Department in the realm of sanitation or disease control and prevention, or in any matters relating to the public health which are not specifically transferred to the department by this chapter on October 1, 1982. Nothing in the chapter should be construed to transfer any function relating to collection of solid waste to the department. Such functions shall remain with the State Health Department or county health department as appropriate.

(j) Any permitting, regulatory and enforcement functions of the Coastal Area Board, as set forth in Sections 9-7-10 through 9-7-22, are transferred to the department on October 1, 1982.

(k) The functions of the State Health Department, with respect to hazardous waste management, as set forth in Sections 22-30-1 through 22-30-24, are transferred to the department on October 1, 1982.

(l) The functions of the Environmental Health Administration Laboratory of the State Health Department are transferred to the department on October 1, 1982.

(m) The functions of the Board of Certification of Water and Wastewater Systems Personnel and the functions of the State Health Officer as set forth in Sections 22-25-1 through 22-25-15 are transferred to the department on October 1, 1982.

(n) Beginning October 1, 1982, the department is hereby designated as the State Environmental Control Agency for the purposes of federal environmental law. Specifically, the department is designated as the State Air Pollution Control Agency for

the purposes of the Federal Clean Air Act, 42 U.S.C. §7401 et seq., as amended; as the State Water Pollution Control Agency for the purposes of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., as amended; the State Agency responsible for the promulgation and enforcement of drinking water regulations in accordance with the Federal Safe Drinking Water Act, 42 U.S.C. § 201 et seq., as amended; the State Agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the Solid Waste Disposal Act, 42 U.S.C. § 3251 et seq., as amended, including 42 U.S.C. § 6901 et seq., as amended; and is hereby authorized to take all actions necessary and appropriate to secure to this state the benefits of federal environmental laws.

(o) Beginning October 1, 1982, the State Health Department shall provide certain routine bacteriological analyses to the Alabama Department of Environmental Management and the department shall reimburse the State Health Department for the reasonable costs and expenses incurred in providing such analyses. For an appropriate period of time, the department shall contract with the State Health Department to provide the routine bacteriological analyses necessary to the department in its Public Water Systems Program.

*(Acts 1982, No. 82-612, p. 1111, §4.)*

#### **Section 22-22A-5**

#### **Powers and functions of department; representation of department by Attorney General in legal actions.**

In addition to any other powers and functions which may be conferred upon it by law, the department is authorized beginning October 1, 1982 to:

(1) Administer appropriate portions of Sections 9-7-10 through 9-7-20, which relate to permitting, regulatory and enforcement functions; administer and enforce the provisions and execute the functions of Chapter 28 of this title; Chapter 22 of this title; Article 2 of Chapter 23 of this title; Chapter 30 of this title; appropriate portions of Article 1 of Chapter 27 of this title; Sections 22-24-1 through 22-24-11; Sections 22-25-1 through 22-25-15; and Sections 22-36-1 through 22-36-10.

(2) Acting through the Environmental Management Commission, promulgate rules, regulations and standards in order to carry out the provisions and intent of this chapter; provided, however, that prior to the promulgation of any state primary or secondary drinking water standard governed by Sections 22-23-30 through 22-23-53 or any regulations dealing with hazardous wastes governed by Sections 22-30-1 through 22-30-24, the department shall receive the approval of the State Board of Health. The State Board of Health shall provide the department a response to its request for approval within 60 days of receipt of such request unless such other time is mutually agreed upon by the department and the State Board of Health.

(3) Acting through the Environmental Management Commission, adopt and promulgate rules, regulations and standards for the department, and to develop environmental policy for the state.

(4) Consistent with the provisions in subsection 22-22A-4(n), serve as the State Agency responsible for administering federally approved or federally delegated environmental programs.

(5) Serve as the state's clearinghouse for environmental data. The clearinghouse shall be developed in coordination and cooperation with other governmental data collection and record keeping systems to provide for an inventory, and for the cataloguing and dissemination of environmental information.

(6) Report, as appropriate, to the Governor and to the Legislature on the programs and activities of the department and to recommend needed changes in legislation or administrative practice.

(7) Develop, conduct and disseminate education and training programs. Pursuant to this authority, the department shall establish a citizens' advisory committee to provide input into such education and training programs.

(8) Enter into agreements and contracts, where appropriate, with other state agencies, the federal government or private individuals, in order to accomplish the purposes of this chapter.

(9) Establish and maintain regional or field offices in order to provide more effective and efficient services to the citizens of the state.

(10) Issue, modify, suspend or revoke orders, citations, notices of violation, licenses, certifications or permits.

(11) Hold hearings relating to any provision of this chapter or relating to the administration thereof.

(12) Enforce all provisions of this chapter and all provisions of law identified in subdivision (1) of this section and to file legal actions in the name of the department and to prosecute, defend or settle actions brought by or against the department or its agents. The Attorney General shall represent the department in any and all legal actions brought by the department to enforce any provisions of this chapter; provided however, that if, within a reasonable time after the department refers the matter to him, he fails to file any such action, then the department may commence appropriate legal action. Nothing in this subdivision shall be construed so as to impair the authority of the Attorney General to independently enforce the provisions of this chapter.

(13) When necessary to achieve conformance with Sections 9-7-10 through 9-7-20, acquire fee simple or less than fee simple, interest in land, water and other property under the procedures of Title 18 or other means; provided, however, that such power shall not apply to property and interest therein which is devoted to public use.

(14) Apply for, where appropriate, accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions, purposes or provisions of this chapter or any of the functions or provisions transferred to the department by this chapter.



(15) Employ such professional, technical, clerical and other workers including attorneys and special counsel, and such consultants as are necessary and within available funds to carry out the purposes of this chapter.

(16) Adopt rules and regulations relating to charging and collecting fees sufficient to cover the reasonable anticipated costs to be incurred by the department and directly related to the issuance, reissuance, modification or denial of any permit, license, certification or variance, such fees to include, but not be limited to, the reasonable anticipated cost of the examination and processing of applications, plans, specifications or any other data and any necessary public hearings and investigations; provided, however, that nothing in this subdivision shall be construed as modifying or affecting the provisions of Section 22-24-5. A schedule of estimated reasonable anticipated costs shall be appended to rules and regulations with the understanding that fees may be higher or lower on a case-by-case basis.

(17) In addition to any other remedies provided by law, recover in a civil action from any person who has violated, or threatens to violate, any provision of this chapter, or any provision of law identified in subdivision (1) of this section, or any rule or regulation promulgated thereunder, or any order, or condition of any permit, license, certification or variance issued by the department pursuant thereto, the actual costs reasonably incurred by the department to prevent, minimize or abate any adverse effect on air, land or water resources which results or may result from such violation. Such civil actions may be filed in the circuit court of the county in which the defendant resides or does business, or in which the violation or threatened violation occurs or in which the adverse effect occurs.

(18)a. Issue an order assessing a civil penalty to any person who violates any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order, or any condition of any permit, license, certification or variance issued by the department, provided however, that no such order shall be issued to a person:

1. If a civil action to recover a penalty for such violation has been commenced against such person as provided in paragraph b. of this subdivision.
2. For any violation at a coal mining operation regulated under Sections 9-16-70 through 9-16-107 or Title V of Public Law 95-87, 30 U.S.C. §1251-1279.
3. If an order assessing a civil penalty for such violation has been issued to such person pursuant to subdivision (2) of subsection 22-28-23(b).
4. Who is a responsible corporate officer subject to a civil action for the recovery of a penalty under paragraph b. of this subdivision.

The department shall commence enforcement action under this paragraph by notifying the person subject thereto in writing of the alleged violation and affording the person an opportunity for an informal conference with the director or his or her designated representative concerning the alleged violation and any proposed order. The informal

conference shall not be subject to the procedures for hearings under Section 22-22A-7. Before issuing any consent or unilateral order under this section, the department shall cause public notice to be published for one day in a newspaper of general circulation in the area where the alleged violation occurred and on the website of the department for the duration of the comment period; provided, however, that unavailability of the website during the comment period shall not affect the validity of an order issued under this paragraph. The notice shall reasonably describe the nature and location of the alleged violation and the amount of civil penalty proposed, contain a summary of any proposed corrective measures, provide instructions for obtaining a copy of the proposed order, and indicate that persons may submit written comments to the department and request a hearing on the proposed order within 30 days of the first date of publication. The department may hold a hearing if the information submitted in support of the request is material and if a hearing may clarify one or more issues raised in the written comments. If the department grants a request for a hearing, the department shall provide written notice of the time, date, and location of the hearing by regular mail at least 20 days prior to the hearing to all persons subject to the proposed order and all persons who submitted written comments on the proposed order that contain a current return address. At any such hearing, the department shall provide a reasonable opportunity for persons subject to the proposed order and persons who submitted written comments on the proposed order to be heard and to submit information to the director or his or her designated representative, provided, however, that the hearing shall not be subject to the procedures for hearings under Section 22-22A-7, or practices or procedures governing public hearings. The department shall also accept additional written comments from any interested party that are received on or before the date of the hearing. After consideration of written comments, any information submitted at the hearing, if one was held, and any other publicly available information, the department may issue the order as proposed, issue a modified order, or withdraw the proposed order. Any order issued under this paragraph shall include findings of fact relied upon by the department in determining the alleged violation and the amount of the civil penalty and shall be served on persons subject to the order in the manner provided for service of process in the Alabama Rules of Civil Procedure. Upon issuance of an order, the department shall also provide written notice of the order by regular mail to each person who submitted written comments on the proposed order that contain a current return address. The notice shall reasonably describe the nature and location of the alleged violation and the amount of civil penalty, contain a summary of any required corrective measures, provide instructions for obtaining a copy of the order, and indicate that persons who submitted written comments on the proposed order may, within 30 days of the issuance of the order, request a hearing on the order before the Environmental Management Commission in accordance with Section 22-22A-7. Where the department has issued an order finding that a violation has occurred and assessing a civil penalty, the person subject thereto shall, unless the department and that person agree on a different schedule, pay the penalty in full within 45 days after issuance of such order unless any person has filed a timely request for a hearing to contest the issuance of such order in accordance with Section 22-22A-7, in which case the penalty assessed in the order as approved or modified by the Environmental Management Commission shall, unless the department and that person agree on a different schedule, be paid in full within 30 days after the order is approved or modified by the Environmental Management Commission or, if an appeal thereof is taken to circuit court, within 42 days after the court affirms the order as approved or modified by the Environmental Management Commission. Civil penalties assessed in an order under this paragraph and

not paid as provided herein may be recovered in a civil action brought by the department in the Circuit Court of Montgomery County or the county in which the defendant does business.

b. Commence a civil action in the circuit court of the county in which the defendant or any material defendant resides or does business or in which the violation occurred to recover a civil penalty from such person for any violation of any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order or any condition of any permit, license, certification or variance issued by the department, provided however, that no such civil action may be commenced against a person if an order assessing a civil penalty for such violation has been issued to such person under paragraph a. of this subdivision. Whenever such person is a corporation and the violation is of a provision of law in Chapter 22 of this title, or any rule, regulation or standard promulgated by the department thereunder, or any provision of any order or any condition of any permit, license, certification or variance issued by the department thereunder, the same civil penalties that may be imposed upon a person under this subdivision may be imposed upon the responsible corporate officers in a civil action. Any person having an interest which is or may be adversely affected may intervene as a matter of right in any civil action commenced under this paragraph. The Attorney General may also commence a civil action under this paragraph.

c. Any civil penalty assessed or recovered under paragraph a. or b. of this subdivision shall not be less than \$100.00 or exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department under paragraph a. of this subdivision shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation for purposes of this subdivision. In determining the amount of any penalty, consideration shall be given to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Civil penalties may be assessed under this subdivision for any violation occurring within two years prior to the date of issuance of an order under paragraph a. of this subdivision or commencement of such civil action under paragraph b. of this subdivision. All civil penalties recovered under this subdivision by the department or Attorney General shall be deposited into the State Treasury to the credit of the General Fund, except that portion which represents the reasonable costs incurred by the department or Attorney General to recover such penalties which shall be deposited to the credit of the operating fund of the department or Attorney General, whichever incurred such costs.

(19) Commence a civil action in the circuit court of the county in which the defendant or any material defendant resides or does business or in which the threatened or continuing violation of any provision of law identified in subdivision (1) of this section, any rule, regulation or standard promulgated by the department, any provision of any order, or any condition of any permit, license, certification or

variance issued by the department. The Attorney General or district attorney having jurisdiction in the circuit, county or territory in which the threatened or continuing violation occurs may also commence a civil action to enjoin such violation. In any such action, any person having an interest which is or may be adversely affected may intervene as a matter of right.

(20) Perform any other duty or take any other action necessary for the implementation and enforcement of this chapter.

*(Acts 1982, No. 82-612, p. 1111, §5; Acts 1984, 1st Ex. Sess., No. 84-783, p. 163, §1; Acts 1986, No. 86-542, p. 1053, §1; Acts 1988, No. 88-537, p. 823, §9; Act 2003-397, p. 1136, §1.)*

### **Section 22-22A-6**

**Environmental Management Commission; powers and duties; composition; appointments; vacancies; qualifications; terms; chairman; quorum; regular and special meetings; effect of failure to attend three consecutive meetings; record of proceedings; compensation; expenses; ethical requirements.**

(a) There is hereby created a seven member Environmental Management Commission of the Alabama Department of Environmental Management which shall have the following duties:

(1) To select a director for the Department of Environmental Management and to advise the director on environmental matters which are within the department's scope of authority;

(2) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations or environmental standards for the department which may be applicable to the state as a whole or any of its geographical parts;

(3) To develop environmental policy for the state; and

(4) To hear and determine appeals of administrative actions.

(b) The Environmental Management Commission shall be composed of seven members who are citizens of the State of Alabama. Initial members of the commission shall be appointed to places on the Environmental Management Commission by the Governor, Lieutenant Governor, and Speaker of the House of Representatives pursuant to the procedure set out in subsection (d) of this section with the advice and consent of the Senate. Initial appointments shall be made on or before October 1, 1982. All subsequent appointments to places on the Environmental Management Commission after the initial appointments shall be made by the Governor with the advice and consent of the Senate. No member of the Environmental Management Commission may serve more than a total of 18 years. When a vacancy occurs during a period when the Legislature is not in session to advise and consent, such appointee shall have the full power of the office until and unless the Senate, upon the reconvening of the Legislature, shall by affirmative vote refuse to consent in such appointment. Qualifications of the seven members shall be as follows:

(1) One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters;

(2) One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters;

(3) One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters;

(4) One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters;

(5) One member that has been certified by the National Water Well Association Certification Program;

(6) One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and

(7) One member shall be a resident of the state for at least two years but shall not be required to have any specialized experience.

(c) At the expiration of the terms of all members initially appointed, their successors shall be promptly appointed by the Governor for terms of six years. At the expiration of a term of office or in the event of a vacancy on the Environmental Management Commission, the Governor shall promptly make an appointment to fill the vacancy. The expiring term of an incumbent member shall be continued until an appointment is made.

(d) Provided however that the initial appointments to the Environmental Management Commission shall be made as follows notwithstanding the other provisions of this chapter:

(1) The Governor shall appoint three members of the Environmental Management Commission, two of whom shall come from the voting members of the boards or commissions abolished by this chapter. The Governor's three initial appointments shall fill the positions described in subdivisions (4), (6) and (7) of subsection (b) of this section. The terms of these initial position appointments shall be for six years.

(2) The Lieutenant Governor shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Lieutenant Governor's appointments pursuant to this subsection shall fill the positions described in subdivisions (1) and (5) of subsection (b) of this section. The term of the initial position described in subdivision (1) of subsection (b) of this section shall be for four years. The term of the initial position described in subdivision (5) of subsection (b) of this section shall be for two years.

(3) The Speaker of the House of Representatives shall appoint two members of the Environmental Management Commission, one who shall come from the voting members of the boards or commissions abolished by this chapter. The Speaker of the House of Representatives' appointments pursuant to this subsection shall fill the positions described in subdivisions (2) and (3) of subsection (b) of this section. The

term of the initial position described in subdivision (2) of subsection (b) of this section shall be for four years. The term of the initial position described in subdivision (3) of subsection (b) of this section shall be for two years.

(e) The Environmental Management Commission shall select a chairman from among its members, and the chairman's term of office shall be determined by the Environmental Management Commission, but shall not exceed three consecutive years. The Environmental Management Commission shall not take official action unless a quorum is present. A quorum shall be any four of the seven members. Recusal of a member shall not affect the quorum.

(f) The Environmental Management Commission shall meet regularly, at least once every two months at times and places to be fixed by the Environmental Management Commission. Special meetings may be called at the discretion of the chairman of the Environmental Management Commission and special meetings shall be called by him on written request of any four members to take up any matters within the jurisdiction of the Environmental Management Commission. All members shall be notified of the time and place of any regular or special meeting in any one of the following ways: in writing or by telegram to a member's last known address as provided to the department or by telephone.

(g) Any member of the Environmental Management Commission who misses three consecutive regularly scheduled meetings, shall immediately cease to be a member of the commission and the Governor shall promptly appoint a new member with appropriate qualifications to fill the remainder of the term.

(h) The Environmental Management Commission shall keep a complete and accurate record of the proceedings of all its meetings, a copy of which shall be kept on file in the office of the director and open to public inspection.

(i)

(1) Each member shall receive \$100.00 per day for each day of attendance at an official meeting. Members of the Environmental Management Commission shall be reimbursed for expenses when attending meetings which are approved and certified by the director. Reimbursement shall be in accordance with Sections 36-7-1 through 36-7-42;

(2) All proper expenses of the Environmental Management Commission shall be paid from the appropriations to or funds of the department in the same manner as expenses of the department are paid.

(j) Members of the Environmental Management Commission shall meet all requirements of the state ethics law and the conflict of interest provisions of applicable federal laws and regulations.

**(Acts 1982, No. 82-612, p. 1111, §6.)**

## **Section 22-22A-7**

### **Hearings and procedures before commission; appeal and review.**

(a) Beginning October 1, 1982, the Environmental Management Commission, in addition to any other authority which may be conferred upon it by law, shall have the power to:

(1) Develop and prescribe its own hearing procedures, unless otherwise specified by law; and

(2) Administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents and records. In the event of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or of the judge thereof, upon the application of the Environmental Management Commission or its designee, to compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued by such court or a refusal to testify therein. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before courts of record and shall be paid from the funds of the department.

(b)(1) The Environmental Management Commission may delegate the power to hear appeals which are before it to a hearing officer. Any such hearing conducted by a hearing officer shall be in accordance with rules and regulations prescribed by the Environmental Management Commission pursuant to subdivision (1) of subsection (a) of this section, and in such case the hearing officer shall prepare findings of fact, conclusions of law and recommendations to the Environmental Management Commission for its final decision.

(2) The Environmental Management Commission may hire hearing officers to hear appeals which are before it. Such hearing officers shall be attorneys licensed to practice in the State of Alabama and shall be paid appropriately from department funds.

(c) Upon a proper request made in accordance with subdivisions (1) or (2) of this subsection and any hearing procedures prescribed by the Environmental Management Commission, any person aggrieved by an administrative action of the department shall be entitled to a hearing before the Environmental Management Commission or its designated hearing officer. To obtain a hearing on any order assessing a civil penalty issued pursuant to subdivision (18) of Section 22-22A-5, an aggrieved person shall either be subject to the order or have submitted timely written comments on the proposed order in accordance with subdivision (18) of Section 22-22A-5.

(1) Request for such hearing to contest an administrative action of the department, other than to contest the issuance of any rule or regulation or emergency order, must be filed with the Environmental Management Commission within 30 days of the contested administrative action.

(2) Request for a hearing before the Environmental Management Commission or its designated hearing officer to contest the issuance of any rule or regulation by the department must be filed with the Environmental Management Commission within 45 days of the promulgation of the rule or regulation by the department; except, that if such request is based solely on grounds arising after such forty-fifth day, then any request for a hearing under this subdivision must be filed within 45 days after such grounds arise.

(3) The Environmental Management Commission or its designated hearing officer shall within a reasonable time, not to exceed 45 days after receipt of a request in accordance with subdivisions (1) or (2) of this subsection, hold a hearing of which at least 15 days' written notice shall be given to such person requesting the hearing and any other named or necessary party. Within 30 days after such hearing, the Environmental Management Commission shall issue an appropriate order modifying, approving or disapproving the department's administrative action. A copy of the Environmental Management Commission's order shall be served upon all parties either personally, by registered mail or by certified mail return receipt requested. The notice and hearing requirements of this subsection shall not apply to emergency orders. Hearings on emergency orders shall be held before the Environmental Management Commission and notice of such hearing as may be reasonable under the circumstances shall be given to such persons as the Environmental Management Commission deems appropriate.

(4) Pending the determination by the Environmental Management Commission, and upon application therefor, the Environmental Management Commission may stay the operation of such administrative action upon such terms and conditions as it may deem proper.

(5) The parties shall not be bound by the strict rules of evidence prevailing in the courts. However, a full and complete record shall be kept of all proceedings before the Environmental Management Commission. All testimony or comments given in any hearing before the Environmental Management Commission shall be electronically or stenographically recorded, but need not be transcribed unless an appeal is taken to court or unless requested by any party who shall pay for the cost of transcription.

(6) Any order of the Environmental Management Commission made pursuant to the above procedure, modifying, approving or disapproving the department's administrative action, constitutes a final action of the department and is appealable to the Montgomery County Circuit Court or the circuit court in which the applicant does business or resides for judicial review on the administrative record provided that such appeal is filed within 30 days after issuance of such order.

(7) Administrative action with respect to which review was or could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

***(Acts 1982, No. 82-612, p. 1111, §7; Acts 1986, No. 86-542, p. 1053, §2; Act 2003-397, p. 1136, §1.)***



### **Section 22-22A-8**

#### **Adoption of rules, regulations and standards; review by director; public notice and hearing.**

(a) All rules, regulations or standards shall be adopted by and promulgated by the Environmental Management Commission. With the exception of editorial changes, no rule, regulation or standard shall be adopted, amended or repealed unless such rule, regulation or standard has been reviewed by the director and until after a public hearing has been held. Unless different notice provisions are specifically required elsewhere by law, at least 45 days prior to the scheduled date of the hearing the department shall give notice of such hearing by public advertisement in the three newspapers of this state with the largest regional circulation of the date, time, place and purpose of such hearing; and make available to any person upon request copies of the proposed rules, regulations or standards, together with summaries of the reasons supporting their adoption, amendment or repeal.

(b) Any public hearing relating to the adoption, amendment or repeal of department rules, regulations or standards under this section shall be held before a department representative, who shall be designated by the Environmental Management Commission. All such hearings shall be open to the public, and reasonable opportunity to be heard with respect to the subject of the hearing shall be afforded to any person. All testimony taken before the department representative shall be recorded and transcribed. The transcript, any exhibits or any written submissions to the department in relation to such hearings shall be open to public inspection.

(c) After such hearing, the department may revise the proposed rules, regulations or standards, before adoption in response to testimony, written submissions or exhibits introduced at the hearing, without conducting a further hearing on the revisions.

(d) Nothing in this section shall be construed to require a hearing prior to the issuance of any temporary emergency rule or regulation.

*(Acts 1982, No. 82-612, p. 1111, §8.)*

### **Section 22-22A-9**

#### **Transfer of functions, personnel, equipment, funds, etc., to Department of Environmental Management.**

(a) All employees engaged in duties pertaining to the functions transferred by this chapter to the department, shall be assigned to the department on October 1, 1982, to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.

(b) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property, and any other asset employed in carrying out the powers, duties and functions transferred by this chapter to the department shall, on October 1, 1982, be transferred to the department.

(c) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of any department, division, bureau, board, commission or other agency, the functions, powers and duties of which have been transferred to the department by this chapter, or which have been employed in carrying out the functions,

powers and duties transferred by this chapter to the department shall, on October 1, 1982, be transferred to the department.

(d) All funds, credits or other moneys held in connection with the functions transferred by this chapter, shall be transferred to the Alabama Department of Environmental Management Fund created by Section 22-22A-11 on October 1, 1982. Subsequent to the transfer of all funds, credits or other moneys to the department for programs whose functions are transferred by this chapter to the department, the Water Improvement Commission Fund established by Section 22-22-10; the Safe Drinking Water Fund established by Section 22-23-51; the Well Driller Licensing Fund established by Section 22-24-10; the Operator's Certification Fund established by Section 22-25-10; and the Hazardous Waste Management Fund established by Section 22-30-23 are abolished, and any funds from any source whatsoever which may accrue to any of the foregoing funds in the future shall accrue to the Alabama Department of Environmental Management.

(e) Any appropriation made for the purpose of carrying out the powers, duties and functions transferred by this chapter to the department, shall on October 1, 1982, be transferred and credited to the department for the purpose of carrying out such transferred powers, duties and functions.

(f) Except where in conflict with provisions of this chapter, on October 1, 1982, all rules, regulations, standards, comprehensive plans for the prevention, abatement and control of pollution in this state; and all orders, permits, licenses, certificates, bonds and variances of the departments, divisions, boards, commissions, or other agencies, relating to the functions transferred by this chapter to the department, are enforceable as the rules, regulations, standards, plans, orders, permits, licenses, certificates, bonds and variances of the department and shall continue to be effective until revised, amended, repealed or nullified pursuant to law.

(g) All pending business before the boards, commissions, or agencies affected by this chapter, relating to the functions transferred by this chapter to the department, shall be continued and acted upon by the department. All existing contracts, obligations and memoranda of understanding pertaining to the functions transferred by this chapter to the department, shall remain in force and effect and shall be performed by the department.

(h) All state officials required to maintain contact with or provide services to any agency, board or commission affected by this chapter shall continue to perform such services for the department unless otherwise directed by this chapter.

(i) Neither the abolition of any agency nor any of the transfers authorized by this chapter shall affect the validity of any action performed by such agency, board or commission affected by this chapter, prior to October 1, 1982.

(j) Except where required elsewhere by the chapter, on October 1, 1982, the performance of any such transferred duties or functions by the department or its respective divisions shall have the same effect as if done by the former agency, board or commission referred to or designated by law or contract. The reference to or designation of the former agency, board or commissions shall apply to the department.

(k) During an appropriate transition period after October 1, 1982, the State Health Department shall continue to assist the department in personnel and fiscal matters in order to effect the smooth transition of such functions to the department.

*(Acts 1982, No. 82-612, p. 1111, §9.)*

### **Section 22-22A-10**

#### **Transfer of functions, personnel, equipment, etc., of coastal area board to Office of State Planning and Federal Programs; exception.**

(a) On October 1, 1982, all functions of the Coastal Area Board, as set forth in Sections 9-7-10 through 9-7-22, except those which relate to permitting, regulatory and enforcement functions, shall be transferred to the Office of State Planning and Federal Programs established pursuant to Sections 41-9-205 through 41-9-214.

(b) All employees engaged in duties pertaining to the functions transferred by this section, shall be assigned to the Office of State Planning and Federal Programs on October 1, 1982 to perform their usual duties, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing personnel and employees.

(c) All files, books, papers, records, equipment, furniture, motor vehicles, any other tangible property and any other asset employed in carrying out the powers, duties and functions transferred by this chapter to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.

(d) All reports, documents, surveys, books, records, files, correspondence, papers or other writings in the possession of the Coastal Area Board, the functions, powers and duties of which have been transferred to the Office of State Planning and Federal Programs by this chapter, or which have been employed in carrying out the functions, powers and duties transferred by this chapter to said office shall, on October 1, 1982, be transferred to the Office of State Planning and Federal Programs.

(e) All funds, credits or other moneys held in connection with the functions transferred by this chapter to the Office of State Planning and Federal Programs, shall be transferred to said office on October 1, 1982. Subsequent to the transfer of all funds, credits or other moneys to the Office of State Planning and Federal Programs, the Coastal Area Board fund established by Section 9-7-19 is abolished.

(f) Any appropriation made to the coastal area board for the purpose of carrying out the powers, duties and functions transferred by this chapter to the Office of State Planning and Federal Programs shall, on October 1, 1982, be transferred and credited to said office for the purpose of carrying out such transferred powers, duties and functions.

(g) The Office of State Planning and Federal Programs shall provide the department sufficient funds to administer the permitting, regulatory and enforcement functions of the Coastal Area Management Program from those federal funds obtained by the office for such purposes.

(h) All pending business before the Coastal Area Board, relating to the functions transferred by this chapter to the Office of State Planning and Federal Programs, shall

be continued and acted upon by said office. All existing contracts, obligations and memoranda of understanding pertaining to the functions herein transferred shall remain in force and effect and shall be performed by the Office of State Planning and Federal Programs.

(i) All State Officials required to maintain contact with or provide services to the Coastal Area Board shall continue to perform such services for the Office of State Planning and Federal Programs or as otherwise directed by this chapter.

(j) Neither the abolition of the Coastal Area Board nor any of the transfers to the Office of State Planning and Federal Programs authorized by this chapter shall affect the validity of any action performed by the Coastal Area Board, prior to October 1, 1982.

*(Acts 1982, No. 82-612, p. 1111, §10.)*

### **Section 22-22A-11**

#### **Alabama Department of Environmental Management Fund.**

There is hereby created a fund known as the Alabama Department of Environmental Management Fund. This fund shall consist of: (1) all appropriations; (2) all grants, gifts, bequests or donations; (3) all money derived through any source of federal aid; (4) all fees; (5) all moneys from any program whose functions were transferred to the department by this chapter; and (6) all moneys from any other source whatsoever. However, the department may not solicit or accept any gift or donation from any person that has any official request or action pending before the Alabama Department of Environmental Management. All moneys deposited in said fund are hereby appropriated to the use of the department in addition to any other appropriations heretofore or hereafter made. The fund shall be used and expended by the department in accordance with the terms of the appropriations, gift, bequest, grant, donation or transfer from which said moneys are derived and in the absence of any such terms or stipulations, shall be expended by the department in furtherance of any of the provisions of this chapter. All necessary expenses of the department shall likewise be paid out of the fund on the requisition of the director as may be deemed advisable.

*(Acts 1982, No. 82-612, p. 1111, §12; Acts 1984, 1st Ex. Sess., No. 84-783, p. 163, §2; Acts 1986, No. 86-542, p. 1053, §3.)*

### **Section 22-22A-12**

#### **Coastal Resources Advisory Committee; composition; terms; chairman; meetings.**

(a) There is hereby created a Coastal Resources Advisory Committee to advise the department and the Office of State Planning and Federal Programs on all matters concerning the coastal area. The committee shall consist of not less than seven members who shall be predominantly from Baldwin and Mobile Counties.

(b) The initial members of the Coastal Resources Advisory Committee shall be the current Coastal Area Board established by Section 9-7-14, as amended and abolished by this chapter. The terms of the initial members of the committee shall be for one year beginning October 1, 1982.

(c) The subsequent membership of the Coastal Resources Advisory Committee shall be as follows:

(1) One member shall be a member of the Mobile City Commission and shall be selected by that commission;

(2) One member shall be a member of the Mobile County Commission and shall be selected by that commission;

(3) One member shall be a member of the Baldwin County Commission and shall be selected by that commission;

(4) One member shall be an official of a municipal corporation in Baldwin County and shall be selected by the Baldwin County Mayors Association;

(5) One member shall be the Commissioner of Conservation and Natural Resources, who may designate an employee of his department to represent him on the committee;

(6) One member shall be the State Geologist who may designate an employee of his agency to represent him on the committee; and

(7) One member shall be the director of the Marine Environmental Science Consortium.

The term of each of these members of the Coastal Resources Advisory Committee shall be consistent with his elective or appointive office.

(d) Additional members of the Coastal Resources Advisory Committee may be appointed by the Governor for terms not to exceed four years and shall be eligible for reappointment.

(e) The committee shall meet initially to select a chairman and subsequent meetings of the committee shall be at the call of the chairman of the Coastal Resources Advisory Committee or the director of the Office of State Planning and Federal Programs.

*(Acts 1982, No. 82-612, p. 1111, §13.)*

### **Section 22-22A-13**

#### **Effect of chapter on powers of Attorney General.**

All remedies for the prevention and abatement of pollution given to the Attorney General through the authority of this chapter are merely cumulative. Except as provided in subdivisions (12) and (15) of Section 22-22A-5 nothing in this chapter shall be interpreted as negating or destroying any common law or statutory right, duty, power or authority of the Attorney General of Alabama.

*(Acts 1982, No. 82-612, p. 1111, §15.)*

### **Section 22-22A-15**

#### **Chapter does not repeal Section 22-30-5.1.**

No provision of this chapter shall be construed to repeal in whole or in part any provision of Section 22-30-5.1.

*(Acts 1982, No. 82-612, p. 1111, §14(e); Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1.)*

**Section 22-22A-16**

**Pollution Control Grant Fund.**

(a) There is hereby created a fund known as the Pollution Control Grant Fund. This fund shall consist of

(1) All appropriations made to the fund; and

(2) All grants, gifts, bequests or donations made to the fund from any source whatsoever. This fund shall be used and expended by the Alabama Department of Environmental Management in accordance with the terms of the appropriation, gift, bequest, grant or donation from which said moneys are derived and in the absence of such terms or stipulations, shall be expended by said department in accordance with the provisions of subsection (b). All necessary expenses of said department in implementing the provisions of this section shall likewise be paid out of the fund on the requisition of the director of said department as may be deemed advisable.

(b) Except as provided in subsection (a), the Alabama Department of Environmental Management is authorized to make grants to any county, municipality or public corporation, agency or instrumentality organized under the laws of the state, for the purpose of carrying out any air, land or water pollution control, prevention or abatement practices, measures, experiments or research, from the Pollution Control Grant Fund and to enter into and carry out contracts or agreements in connection therewith and include in any contract or agreement such conditions as it may deem reasonable and appropriate.

(c) Acting through the Environmental Management Commission, the Alabama Department of Environmental Management is authorized to promulgate rules, regulations and standards to carry out the provisions of this section.

***(Acts 1985, No. 85-755, p. 1255.)***

**335-1-1-.06 Availability of Records and Information.**

(1) Public inspection of records. Except as provided herein, any records, reports, rules, forms, or information obtained under the Act and the official records of the Department shall be available to the public for inspection. Requests for permission to inspect such records should be made to the Department of Environmental Management at its Montgomery, Alabama office, unless otherwise directed in published organizational, procedural, or regulatory statements pertaining to specific records or classes of records. Such requests should state the general subject matter of the records sought to be inspected to permit identification and location.

(2) Exceptions. Upon a showing satisfactory to the Director by any person that records, reports, or information, or particular parts thereof (other than emission, effluent, manifest, or compliance data) to which the Department has access, if made public, would divulge production of sales figures or methods, processes, or production unique to such person, or otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Director shall consider such records, reports, or information, or particular portion thereof, confidential. Any showing of confidentiality must be based on statutory authority which empowers the Department to grant confidentiality for the particular program in question and must accompany the documents, records, reports, or information provided to the Department. If a claim covering the information is received after the information itself is received, efforts, as are administratively practicable can be made, will be made to associate the late claim with the copies of the previously submitted information in the file.

(3) Requests for records and information must be made to the Office of the Director at the Department's Montgomery address. Responses to such requests shall be made within 10 working days after receipt in the Office of the Director.

(4) Creation of record. Records will not be created by compiling selected items from other documents at the request of a member of the public, nor will records be created to provide the requester with data such as ratios, proportions, percentages, frequency distribution, trends, correlations, or comparisons except as necessary to administer the Act.

(5) Denial of requests for, or non-existence of, information. If it is determined pursuant to this Part that requested information will not be provided or that, to the best knowledge of the Director, requested information does not exist, the Director shall notify in writing the party requesting the information that the request is denied and shall state the reasons for denial and shall maintain a file of such denials.

(6) Copies of documents. If it is determined that information requested may be disclosed, the requesting party shall be afforded the opportunity to obtain copies of the documents containing such information.

However, records shall not be released for copying by non-Division personnel except by permission of the Director or his designee. When a determination not to disclose a portion of information requested has been made, records shall be prepared for copying on nonexcepted portions of the information. Cost of providing copies will be the responsibility of the person requesting the copies. Charges are as follows:

(a) 30 cents per black and white page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size.

(b) \$1.50 per color page 8.5 x 11, 8.5 x 14 or 11 x 17 inches in size. \$4.00 per page for black and white and \$7.00 per page for color, wide-format documents such as maps and blue prints. Compact discs are \$15.00 each for files retrievable from electronic data bases.

(c) 50 cents per page for certified documents.

(d) 10 cents per page rounded to the nearest dollar for paper copies of each Division of the regulations. Compact discs of a Division of the regulations are \$15.00.

(e) The Department will not invoice unless the charges exceed \$10.00.

(7) Requests which do not reasonably describe records sought. The Department may communicate with the requester to clarify records sought and with a view toward reducing the administrative burden of processing a broad request and minimizing the fees payable by the requester.

(8) Public distribution. Any written request for records prepared by the Department for routine public distribution, e.g. pamphlets, copies of speeches, press releases, and education materials, shall be honored.

(9) Disclosure of information to other agencies. Nothing in these rules and regulations shall be construed to prevent disclosure of any report, record, or information obtained under the Act, or any of the official records of the Commission to federal, or state, agencies, or when relevant in any proceedings under the Act.

**Author:** Marilyn Elliott, Russell A. Kelly.

**Statutory Authority:** Code of Alabama 1975, § 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.

**History:** August 1, 1988.

**Amended:** January 28, 2004; July 11, 2006.



**335-3-1-.04 Monitoring, Records, and Reporting.**

(1) The Director may require the owner or operator of any air contaminant source to establish and maintain such records; make such reports; install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods at such locations, intervals, and procedures as the Director may prescribe; and provide such periodic emission reports as required in paragraph (2) of this rule below.

(2) Reports. Records and reports as the Director may prescribe on air contaminants or fuel shall be recorded, compiled, and submitted on forms furnished by the Director or when forms are not so furnished, then in formats approved by the Director. These may include but not be limited to any of the following:

(a) Emissions of particulate matter, sulfur dioxide, and oxides of nitrogen shall be expressed as follows: in pounds per hour and pounds per million BTU of heat input for fuel-burning equipment; in pounds per hour and pounds per 100 pounds of refuse burned for incinerators; and in pounds per hour and in pounds per hourly process weight or production rate or in terms of some other easily measured and meaningful process unit specified by the Director.

(b) Sulfur dioxide and oxides of nitrogen emission data shall be averaged over a 24-hour period and shall be summarized monthly. Daily averaged and monthly summaries shall be submitted to the Director biannually. Data should be calculated daily and available for inspection at any time.

(c) Particulate matter emissions shall be sampled and submitted biannually.

(d) Visible emissions shall be measured continuously, and records kept indicating total minutes per day in which stack discharge effluent exceeds 20 percent opacity. Data should be summarized monthly and submitted monthly and biannually. Current daily results shall be available for inspection at any time.

(e) The sulfur content of fuels, as burned, except natural gas, shall be determined in accordance with current recognized ASTM procedures. Averages for periods prescribed by the Director shall be submitted biannually. Records shall be kept current and be available for inspection.

**Author:** James W. Cooper and John E. Daniel.

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

**History:** Effective Date: January 18, 1972.

**Amended:** November 21, 1996.

**335-3-1-.05 Sampling and Testing Methods.**

(1) Methods. All required sampling and testing shall be made and the results calculated in accordance with sampling testing procedures and methods approved by the Director. All required samples and tests shall be made under the direction of persons qualified by training and/or experience in the field of air pollution control.

(2) Standard Methods. The Director, to the extent practicable, should recognize and approve the test methods and procedures established by 40 CFR, as the same may be amended or revised.

(3) The Division may conduct tests and take samples of air contaminants, fuel, process material, or other material which affects or may affect emission of air contaminants from any source. Upon request of the Division, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized employee of the Division during the course of an inspection obtains a sample of air contaminant, fuel, process material, or other material, he shall give the owner or operator of the equipment or fuel facility a receipt for the sample obtained.

(4) Report to Owner or Operator. At the conclusion of any inspection under Section 9 of the Act or conduction of any testing or sampling under this Part, if requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status with the Act and these rules and regulations.

**Author:** James W. Cooper and John E. Daniel.

**Statutory Authority:** Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

**History:** Effective Date: January 18, 1972.

**Amended:**