

Permit to Construct



R13-3273A

This permit is issued in accordance with the West Virginia Air Pollution Control Act (West Virginia Code §§ 22-5-1 et seq.) and 45 C.S.R. 13 — Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits and Procedures for Evaluation. The permittee identified at the facility listed below is authorized to construct the stationary sources of air pollutants identified herein in accordance with all terms and conditions of this permit.

Issued to:

**Holy Smoke Coal, LLC
Fanco Plant Operation
045-00151**

*William F. Durham
Director*

Effective: D - R - A - F - T 4/15/16

This permit will not affect any previously issued permits or general permit registrations.

Permit application R13-3273 was received on September 24, 2015 for the construction of the proposed facility. However, permit application R13-3273 was withdrawn on December 4, 2015 in order to be revised and modified by the applicant.

Facility Location: Amherstdale, Logan County, West Virginia
Mailing Address: PO Box 128, Summersville, WV 26651
Facility Description: Coal Preparation Plant
SIC Code: 1221 (Bituminous Coal & Lignite - Surface)
NAICS Code: 212111 (Bituminous Coal and Lignite Surface Mining)
UTM Coordinates: Easting: 426.682 km Northing: 4182.537 km NAD83 Zone 17N
Lat/Lon Coordinates: Latitude: 37.787251 Longitude: -81.832675 NAD83
Permit Type: Construction
Description of Change: Construction of coal screening facility which will consist of a Fintec 570 Power Screen powered by a Caterpillar XQ400-6 diesel engine, a Tomra X-Ray Sorting System, six associated belt conveyors and five open storage piles.

Subject to 40CFR60 Subpart Y? Yes
Subject to 40CFR60 Subpart IIII? Yes
Subject to 40CFR60 Subpart JJJJ? No

Any person whose interest may be affected, including, but not necessarily limited to, the applicant and any person who participated in the public comment process, by a permit issued, modified or denied by the Secretary may appeal such action of the Secretary to the Air Quality Board pursuant to article one [§§ 22B-1-1 et seq.], Chapter 22B of the Code of West Virginia. West Virginia Code §22-5-14.

As a result of this permit, the source is a nonmajor or area source subject to 45CSR30. Therefore, the facility is not subject to the permitting requirements of 45CSR30 and is classified as a deferred source.

Table of Contents

1.0. Emission Units	3
2.0. General Conditions.	4
2.1. Definitions.....	4
2.2. Acronyms	4
2.3. Authority.....	5
2.4. Term and Renewal.....	5
2.5. Duty to Comply.....	5
2.6. Duty to Provide Information.....	5
2.7. Duty to Supplement and Correct Information.....	5
2.8. Administrative Permit Update	6
2.9. Permit Modification.....	6
2.10. Major Permit Modification.....	6
2.11. Inspection and Entry.....	6
2.12. Emergency.....	6
2.13. Need to Halt or Reduce Activity Not a Defense.....	7
2.14. Suspension of Activities.....	7
2.15. Property Rights.....	7
2.16. Severability.....	7
2.17. Transferability.....	7
2.18. Notification Requirements.....	8
2.19. Credible Evidence.....	8
3.0. Facility-Wide Requirements.....	9
3.1. Limitations and Standards.....	9
3.2. Monitoring Requirements.....	9
3.3. Testing Requirements.....	9
3.4. Recordkeeping Requirements.....	10
3.5. Reporting Requirements.....	11
4.0. Source-Specific Requirements.....	13
4.1. Limitations and Standards.....	13
4.2. Monitoring Requirements.....	19
4.3. Testing Requirements.....	19
4.4. Recordkeeping Requirements.....	23
4.5. Reporting Requirements.....	25
APPENDIX A.....	27
APPENDIX B.....	28
CERTIFICATION OF DATA ACCURACY.....	29

1.0 Emission Units

Equip- ment ID No.	Date of Construction, Reconstruction or Modification ¹	Description	Maximum Capacity		Control Equip- ment ²	Associated Transfer Points		
			TPH	TPY		Location: B -Before A -After	ID. No.	Control Equip- ment ²
Raw Material Screening Facility								
RM-1	C 2015	Oversize Open Storage Pile - maximum capacity of 2,500 tons, base area of 3,400 ft ² and 25' height - an end loader loads material from Apogee Coal Company LLC's existing Fanco Preparation Plant (045-00050, G10-D106B) refuse disposal area to a truck which transports it and dumps it onto RM-1, stores it and then an endloader transports it to BS-1	150	168,000	N	B B A	TP-1 TP-2 TP-3	PE N PE
BS-1	C 2015	Front End Loader Dump Bin - 200 tons capacity - receives material from RM-1 via an end loader and feeds it onto S-1	150	168,000	PE	B A	TP-3 TP-4	PE PE
S-1	C 2015	Fintec 570 Power Screen (Double Deck) - receives material from BS-1, classifies it and then discharges the >6" oversize material onto BC-1, the < 1/8" fine coal onto BC-2 and the 1/8" x 6" feed material onto BC-3	150	168,000	PE	B A A A	TP-4 TP-5 TP-7 TP-9	PE PE PE PE
BC-1	C 2015	Oversize Material Conveyor - receives >6" oversize material from S-1 and transfers it to OS-1	150	10,000	PE	B A	TP-5 TP-6	PE WS
OS-1	C 2015	Oversize Open Storage Pile - maximum capacity of 800 tons, base area of 2,000 ft ² and 25' height - receives >6" oversize material from BC-1, stores it and then an end loader transfers it back to RM-1	----	10,000	WS	B A	TP-6 TP-2	WS N
BC-2	C 2015	Fine Coal Conveyor - receives fine coal from S-1 and transfers it to OS-2	150	72,000	PE	B A	TP-7 TP-8	PE WS
OS-2	C 2015	Fine Coal Open Storage Pile - maximum capacity of 800 tons, base area of 2,000 ft ² and 25' height - receives < 1/8" fine coal from BC-2, stores it and then an end loader transfers it to a truck to be transported to Apogee Coal Company, LLC's existing Fanco Preparation Plant (045-00050, G10-D106B) for shipment	150	72,000	WS	B A A	TP-8 TP-19 TP-20	WS PE PE
BC-3	C 2015	Feed Coal Conveyor - receives the 1/8" x 6" feed coal from S-1 and transfers it to BC-3	150	168,000	PE	B A	TP-9 TP-10	PE PE
BC-4	C 2015	Feed Coal Conveyor - receives the 1/8" x 6" feed coal from BC-3 and transfers it to BS-2	150	168,000	PE	B A	TP-10 TP-11	PE PE
BS-2	C 2015	Surge Bin - 200 tons capacity - receives 1/8" x 6" feed coal from BC-4 and drops it into S-2	150	168,000	PE	B A	TP-11 TP-12	PE PE
S-2	C 2015	Tomra X-Ray Sorting System - receives 1/8" x 6" feed coal, x-rays it and identifies it by its density, ejects the rock/refuse via micro air pulses and discharges it onto BC-5 and the sorted coal onto BC-6	150	168,000	PE	B A A	TP-12 TP-13 TP-16	PE PE PE
BC-5	C 2015	Refuse Conveyor - receives refuse from S-2 and transfers it onto OS-4	150	72,000	PE	B A	TP-13 TP-14	PE WS
OS-4	C 2015	Refuse Open Storage Pile - maximum capacity of 1,450 tons, base area of 2,500 ft ² and 25' height - receives refuse from BC-5, stores it and then an end loader transfers it to trucks to be transported back to Apogee Coal Company LLC's existing refuse disposal area	150	72,000	WS	B A	TP-14 TP-15	WS PE
BC-6	C 2015	Product Coal Conveyor - receives product coal from S-2 and transfers it onto OS-3	150	96,000	PE	B A	TP-16 TP-17	PE WS
OS-3	C 2015	Product Coal Open Storage Pile - maximum capacity of 800 tons, base area of 2,000 ft ² and 25' height - receives product coal from BC-6 and <1/8" coal fines from OS-2 via an endloader, stores it and then an end loader transfers it the Apogee Coal Company, LLC's existing Fanco Preparation Plant (045-00050, G10-D106B) for shipment	----	96,000	WS	B A A	TP-17 TP-18 TP-20	WS PE PE

¹ In accordance with 40 CFR 60 Subpart Y, coal processing and conveying equipment, coal storage systems, and coal transfer and loading systems constructed, reconstructed, or modified after April 28, 2008 shall not discharge gases which exhibit 10 percent opacity or greater. For open storage piles constructed, reconstructed, or modified after May 27, 2009, the permittee shall prepare and operate in accordance with a fugitive coal dust emissions control plan that is appropriate for site conditions.

² Control Device Abbreviations: FE - Full Enclosure; PE - Partial Enclosure; WS - Water Sprays; and N - None.

2.0 General Conditions

Definitions

2.1.

All references to the “West Virginia Air Pollution Control Act” or the “Air Pollution Control Act”

2.1.1.

mean those provisions contained in W.Va. Code §§ 22-5-1 to 22-5-18.

2.1.2.

The “Clean Air Act” means those provisions contained in 42 U.S.C. §§ 7401 to 7671q, and regulations promulgated thereunder.

2.1.3.

“Secretary” means the Secretary of the Department of Environmental Protection or such other person to whom the Secretary has delegated authority or duties pursuant to W.Va. Code §§ 22-1-6 or 22-1-8 (45CSR§30-2.12.). The Director of the Division of Air Quality is the Secretary’s designated representative for the purposes of this permit.

2.2.

Acronyms

CAAA	Clean Air Act Amendments	NOX	Nitrogen Oxides
CBI	Confidential Business Information	NSPS	New Source Performance Standards
CEM	Continuous Emission Monitor	PM	Particulate Matter
CES	Certified Emission Statement	PM2.5	Particulate Matter less than 2.5 µm in diameter
C.F.R. or CFR	Code of Federal Regulations	PM10	Particulate Matter less than 10µm in diameter
CO	Carbon Monoxide	Ppb	Pounds per Batch
C.S.R. or CSR	Codes of State Rules	Pph	Pounds per Hour
DAQ	Division of Air Quality	Ppm	Parts per Million
DEP	Department of Environmental Protection	PpmV or ppmv	Parts per Million by Volume
dscm	Dry Standard Cubic Meter	PSD	Prevention of Significant Deterioration
FOIA	Freedom of Information Act	Psi	Pounds per Square Inch
HAP	Hazardous Air Pollutant	SIC	Standard Industrial Classification
HON	Hazardous Organic NESHAP	SIP	State Implementation Plan
HP	Horsepower	SO2	Sulfur Dioxide
lbs/hr	Pounds per Hour	TAP	Toxic Air Pollutant
LDAR	Leak Detection and Repair	TPY	Tons per Year
M	Thousand	TRS	Total Reduced Sulfur
MACT	Maximum Achievable Control Technology	TSP	Total Suspended Particulate
MDHI	Maximum Design Heat Input	USEPA	United States Environmental Protection Agency
MM	Million	UTM	Universal Transverse Mercator
MMBtu/hr or mmbtu/hr	Million British Thermal Units per Hour	VEE	Visual Emissions Evaluation
MMCF/hr or mmcf/hr	Million Cubic Feet per Hour	VOC	Volatile Organic Compounds
NA	Not Applicable	VOL	Volatile Organic Liquids
NAAQS	National Ambient Air Quality Standards		
NESHAPS	National Emissions Standards for Hazardous Air Pollutants		

2.3. Authority

This permit is issued in accordance with West Virginia air pollution control law W.Va. Code §§ 22-5-1. et seq. and the following Legislative Rules promulgated thereunder:

45CSR13 – *Permits for Construction, Modification, Relocation and Operation of Stationary Sources*

2.3.1.

of Air Pollutants, Notification Requirements, Temporary Permits, General Permits and Procedures for Evaluation;

Term and Renewal

2.4.

This permit will not affect any previously issued permits or general permit registrations. This permit

2.4.1.

shall remain valid, continuous and in effect unless it is revised, suspended, revoked or otherwise changed under an applicable provision of 45CSR13 or any other applicable legislative rule;

Duty to Comply

2.5.

The permitted facility shall be constructed and operated in accordance with the plans and

2.5.1.

specifications filed in Permit Application R13-3273A, and any modifications, administrative updates, or amendments thereto. The Secretary may suspend or revoke a permit if the plans and specifications upon which the approval was based are not adhered to;

[45CSR§§13-5.11 and -10.3.]

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes

2.5.2.

a violation of the West Virginia Code and the Clean Air Act and is grounds for enforcement action by the Secretary or USEPA;

Violations of any of the conditions contained in this permit, or incorporated herein by reference, may

2.5.3.

subject the permittee to civil and/or criminal penalties for each violation and further action or remedies as provided by West Virginia Code 22-5-6 and 22-5-7;

Approval of this permit does not relieve the permittee herein of the responsibility to apply for and

2.5.4.

obtain all other permits, licenses, and/or approvals from other agencies; i.e., local, state, and federal, which may have jurisdiction over the construction and/or operation of the source(s) and/or facility herein permitted.

Duty to Provide Information

2.6.

The permittee shall furnish to the Secretary within a reasonable time any information the Secretary may request in writing to determine whether cause exists for administratively updating, modifying, revoking, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Secretary copies of records to be kept by the permittee. For information claimed to be confidential, the permittee shall furnish such records to the Secretary along with a claim of confidentiality in accordance with 45CSR31. If confidential information is to be sent to USEPA, the permittee shall directly provide such information to USEPA along with a claim of confidentiality in accordance with 40 C.F.R. Part 2.

2.7. Duty to Supplement and Correct Information

Upon becoming aware of a failure to submit any relevant facts or a submittal of incorrect information in any permit application, the permittee shall promptly submit to the Secretary such supplemental facts or corrected information.

Administrative Update

2.8.

The permittee may request an administrative update to this permit as defined in and according to the procedures specified in 45CSR13.

[45CSR§13-4.]

Permit Modification

2.9.

The permittee may request a minor modification to this permit as defined in and according to the procedures specified in 45CSR13.

[45CSR§13-5.4.]

Major Permit Modification

2.10

The permittee may request a major modification as defined in and according to the procedures specified in 45CSR14 or 45CSR19, as appropriate.

[45CSR§13-5.1]

Inspection and Entry

2.11.

The permittee shall allow any authorized representative of the Secretary, upon the presentation of credentials and other documents as may be required by law, to perform the following:

- a. At all reasonable times (including all times in which the facility is in operation) enter upon the permittee's premises where a source is located or emissions related activity is conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times (including all times in which the facility is in operation) any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
- d. Sample or monitor at reasonable times substances or parameters to determine compliance with the permit or applicable requirements or ascertain the amounts and types of air pollutants discharged.

2.12. Emergency

An "emergency" means any situation arising from sudden and reasonable unforeseeable events beyond

2.12.1.

the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. Effect of any emergency. An emergency constitutes an affirmative defense to an action brought for

2.12.2.

noncompliance with such technology-based emission limitations if the conditions of Section 2.12.3 are met.

2.12.3.

The affirmative defense of emergency shall be demonstrated through properly signed,

contemporaneous operating logs, or other relevant evidence that:

An emergency occurred and that the permittee can identify the cause(s) of the emergency;

a.

The permitted facility was at the time being properly operated;

b.

During the period of the emergency the permittee took all reasonable steps to minimize levels of

c.

emissions that exceeded the emission standards, or other requirements in the permit; and

The permittee submitted notice of the emergency to the Secretary within one (1) working day of

d.

the time when emission limitations were exceeded due to the emergency and made a request for variance, and as applicable rules provide. This notice must contain a detailed description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has

2.12.4.

the burden of proof.

The provisions of this section are in addition to any emergency or upset provision contained in any

2.12.5

applicable requirement.

Need to Halt or Reduce Activity Not a Defense

2.13.

It shall not be a defense for a permittee in an enforcement action that it should have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this paragraph shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in determining penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continued operations.

Suspension of Activities

2.14.

In the event the permittee should deem it necessary to suspend, for a period in excess of sixty (60) consecutive calendar days, the operations authorized by this permit, the permittee shall notify the Secretary, in writing, within two (2) calendar weeks of the passing of the sixtieth (60) day of the suspension period.

2.15. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

Severability

2.16.

The provisions of this permit are severable and should any provision(s) be declared by a court of competent jurisdiction to be invalid or unenforceable, all other provisions shall remain in full force and effect.

Transferability

2.17.

This permit is transferable in accordance with the requirements outlined in Section 10.1 of 45CSR13.

[45CSR§13-10.1.]

Notification Requirements

2.18.

The permittee shall notify the Secretary, in writing, no later than thirty (30) calendar days after the actual startup of the operations authorized under this permit.

Credible Evidence

2.19.

Nothing in this permit shall alter or affect the ability of any person to establish compliance with, or a violation of, any applicable requirement through the use of credible evidence to the extent authorized by law. Nothing in this permit shall be construed to waive any defense otherwise available to the permittee including, but not limited to, any challenge to the credible evidence rule in the context of any future proceeding.

3.0. Facility-Wide Requirements

3.1. Limitations and Standards

- 3.1.1. **Open burning.** The open burning of refuse by any person, firm, corporation, association or public agency is prohibited except as noted in 45CSR§6-3.1.
[45CSR§6-3.1.]
- 3.1.2. **Open burning exemptions.** The exemptions listed in 45CSR§6-3.1 are subject to the following stipulation: Upon notification by the Secretary, no person shall cause, suffer, allow or permit any form of open burning during existing or predicted periods of atmospheric stagnation. Notification shall be made by such means as the Secretary may deem necessary and feasible.
[45CSR§6-3.2.]
- 3.1.3. **Asbestos.** The permittee is responsible for thoroughly inspecting the facility, or part of the facility, prior to commencement of demolition or renovation for the presence of asbestos and complying with 40 C.F.R. § 61.145, 40 C.F.R. § 61.148, and 40 C.F.R. § 61.150. The permittee, owner, or operator must notify the Secretary at least ten (10) working days prior to the commencement of any asbestos removal on the forms prescribed by the Secretary if the permittee is subject to the notification requirements of 40 C.F.R. § 61.145(b)(3)(i). The USEPA, the Division of Waste Management, and the Bureau for Public Health - Environmental Health require a copy of this notice to be sent to them.
[40CFR§61.145(b) and 45CSR§34]
- 3.1.4. **Odor.** No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor at any location occupied by the public.
[45CSR§4-3.1] [State Enforceable Only]
- 3.1.5. **Permanent shutdown.** A source which has not operated at least 500 hours in one 12-month period within the previous five (5) year time period may be considered permanently shutdown, unless such source can provide to the Secretary, with reasonable specificity, information to the contrary. All permits may be modified or revoked and/or re-application or application for new permits may be required for any source determined to be permanently shutdown.
[45CSR§13-10.5.]
- 3.1.6. **Standby plan for reducing emissions.** When requested by the Secretary, the permittee shall prepare standby plans for reducing the emissions of air pollutants in accordance with the objectives set forth in Tables I, II, and III of 45CSR11.
[45CSR§11-5.2.]

Monitoring Requirements

3.2.

[Reserved]

3.3. Testing Requirements

- 3.3.1. **Stack testing.** As per provisions set forth in this permit or as otherwise required by the Secretary, in accordance with the West Virginia Code, underlying regulations, permits and orders, the permittee shall conduct test(s) to determine compliance with the emission limitations set forth in this permit and/or established or set forth in underlying documents. The Secretary, or his duly authorized representative, may at his option witness or conduct such test(s). Should the Secretary exercise his option to conduct such test(s), the operator shall provide all necessary sampling connections and sampling ports to be located in such manner as the Secretary may require, power for test equipment and the required safety equipment, such as scaffolding, railings and ladders, to comply with generally

accepted good safety practices. Such tests shall be conducted in accordance with the methods and procedures set forth in this permit or as otherwise approved or specified by the Secretary in accordance with the following:

The Secretary may on a source-specific basis approve or specify additional testing or alternative

a.

testing to the test methods specified in the permit for demonstrating compliance with 40 C.F.R. Parts 60, 61, and 63 in accordance with the Secretary's delegated authority and any established equivalency determination methods which are applicable. If a testing method is specified or approved which effectively replaces a test method specified in the permit, the permit may be revised in accordance with 45CSR§13-4. or 45CSR§13-5.4 as applicable.

The Secretary may on a source-specific basis approve or specify additional testing or alternative

b.

testing to the test methods specified in the permit for demonstrating compliance with applicable requirements which do not involve federal delegation. In specifying or approving such alternative testing to the test methods, the Secretary, to the extent possible, shall utilize the same equivalency criteria as would be used in approving such changes under Section 3.3.1.a. of this permit. If a testing method is specified or approved which effectively replaces a test method specified in the permit, the permit may be revised in accordance with 45CSR§13-4. or 45CSR§13-5.4 as applicable.

All periodic tests to determine mass emission limits from or air pollutant concentrations in

c.

discharge stacks and such other tests as specified in this permit shall be conducted in accordance with an approved test protocol. Unless previously approved, such protocols shall be submitted to the Secretary in writing at least thirty (30) days prior to any testing and shall contain the information set forth by the Secretary. In addition, the permittee shall notify the Secretary at least fifteen (15) days prior to any testing so the Secretary may have the opportunity to observe such tests. This notification shall include the actual date and time during which the test will be conducted and, if appropriate, verification that the tests will fully conform to a referenced protocol previously approved by the Secretary.

[WV Code § 22-5-4(a)(15)]

d. The permittee shall submit a report of the results of the stack test within sixty (60) days of completion of the test. The test report shall provide the information necessary to document the objectives of the test and to determine whether proper procedures were used to accomplish these objectives. The report shall include the following: the certification described in paragraph 3.5.1.; a statement of compliance status, also signed by a responsible official; and, a summary of conditions which form the basis for the compliance status evaluation. The summary of conditions shall include the following:

1. The permit or rule evaluated, with the citation number and language;
2. The result of the test for each permit or rule condition; and,
3. A statement of compliance or noncompliance with each permit or rule condition.

[WV Code § 22-5-4(a)(14-15) and 45CSR13]

3.4. Recordkeeping Requirements

Retention of records. The permittee shall maintain records of all information (including monitoring

3.4.1.

data, support information, reports, and notifications) required by this permit recorded in a form suitable and readily available for expeditious inspection and review. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation. The files shall be maintained for at least five (5) years following the date of each occurrence, measurement, maintenance, corrective action, report, or record. At a minimum, the most

recent two (2) years of data shall be maintained on site. The remaining three (3) years of data may be maintained off site, but must remain accessible within a reasonable time. Where appropriate, the permittee may maintain records electronically (on a computer, on computer floppy disks, CDs, DVDs, or magnetic tape disks), on microfilm, or on microfiche.

- 3.4.2. **Odors.** For the purposes of 45CSR4, the permittee shall maintain a record of all odor complaints received, any investigation performed in response to such a complaint, and any responsive action(s) taken.

[45CSR§4. *State Enforceable Only.*]

Reporting Requirements

3.5.

- 3.5.1. **Responsible official.** Any application form, report, or compliance certification required by this permit to be submitted to the DAQ and/or USEPA shall contain a certification by the responsible official that states that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- 3.5.2. **Confidential information.** A permittee may request confidential treatment for the submission of reporting required by this permit pursuant to the limitations and procedures of W.Va. Code § 22-5-10 and 45CSR31.
- 3.5.3. **Correspondence.** All notices, requests, demands, submissions and other communications required or permitted to be made to the Secretary of DEP and/or USEPA shall be made in writing and shall be deemed to have been duly given when delivered by hand, or mailed first class with postage prepaid to the address(es) set forth below or to such other person or address as the Secretary of the Department of Environmental Protection may designate:

If to the DAQ:

Director
WVDEP
Division of Air Quality
601 57th Street
Charleston, WV 25304-2345

If to the US EPA:

Associate Director
Office of Air Enforcement and Compliance Assistance
(3AP20)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

3.5.4. Operating Fee

- 3.5.4.1. In accordance with 45CSR30 – Operating Permit Program, the permittee shall submit a Certified Emissions Statement (CES) and pay fees on an annual basis in accordance with the submittal requirements of the Division of Air Quality. A receipt for the appropriate fee shall be maintained on the premises for which the receipt has been issued, and shall be made immediately available for inspection by the Secretary or his/her duly authorized representative.
- 3.5.4.2. In accordance with 45CSR30 – Operating Permit Program, enclosed with this permit is a Certified Emissions Statement (CES) Invoice, from the date of initial startup through the following June 30. Said invoice and the appropriate fee shall be submitted to this office no later than 30 days prior to the date of initial startup. For any startup date other than July 1, the permittee shall pay a fee or prorated fee in accordance with the Section 4.5 of 45CSR22. A copy of this schedule may be found attached to the Certified Emissions Statement (CES) Invoice.
- 3.5.5. **Emission inventory.** At such time(s) as the Secretary may designate, the permittee herein shall prepare and submit an emission inventory for the previous year, addressing the emissions from the

facility and/or process(es) authorized herein, in accordance with the emission inventory submittal requirements of the Division of Air Quality. After the initial submittal, the Secretary may, based upon the type and quantity of the pollutants emitted, establish a frequency other than on an annual basis.

4.0. Source-Specific Requirements Limitations and Standards

4.1.

- 4.1.1. Compliance with all annual (tons per year) throughput limits shall be determined using a twelve (12) month rolling total. For example, a 12 month rolling total shall mean the sum of coal screened at any given time for the previous twelve (12) consecutive calendar months.
- 4.1.2. The permittee shall not exceed the maximum hourly and annual throughput rates and other criteria outlined in the table in Section 1.0 Emission Units.
- 4.1.3. The maximum amount of raw material to be processed by the Fintec 570 Power Screen S-1 shall not exceed 150 TPH or 168,000 TPY.
- 4.1.4. The Caterpillar XQ400-6 diesel engine SE-1 from engine family 6CPXL15.2ESK is a lean burn 4 stroke manufactured in December 7, 2006 and will power the Fintec 570 Power Screen S-1. Engine SE-1 has a maximum rating of 563 HP (420 kW) and shall not exceed 6,240 hours of operation per year. The maximum permitted emission rates for engine SE-1 shall not exceed the following:

SE-1 Pollutants	Emission Factor	Reference	Hourly Emissions (lb/hour)	Annual Emissions (TPY)
NO _x	3.4 g/kw-hr ¹	Manuf. Data	3.15	9.82
CO	3.4 g/kw-hr ¹	Manuf. Data	3.15	9.82
VOC	0.00247 lb/hp-hr ²	AP 42	1.39	4.34
SO ₂	0.00205 lb/hp-hr ²	AP 42	1.15	3.60
PM ₁₀	0.15 g/kw-hr ¹	Manuf. Data	0.14	0.43
Formaldehyde	0.00118 lb/MMBtu ²	AP 42	0.0047	0.015

¹ Emission factors for NO_x, CO and PM₁₀ were taken from manufacturer's data provided on documentation from the California Protection Agency Air Resources Board

² Emission factors for VOC and SO₂ were taken from AP 42, Fifth Edition (10/96), Volume I, Chapter 3 Stationary Internal Combustion Sources, Section 3 Gasoline and Diesel Industrial Engines Table 3.3-1 as TOC and SO_x, which are the only emission factors available and will be a conservative estimate since VOC and SO₂ will be a portion of TOC and SO_x, respectively

³ Emission factor for formaldehyde was taken from AP 42, Fifth Edition (10/96), Volume I, Chapter 3 Stationary Internal Combustion Sources, Section 3 Gasoline and Diesel Industrial Engines Table 3.3-2

- 4.1.5. The maximum amount of feed material to be processed by the Tomra X-ray Sorting System (XSS) screen S-2 shall not exceed 150 TPH or 168,000 TPY.
- 4.1.6. The maximum amount of product coal to be transferred by end loader to Apogee Coal Company's existing Fanco Preparation Plant (045-00050, G10-D106B) shall not exceed 150 TPH or 168,000 TPY.
- 4.1.7. The maximum amount of refuse to be shipped by truck from the facility shall not exceed 150 TPH or 72,000 TPY.
- 4.1.8. **Water Truck.** The permittee shall maintain a water truck on site and in good operating condition, and shall utilize same to apply water, or a mixture of water and an environmentally acceptable dust control additive, hereinafter referred to as solution, as often as is necessary in order to minimize the atmospheric entrainment of fugitive particulate emissions that may be generated from haulroads and

other work areas where mobile equipment is used.

The spraybar shall be equipped with commercially available spray nozzles, of sufficient size and number, so as to provide adequate coverage to the area being treated.

The pump delivering the water, or solution, shall be of sufficient size and capacity so as to be capable of delivering to the spray nozzle(s) an adequate quantity of water, or solution, and at a sufficient pressure, so as to assure that the treatment process will minimize the atmospheric entrainment of fugitive particulate emissions generated from the haulroads and work areas where mobile equipment is used.

The permittee shall properly install, operate and maintain designed winterization systems for all water trucks and/or water sprays in a manner that all such fugitive dust control systems remain functional during winter months and cold weather.

- 4.1.9. **Control and Prohibition of Fugitive Dust Emissions From Coal Handling Operations and Preparation Plants.** No person shall cause, suffer, allow or permit emission of particulate matter into the open air from any fugitive dust control system which is twenty percent (20%) opacity or greater. [45CSR§5-3.4]
- 4.1.10. **Control and Prohibition of Fugitive Dust Emissions From Coal Handling Operations and Preparation Plants.** No person shall cause, suffer, allow or permit a coal preparation plant or handling operation to operate that is not equipped with a fugitive dust control system. This system shall be operated and maintained in such a manner as to minimize the emission of particulate matter into the open air. [45CSR§5-6.1]
- 4.1.11. **Control and Prohibition of Fugitive Dust Emissions From Coal Handling Operations and Preparation Plants.** The owner or operator of a coal preparation plant or handling operation shall maintain dust control of the premises and owned, leased or controlled access roads by paving, or other suitable measures. Good operating practices shall be observed in relation to stockpiling, car loading, breaking, screening and general maintenance to minimize dust generation and atmospheric entrainment. [45CSR§5-6.2]
- 4.1.12. **Operation and Maintenance of Air Pollution Control Equipment.** The permittee shall, to the extent practicable, install, maintain, and operate all pollution control equipment listed in Section 1.0 and associated monitoring equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions, or comply with any more stringent limits set forth in this permit or as set forth by any State rule, Federal regulation, or alternative control plan approved by the Secretary. [45CSR§13-5.11]
- 4.1.13. **Standards for Particulate Matter for Subpart Y - Pneumatic Coal Cleaning Equipment.** On and after the date on which the performance test is conducted or required to be completed under § 60.8, whichever date comes first, an owner or operator of pneumatic coal-cleaning equipment constructed, reconstructed, or modified after April 28, 2008, must meet the requirements in paragraphs (b)(1) and (b)(2) of this section. [40CFR§60.253(b)]

- (1) The owner of operator must not cause to be discharged into the atmosphere from the pneumatic coal-cleaning equipment any gases that contain PM in excess of 0.023 g/dscm (0.010

gr/dscf); and

[40CFR§60.253(b)(1)]

(2) The owner or operator must not cause to be discharged into the atmosphere from the pneumatic coal-cleaning equipment any gases that exhibit greater than 5 percent opacity.

[40CFR§60.253(b)(2)]

4.1.14. **Standards for Particulate Matter for Subpart Y.** On and after the date on which the performance test is conducted or required to be completed under §60.8, whichever date comes first, an owner or operator of any coal processing and conveying equipment, coal storage system, or coal transfer and loading system processing coal constructed, reconstructed, or modified after April 28, 2008, must meet the requirements in paragraphs (b)(1) through (3) of this section, as applicable to the affected facility.

[40CFR§60.254(b)]

(1) Except as provided in paragraph (b)(3) of this section, the owner or operator must not cause to be discharged into the atmosphere from the affected facility any gases which exhibit 10 percent opacity or greater.

[40CFR§60.254(b)(1)]

(3) Equipment used in the loading, unloading, and conveying operations of open storage piles are not subject to the opacity limitations of paragraph (b)(1) of this section.

[40CFR§60.254(b)(3)]

4.1.15. **Fugitive Coal Dust Emissions Control Plan for Subpart Y - Fugitive Coal Dust Emissions Control Plan.** The owner or operator of an open storage pile, which includes the equipment used in the loading, unloading, and conveying operations of the affected facility, constructed, reconstructed, or modified after May 27, 2009, must prepare and operate in accordance with a submitted fugitive coal dust emissions control plan that is appropriate for the site conditions as specified in paragraphs (c)(1) through (6) of this section.

[40CFR§60.254(c)]

(1) The fugitive coal dust emissions control plan must identify and describe the control measures the owner or operator will use to minimize fugitive coal dust emissions from each open storage pile.

[40CFR§60.254(c)(1)]

(2) For open coal storage piles, the fugitive coal dust emissions control plan must require that one or more of the following control measures be used to minimize to the greatest extent practicable fugitive coal dust: Locating the source inside a partial enclosure, installing and operating a water spray or fogging system, applying appropriate chemical dust suppression agents on the source (when the provisions of paragraph (c)(6) of this section are met), use of a wind barrier, compaction, or use of a vegetative cover. The owner or operator must select, for inclusion in the fugitive coal dust emissions control plan, the control measure or measures listed in this paragraph that are most appropriate for site conditions. The plan must also explain how the measures or measures selected are applicable and appropriate for site conditions. In addition, the plan must be revised as needed to reflect any changing conditions at the source.

[40CFR§60.254(c)(2)]

(3) Any owner or operator of an affected facility that is required to have a fugitive coal dust emissions control plan may petition the Administrator to approve, for inclusion in the plan for the affected facility, alternative control measures other than those specified in paragraph

(c)(2) of this section as specified in paragraphs (c)(3)(i) through (iv) of this section.

[40CFR§60.254(c)(3)]

(i) The petition must include a description of the alternative control measures, a copy of the fugitive coal dust emissions control plan for the affected facility that includes the alternative control measures, and information sufficient for EPA to evaluate the demonstrations required by paragraph (c)(3)(ii) of this section.

[40CFR§60.254(c)(3)(i)]

(ii) The owner or operator must either demonstrate that the fugitive coal dust emissions control plan that includes the alternative control measures will provide equivalent overall environmental protection or demonstrate that it is either economically or technically infeasible for the affected facility to use the control measures specifically identified in paragraph (c)(2).

[40CFR§60.254(c)(3)(ii)]

(iii) While the petition is pending, the owner or operator must comply with the fugitive coal dust emissions control plan including the alternative control measures submitted with the petition. Operation in accordance with the plan submitted with the petition shall be deemed to constitute compliance with the requirement to operate in accordance with a fugitive coal dust emissions control plan that contains one of the control measures specifically identified in paragraph (c)(2) of this section while the petition is pending.

[40CFR§60.254(c)(3)(iii)]

(iv) If the petition is approved by the Administrator, the alternative control measures will be approved for inclusion in the fugitive coal dust emissions control plan for the affected facility. In lieu of amending this subpart, a letter will be sent to the facility describing the specific control measures approved. The facility shall make any such letters and the applicable fugitive coal dust emissions control plan available to the public. If the Administrator determines it is appropriate, the conditions and requirements of the letter can be reviewed and changed at any point.

[40CFR§60.254(c)(3)(iv)]

(4) The owner or operator must submit the fugitive coal dust emissions control plan to the Administrator or delegated authority prior to the startup of the new, reconstructed, or modified affected facility, or 30 days after the effective date of this rule, whichever is later.

[40CFR§60.254(c)(4)]

(5) The Administrator or delegated authority may object to the fugitive coal dust emissions control plan as specified in paragraphs (c)(5)(i) of this section.

[40CFR§60.254(c)(5)]

(i) The Administrator or delegated authority may object to any fugitive coal dust emissions control plan that it has determined does not meet the requirements of paragraphs (c)(1) and (c)(2) of this section.

[40CFR§60.254(c)(5)(i)]

(ii) If an objection is raised, the owner or operator, within 30 days from receipt of the objection, must submit a revised fugitive coal dust emissions control plan to the Administrator or delegate authority. The owner or operator must operate in accordance with the revised fugitive coal dust emissions control plan. The Administrator or delegated authority retain the right, under paragraph (c)(5) of this section, to object to

the revised control plan if it determines the plan does not meet the requirements of paragraphs (c)(1) and (c)(2) of this section.

[40CFR§60.254(c)(5)(ii)]

- (6) Where appropriate chemical dust suppressant agents are selected by the owner or operator as a control measure to minimize fugitive coal dust emissions, (1) only chemical dust suppressants with Occupational Safety and Health Administration (OSHA)-compliant material safety data sheets (MSDS) are to be allowed; (2) the MSDS must be included in the fugitive coal dust emissions control plan; and (3) the owner or operator must consider and document in the fugitive coal dust emissions control plan the site-specific impacts associated with the use of such chemical dust suppressants.

[40CFR§60.254(c)(6)]

- 4.1.16. **Emission Standards for Engine SE-1.** Exhaust emission from nonroad engines to which this subpart is applicable shall not exceed the applicable exhaust emission standards contained in Table 1, as follows: for $225 \geq kW \leq 450$ Tier 3 (2006 model year and later) the applicable emission standards are $NMHC+NO_x - 4.0$ g/kW-hr; $CO - 3.5$ g/kW-hr; and $PM - 0.20$ g/kW-hr.

[40CFR§89.112]

- 4.1.17. **Emission Standards for Engine SE-1.** Owners and operators of pre-2007 model year non-emergency stationary CI ICE with a displacement of less than 10 liters per cylinder must comply with the emission standards in table 1 to this subpart. [$HC - 1.3$ g/kW-hr, $NO_x - 9.2$ g/kW-hr; $CO - 11.4$ g/kW-hr; and $PM - 0.54$ g/kW-hr]

[40CFR§60.4204(a)]

- 4.1.18. **Emission Standards for Engine SE-1.** Owners and operators of non-emergency stationary CI ICE with a displacement of less than 30 liters per cylinder who conduct performance tests in-use must meet the not-to-exceed (NTE) standards as indicated in §60.4212.

[40CFR§60.4204(d)]

- 4.1.19. **Emission Standards for Engine SE-1.** Owners and operators of stationary CI ICE must operate and maintain stationary CI ICE that achieve the emission standards as required in §§60.4204 and 60.4205 over the entire life of the engine.

[40CFR§60.4206]

- 4.1.20. **Fuel Requirements for Engine SE-1.** Beginning October 1, 2010, owners and operators of stationary CI ICE subject to this subpart with a displacement of less than 30 liters per cylinder that use diesel fuel must purchase diesel fuel that meets the requirements of 40 CFR 80.510(b) for nonroad diesel fuel.

[40CFR§60.4207b]

- 4.1.21. **Compliance Requirements for Engine SE-1.** If you are an owner or operator and must comply with the emission standards specified in this subpart, you must do all of the following, except as permitted under paragraph (g) of this section:

[40CFR§60.4211(a)]

- (1) Operate and maintain the stationary CI internal combustion engine and control device according to the manufacture's emission-related written instructions;

[40CFR§60.4211(a)(1)]

- (2) Change only those emission-related settings that are permitted by the manufacturer; and

[40CFR§60.4211(a)(2)]

- (3) Meet the requirements of 40 CFR parts 89, 94 and/or 1068, as they apply to you.
[40CFR§60.4211(a)(3)]

4.1.22. **Compliance Requirements for Engine SE-1.** If you are an owner or operator of a pre-2007 model year stationary CI internal combustion engine and must comply with the emission standards specified in §§60.4204(a) or 60.4205(a), you must demonstrate compliance according to one of the methods specified in paragraphs (b)(1) through (5) of this section:

[40CFR§60.4211(b)]

- (1) Purchasing an engine certified according to 40 CFR part 89 or 40 CFR part 94, as applicable, for the same model year and maximum engine power. The engine must be and configured according to the manufacturer's specifications.

[40CFR§60.4211(b)(1)]

- (2) Keeping records of performance test results for each pollutant for a test conducted on a similar engine. The test must have been conducted using the same methods specified in this subpart and these methods must have been followed correctly.

[40CFR§60.4211(b)(2)]

- (3) Keeping records of engine manufacturer data indicating compliance with the standards.

[40CFR§60.4211(b)(3)]

- (4) Keeping records of control device vendor data indicating compliance with the standards.

[40CFR§60.4211(b)(4)]

- (5) Conducting an initial performance test to demonstrate compliance with the emission standards according to the requirements specified in §60.4212, as applicable.

[40CFR§60.4211(b)(5)]

4.1.23. **Compliance Requirements for Engine SE-1.** If you do not install, configure, operate, and maintain your engine and control device according to the manufacturer's emission-related written instructions, or you change emission-related settings in a way that is not permitted by the manufacturer, you must demonstrate compliance as follows:

[40CFR§60.4211(g)]

- (3) If you are an owner or operator of a stationary CI internal combustion engine greater than 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test to demonstrate compliance with the applicable emission standards within 1 year of startup, or within 1 year after an engine and control device is no longer installed, configured, operated, and maintained in accordance with the manufacturer's emission-related written instructions, or within 1 year after you change emission-related settings in a way that is not permitted by the manufacturer. You must conduct subsequent performance testing every 8,760 hours of engine operation or 3 years, whichever comes first, thereafter to demonstrate compliance with the applicable emission standards.

[40CFR§60.4211(g)(3)]

4.1.24. **Compliance Requirements for Engine SE-1.** If you do not install, configure, operate, and maintain your engine and control device according to the manufacturer's emission-related written instructions, or you change emission-related settings in a way that is not permitted by the manufacturer, you must demonstrate compliance as follows:

[40CFR§60.4211(g)]

- (2) If you are an owner or operator of a stationary CI internal combustion engine greater than or equal to 100 HP and less than or equal to 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions. In addition, you must conduct an initial performance test to demonstrate compliance with the applicable emission standards within 1 year of startup, or within 1 year after an engine and control device is no longer installed, configured, operated, and maintained in accordance with the manufacturer's emission-related written instructions, or within 1 year after you change emission-related settings in a way that is not permitted by the manufacturer.

[40CFR§60.4211(g)(2)]

4.2. Monitoring Requirements

- 4.2.1. **Compliance Requirements for Engine SE-1.** If you are an owner or operator, you must meet the monitoring requirements of this section. In addition, you must also meet the monitoring requirements specified in §60.4211.

[40CFR§60.4209]

- (2) If you are an owner or operator of a stationary CI internal combustion engine equipped with a diesel particulate filter to comply with the emission standards in §60.4204, the diesel particulate filter must be installed with a backpressure monitor that notifies the owner or operator when the high backpressure limit of the engine is approached.

[40CFR§60.4209(b)]

4.3. Testing Requirements

- 4.3.1. **Performance Tests and Other Compliance Requirements for Subpart Y - Performance Tests.** An owner or operator of each affected facility that commenced construction, reconstruction, or modification on or before April 28, 2008, must conduct performance tests required by §60.8 to demonstrate compliance with the applicable emission standards using the methods identified in §60.257.

[40CFR§60.255(a)]

- 4.3.2. Except as specified in paragraphs (a)(1),(a)(2), (a)(3), and (a)(4) of this section, within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, or at such other times specified by this part, and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).

[40CFR§60.8(a)]

- 4.3.3. **Performance Tests and Other Compliance Requirements for Subpart Y - Performance Tests.** An owner or operator of each affected facility that commenced construction, reconstruction, or modification after April 28, 2008, must conduct performance tests according to the requirements of §60.8 and the methods identified in §60.257 to demonstrate compliance with the applicable emission standards in Subpart Y as specified in paragraphs (b)(1) and (b)(2) of this section.

[40CFR§60.255(b)]

- (2) For each affected facility subject to an opacity standard, an initial performance test must be performed. Thereafter, a new performance test must be conducted according to the requirements

in paragraphs (b)(2)(i) through (iii) of this section, as applicable, except as provided for in paragraphs (e) and (f) of this section. Performance test and other compliance requirements for coal truck dump operations are specified in paragraph (h) of this section .

[40CFR§60.255(b)(2)]

(i) If any 6-minute average opacity reading in the most recent performance test exceeds half the applicable opacity limit, a new performance test must be conducted within 90 operating days of the date that the previous performance test was required to be completed.

[40CFR§60.255(b)(2)(i)]

(ii) If all 6-minute average opacity readings in the most recent performance are equal to or less than half the applicable opacity limit, a new performance test must be conducted within 12 calendar months of the date that the previous performance test was required to be completed.

[40CFR§60.255(b)(2)(ii)]

4.3.4. **Performance Tests and Other Compliance Requirements for Subpart Y - Monitoring Visible Emissions or Digital Opacity Compliance System.** As an alternative to meeting the requirements in paragraph (b)(2) of this section [see permit condition 4.3.3. above], an owner or operator of an affected facility that commenced construction, reconstruction, or modification after April 28, 2008, may elect to comply with the requirements in paragraph (f)(1) or (f)(2) of this section.

[40CFR§60.255(f)]

(1) Monitor visible emissions from each affected facility according to the requirements in paragraphs (f)(1)(i) through (iii) of this section.

[40CFR§60.255(f)(1)]

(i) Conduct one daily 15-second observation each operating day for each affected facility (during normal operation) when the coal preparation and processing plant is in operation. Each observation must be recorded as either visible emissions observed or no visible emissions observed. Each observer determining the presence of visible emissions must meet the training requirements specified in §2.3 of Method 22 of appendix A-7 of this part. If visible emissions are observed during any 15-second observation, the owner or operator must adjust the operation of the affected facility and demonstrate within 24 hours that no visible emissions are observed from the affected facility. If visible emissions are observed, a Method 9, of appendix A-4 of this part, performance test must be conducted within 45 operating days.

[40CFR§60.255(f)(1)(i)]

(ii) Conduct monthly visual observations of all processes and control equipment. If any deficiencies are observed, the necessary maintenance must be performed as expeditiously as possible.

[40CFR§60.255(f)(1)(ii)]

(iii) Conduct a performance test using Method 9 of Appendix A-4 of this part at least once every 5 calendar years for each affected facility.

[40CFR§60.255(f)(1)(iii)]

(2) Prepare a written site-specific monitoring plan for a digital opacity compliance system for approval by the Administration or delegated authority. The plan shall require observations of at least one digital image every 15 seconds for 10-minute periods (during normal operation) every operating day. An approvable monitoring plan must include a demonstration that the occurrences of visible emissions are not in excess of 5 percent of the observation period. For reference

purposes in preparing the monitoring plan, *see* OAQPS “Determination of Visible Emission Opacity from Stationary Sources Using Computer-Based Photographic Analysis Systems.” This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality and Planning Standards; Sector Policies and Programs Division; Measurement Group (D243-02), Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network (TTN) under Emission Measurement Center Preliminary Methods. The monitoring plan approved by the Administrator delegated authority shall be implemented by the owner or operator.

[40CFR§60.255(f)(2)]

- 4.3.5. **Performance Tests and Other Compliance Requirements for Subpart Y - COMS.** As an alternative to meeting the requirements in paragraph (b)(2) of this section [*see permit condition 4.3.3. above*], an owner or operator of an affected facility that commenced construction, reconstruction, or modification after April 28, 2008, subject to a visible emissions standard under this subpart may install, operate, and maintain a continuous opacity monitoring system (COMS). Each COMS used to comply with provisions of this subpart must be installed, calibrated, maintained, and continuously operated according to the requirements in paragraphs (g)(1) and (2) of this section.

[40CFR§60.255(g)]

- 4.3.6. **Performance Tests and Other Compliance Requirements for Subpart Y - Truck Dump Operations.** The owner or operator of each affected coal truck dump operation that commenced construction, reconstruction, or modification after April 28, 2008, must meet the requirements specified in paragraphs (h)(1) through or (3) of this section.

[40CFR§60.255(h)]

- (1) Conduct an initial performance test using Method 9 of Appendix A-4 of this part according to the requirements in paragraphs (h)(1)(i) and (ii).

[40CFR§60.255(h)(1)]

- (i) Opacity readings shall be taken during the duration of three separate truck dumping events. Each truck dump event commences when the truck bed begins to elevate and concludes when the truck bed returns to a horizontal position.

[40CFR§60.255(h)(1)(i)]

- (ii) Compliance with the applicable opacity limit is determined by averaging all 15-second opacity readings made during the duration of three separate truck dump events.

[40CFR§60.255(h)(1)(ii)]

- (2) Conduct monthly visual observations of all processes and control equipment. If any deficiencies are observed, the necessary maintenance must be performed as expeditiously as possible.

[40CFR§60.255(h)(2)]

- (3) Conduct a performance test using Method 9 of appendix A-4 of this part at least once every 5 calendar years for each affected facility.

[40CFR§60.255(h)(3)]

- 4.3.7. **Performance Tests and Other Compliance Requirements for Subpart Y.** If any affected coal processing and conveying equipment (e.g., breakers, crushers, screens, conveying systems), coal storage systems, or other coal transfer and loading systems that commenced construction, reconstruction, or modification after April 28, 2008, are enclosed in a building do not exceed any of the standards in §60.254 that apply to the affected facility, then the facility shall be deemed to be in compliance with such standards.

[40CFR§60.255(c)]

4.3.8. **Test Methods and Procedures for Subpart Y.** The owner or operator must determine compliance with the applicable opacity standards as specified in paragraphs (a)(1) through (3) of this section.

[40CFR§60.257(a)]

(1) Method 9 of Appendix A-4 of this part and the procedures in §60.11 must be used to determine opacity, with the exceptions specified in paragraphs (a)(1)(i) and (ii).

[40CFR§60.257(a)(1)]

(i) The duration of the Method 9 of Appendix A-4 of this part performance test shall be 1 hour (ten 6-minute averages).

[40CFR§60.257(a)(1)(i)]

(ii) If, during the initial 30 minutes of the observation of a Method 9 of Appendix A-4 of this part performance test, all of the 6-minute average opacity readings are less than or equal to half the applicable opacity limit, then the observation period may be reduce from 1 hour to 30 minutes.

[40CFR§60.257(a)(1)(ii)]

(2) To determine opacity for fugitive coal dust emissions sources, the additional requirements specified in paragraphs (a)(2)(i) through (iii) must be used.

[40CFR§60.257(a)(2)]

(i) The minimum distance between the observer and the emission source shall be 5.0 meters (16 feet), and the sun shall be oriented in the 140-degree sector of the back.

[40CFR§60.257(a)(2)(i)]

(ii) The observer shall select a position that minimizes interference from other fugitive coal dust emissions sources and make observations such that the line of vision is approximately perpendicular to the plume and wind direction.

[40CFR§60.257(a)(2)(ii)]

(iii) The observer shall make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Water vapor is not considered a visible emission.

[40CFR§60.257(a)(2)(iii)]

(3) A visible emissions observer may conduct visible emission observations for up to three fugitive, stack, or vent emission points within a 15-second interval if the following conditions specified in paragraphs (a)(3)(i) through (iii) of this section are met.

[40CFR§60.257(a)(3)]

(i) No more than three emissions points may be read concurrently.

[40CFR§60.257(a)(3)(i)]

(ii) All three emissions points must be within a 70 degree viewing sector or angle in front of the observer such that the proper sun position can be maintained for all three points.

[40CFR§60.257(a)(3)(ii)]

(iii) If an opacity reading for any one of the three emissions points is within 5 percent opacity from the applicable standard (excluding readings of zero opacity), then the observer must stop

taking readings for the other two points and continue reading just that single point.

[40CFR§60.257(a)(3)(iii)]

- 4.3.9. **Test Methods and Procedures for Subpart Y.** The owner or operator must conduct all performance tests required by §60.8 to demonstrate compliance with the applicable emissions standards specified in §60.252 according to the requirements in §60.8 using the applicable test methods and procedures in paragraphs (b)(1) through (8) of this section.

[40CFR§60.257(b)]

- 4.3.10. **Test Methods and Other Procedures for Engine SE-1.** Owners and operators of stationary CI ICE with a displacement of less than 30 liters per cylinder who conduct performance tests pursuant to this subpart must do so according to paragraphs (a) through (e) of this section.

[40 CFR §60.4212]

- (a) The performance test must be conducted according to the in-use testing procedures in 40 CFR part 1039, subpart F, for stationary CI ICE with a displacement of less than 10 liters per cylinder.

[40 CFR §60.4212(a)]

- (b) Exhaust emissions from stationary CI ICE that are complying with the emission standards for new CI engines in 40 CFR part 1039 must not exceed the not-to-exceed (NTE) standards for the same model year and maximum engine power as required in 40 CFR 1039.101(e) and 40 CFR 1039.102(g)(1), except as specified in 40 CFR 1030.104(d). This requirement starts when NTE requirements take effect for nonroad diesel engines under 40 CFR part 1039.

[40 CFR §60.4212b]

- (c) Exhaust emissions from stationary CI ICE that are complying with the emission standards for new CI engines in 40 CFR 89.112 or 40 CFR 94.8, as applicable, must not exceed the NTE numerical requirements, rounded to the same number of decimal places as the applicable standard in 40 CFR 89.112 or 40 CFR 94.8, as applicable, determined from the following equation:

$$\text{NTE Requirement for each pollutant} = (1.25) \times (\text{STD})$$

Where: STD = The standard specified for the pollutant in 40 CFR 89.112 or 40 CFR 94.8, as applicable.

Alternatively, stationary CI ICE that are complying with the emission standards for new CI engines in 40 CFR 89.112 or 40 CFR 94.8 may follow the testing procedures specified in §60.4213 of this subpart, as appropriate.

[40 CFR §60.4212(c)]

4.4. Recordkeeping Requirements

- 4.4.1. For the purposes of determining compliance with maximum throughput limits set forth in Sections 4.1.3, 4.1.4, 4.1.5, 4.1.6 and 4.1.7, the permittee shall monitor and record the amount of coal throughput, processing rates and hours of operation and maintain certified daily records, utilizing the forms identified as Appendix A. Such records shall be retained onsite by the permittee for at least five (5) years. Certified records shall be made available to the Director or his duly authorized representative upon request.

- 4.4.2. For the purposes of determining compliance with water truck usage set forth in Section 4.1.8, the

permittee shall monitor and record water truck activity and maintain certified daily records, utilizing the form identified as Appendix B. Such records shall be retained onsite by the permittee for at least five (5) years. Certified records shall be made available to the Director or his duly authorized representative upon request.

4.4.3. **Record of Monitoring.** The permittee shall keep records of monitoring information that include the following:

- a. The date, place as defined in this permit and time of sampling or measurements;
- b. The date(s) analyses were performed;
- c. The company or entity that performed the analyses;
- d. The analytical techniques or methods used;
- e. The results of the analyses; and
- f. The operating conditions existing at the time of sampling or measurement.

4.4.4. **Record of Maintenance of Air Pollution Control Equipment.** For all pollution control equipment listed in Section 1.0, the permittee shall maintain accurate records of all required pollution control equipment inspection and/or preventative maintenance procedures.

4.4.5. **Record of Malfunctions of Air Pollution Control Equipment.** For all air pollution control equipment listed in Section 1.0, the permittee shall maintain records of the occurrence and duration of any malfunction or operational shutdown of the air pollution control equipment during which excess emissions occur. For each such case, the following information shall be recorded:

- a. The equipment involved.
- b. Steps taken to minimize emissions during the event.
- c. The duration of the event.
- d. The estimated increase in emissions during the event.

For each such case associated with an equipment malfunction, the additional information shall also be recorded:

- e. The cause of the malfunction.
- f. Steps taken to correct the malfunction.
- g. Any changes or modifications to equipment or procedures that would help prevent future recurrences of the malfunction.

4.4.6. **Recordkeeping for Subpart Y.** The owner or operator of a coal preparation and processing plant that commenced construction, reconstruction, or modification after April 28, 2008, shall maintain a logbook (written or electronic) on-site which documents the information specified in paragraphs (a)(1) through (10) of this section and make it available upon request.

[40CFR§60.258(a)]

(1) The manufacturer's recommended maintenance procedures and the date and time of any maintenance and inspection activities. Any variance from manufacturer recommendation, if any, shall be noted.

[40CFR§60.258(a)(1)]

(2) The date and time of periodic coal preparation and processing plant visual observations, noting those sources with visible emissions along with corrective actions taken to reduce visible emissions. Results from the actions shall be noted.

[40CFR§60.258(a)(2)]

- (3) The amount and type of coal processed each calendar month.
[40CFR§60.258(a)(3)]
- (4) The amount of chemical stabilizer or water purchased for use in the coal preparation plant and processing plant.
[40CFR§60.258(a)(4)]
- (5) Monthly certification that the dust suppressant systems were operational when any coal was processed and that manufacturer's recommendations were followed for all control systems. Any variance from manufacturer recommendation, if any, shall be noted.
[40CFR§60.258(a)(5)]
- (6) Monthly certification that the fugitive coal dust emissions control plan was implemented as described. Any variance from the plan, if any, shall be noted. A copy of the applicable fugitive coal dust emissions control plan and any letters from the Administrator providing approval of any alternative control measures shall be maintained with the logbook. Any actions, *e.g.* objections, to the plan and any actions relative to the alternative control measures, *e.g.* approvals, shall be noted in the logbook as well.
[40CFR§60.258(a)(6)]
- (8) A copy of any applicable monitoring plan for a digital opacity compliance system and monthly certification that the plan was implemented as described. Any variance from plan, if any, shall be noted.
[40CFR§60.258(a)(8)]

4.5. Reporting Requirements

- 4.5.1. Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner or operator of a source, electronic notification, as follows:

[40CFR§60.7(a)]

A notification of the date construction (or reconstruction as defined under §60.15) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.

[40CFR§60.7(1)]

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

[40CFR§60.7(3)]

- 4.5.2. With regard to any testing required by the Director, the permittee shall submit to the Director of Air Quality and the Associate Director - Office of Air Enforcement and Compliance Assistance (3AP20) of the US EPA a test protocol detailing the proposed test methods, the date, and the time the proposed testing is to take place, as well as identifying the sampling locations and other relevant information. The test protocol must be received by the Director and the Associate Director no less than thirty (30) days prior to the date the testing is to take place. Test results shall be submitted to the Director and the Associate Director no more than sixty (60) days after the date the testing takes place.

- 4.5.3. **Reporting for Subpart Y - Notice of Any Performance Tests.** The owner or operator of an affected facility shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer

present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected facility shall notify the Administrator (or delegated State or local agency) as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Administrator (or delegated State or local agency) by mutual agreement.

[40CFR§60.8(d)]

- 4.5.4. **Reporting for Subpart Y - Opacity Exceedances.** For the purposes of reports required under section 60.7(c), any owner or operator subject to the provisions of Subpart Y also shall report semiannually periods of excess emissions as specified in paragraphs (b)(1) through (3) of this section.

[40CFR§60.258(b)]

(3) All 6-minute average opacities that exceed the applicable standard.

- 4.5.5. **Reporting for Subpart Y - Results of Initial Performance Tests.** The owner or operator of an affected facility shall submit the results of initial performance tests to the Administrator or delegated authority, consistent with the provisions of section 60.8. The owner or operator who elects to comply with the reduced performance testing provisions of sections 60.255(c) or (d) shall include in the performance test report identification of each affected facility that will be subject to the reduced testing. The owner or operator electing to comply with section 60.255(d) shall also include information which demonstrates that the control devices are identical.

[40CFR§60.258(c)]

- 4.5.6. **Reporting for Subpart Y - WebFIRE Data Base.** After July 11, 2011, within 60 days after the date of completing each performance evaluation conducted to demonstrate compliance with this subpart, the owner or operator of the affected facility must submit the test date to EPA by successfully entering the data electronically into EPA's WebFIRE data base available at <http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main>. For performance tests that cannot be entered into WebFIRE (i.e. Method 9 of appendix A-4 of this part opacity performance tests) the owner or operator of the affected facility must mail a summary copy to United States Environmental Protection Agency; Energy Strategies Group; 109 TW Alexander DR; mail code D243-01; RTP, NC 27711.

[40CFR§60.258(d)]

APPENDIX A ¹

Certified Daily and Monthly Record of Material Throughputs

Month _____ **Year** _____

Day of Month	Raw Coal Processed			Coal and Refuse Shipped From the Facility		Initials
	Material to Screen S-1 (in tons)	Material to Screen S-2 (in tons)	Hours of Operation (hours)	Product Coal Transferred by End Loader (in tons)	Refuse Shipped by Trucks (in tons)	
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
Monthly Total						
12 Month Rolling Total ²						

- (1) The CERTIFICATION OF DATA ACCURACY statement appearing on the reverse side shall be completed within fifteen (15) days of the end of the reporting period. All records shall be kept on site for a period of no less than five (5) years and shall be made available to the Secretary or his or her duly authorized representative upon request.
- (2) The 12 Month Rolling Total shall mean, for example, the sum of coal trucked into the facility and dumped to the stockpiles at any given time during the previous twelve (12) consecutive calendar months. The maximum permitted 12 Month Rolling Totals are as follows: Raw Coal to Screen S-1- 168,000 TPY; Feed Coal to Screen S-2 - 168,000 TPY; Product Coal Transferred by Endloader - 168,000 TPY; and Refuse Shipped by Trucks - 72,000 TPY.

APPENDIX B ¹

Water Truck Usage and Throughput Monthly Report

Month _____ Year _____

Day of Month	Water Truck Used? (Y/N)	Quantity of water used ² (gallons)	Comments ³	Initials
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				

- (1) The CERTIFICATION OF DATA ACCURACY statement appearing on the reverse side shall be completed within fifteen (15) days of the end of the reporting period. All records shall be kept on site for a period of no less than five (5) years and shall be made available to the Secretary or his or her duly authorized representative upon request.
- (2) The quantity of water applied may be estimated based on the volume of the tank and number of times the water truck was refilled.
- (3) Use the comment section to explain why the water truck was not used or was used sparingly.

CERTIFICATION OF DATA ACCURACY

I, the undersigned, hereby certify that, based on information and belief formed after reasonable inquiry, all information contained in the attached _____, representing the period beginning _____ and ending _____, and any supporting documents appended hereto, is true, accurate, and complete.

Signature¹ _____
(please use blue ink) Responsible Official or Authorized Representative Date

Name and Title _____
(please print or type) Name Title

Telephone No. _____ Fax No. _____

¹ This form shall be signed by a "Responsible Official." "Responsible Official" means one of the following:

- a. For a corporation: The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (I) the facilities employ more than 250 persons or have a gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or
 - (ii) the delegation of authority to such representative is approved in advance by the Director;
- b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- c. For a municipality, State, Federal, or other public entity: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of USEPA); or
- d. The designated representative delegated with such authority and approved in advance by the Director.