Colorado Department of Public Health and Environment

OPERATING PERMIT

Fountain Landfill

First Issued: September 1, 1999
Renewed: June 1, 2005

AIR POLLUTION CONTROL DIVISION
COLORADO OPERATING PERMIT

FACILITY NAME: Fountain Landfill

OPERATING PERMIT NUMBER

97OPEP182

FACILITY ID: 0410331

RENEWED: June 1, 2005
EXPIRATION DATE: June 1, 2010
MODIFICATIONS: See Appendix F of Permit

Issued in accordance with the provisions of Colorado Air Pollution Prevention and Control Act, 25-7-101 et seq. and applicable rules and regulations.

ISSUED TO:

U.S. Waste Industries, Inc.
7770 Palmer Park Boulevard
Colorado Springs, CO 80915

PLANT SITE LOCATION:

10000 Squirrel Creek Road
Fountain, CO
El Paso County

INFORMATION RELIED UPON
Operating Permit Application Received: February 2, 2004
And Additional Information Received: November 9, 2004; November 19, 2004; December 14, 2004

Nature of Business: Municipal solid waste disposal
Primary SIC: 4953

RESPONSIBLE OFFICIAL
Name: Rick Gordon
Title: Landfill Manager

Phone: 719-382-9661

FACILITY CONTACT PERSON
Name: Rick Gordon
Title: Landfill Manager

Phone: 719-382-9661

SUBMITTAL DEADLINES
Semi-Annual Monitoring Period: June 1 – November 30, December 1 – May 31
Semi-Annual Monitoring Report: Due on January 1, 2006 & July 1, 2006 and subsequent years
Annual Compliance Period: June 1 to May 31
Annual Compliance Certification: Due on July 1, 2006 and subsequent years

Note that the Semi-Annual Monitoring Reports and Annual Compliance Certifications must be received at the Division office by 5:00 p.m. on the due date. Postmarked dates will not be accepted for the purposes of determining the timely receipt of those reports/certifications.

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SECTION I - General Activities and Summary

1. Permitted Activities

1.1 This facility is a municipal solid waste landfill and falls under the Standard Industrial Classification 4953. Landfill gas is generated from the decomposition of organic materials found in landfills. Landfill gas is primarily composed of methane and carbon dioxide. Volatile organic compounds (VOC) and hazardous air pollutants (HAP) are present in landfill gas in trace amounts. Landfill gas (LFG) is emitted primarily through two sources. LFG can be emitted as fugitive gas through cover soils or through a LFG migration control system (GMCS). The GMCS is installed to control LFG migration. Collected LFG is sent to a flare for destruction. During its operation the flare generates various combustion by-products that are emitted into the atmosphere. Particulate emissions are generated from construction and operation of the landfill, which includes vehicle traffic on paved or unpaved roads, excavation, and the handling of soil cover material.

This facility is located approximately six miles southeast of I-25 and Highway 16, El Paso County. The area in which the plant operates is designated as attainment for all criteria pollutants.

There are no affected states within 50 miles of this facility. Florissant Fossil Beds National Monument is a Federal land area within 100 kilometers of the facility. Florissant Fossil Beds has been designated by the State to have the same sulfur dioxide increment as a Federal Class I area.

1.2 Until such time as this permit expires or is modified or revoked, the permittee is allowed to discharge air pollutants from this facility in accordance with the requirements, limitations, and conditions of this permit.

1.3 The Operating Permit incorporates the applicable requirements contained in the underlying construction permits, and does not affect those applicable requirements, except as modified during review of the application or as modified subsequent to permit issuance using the modification procedures found in Regulation No. 3, Part C. These Part C procedures meet all applicable substantive New Source Review requirements of Part B. Any revisions made using the provisions of Regulation No. 3, Part C shall become new applicable requirements for purposes of this Operating Permit and shall survive reissuance. This permit incorporates the applicable requirements (except as noted in Section II) from the following construction permit: **90EP210.**

1.4 All conditions in this permit are enforceable by US Environmental Protection Agency, Colorado Air Pollution Control Division (hereinafter Division) and its agents, and citizens unless otherwise specified. **State-only enforceable conditions are:** Permit Condition Number(s): Section IV - Conditions 14, 18 and 3.g. (as noted).

1.5 All information gathered pursuant to the requirements of this permit is subject to the Recordkeeping and Reporting requirements listed under Condition 22 of the General Conditions in Section IV of this permit. Either electronic or hard copy records are acceptable.

2. Alternative Operating Scenarios

2.1 The permittee shall be allowed to make the following changes to its method of operation without applying for a revision of this permit.

2.1.1 No separate operating scenarios have been specified.

3. Prevention Of Significant Deterioration (PSD)

3.1 This facility is located in an area designated attainment for all pollutants. Based on the information provided by the applicant, it is categorized as a minor stationary source (no single criteria pollutant emissions with a potential to emit (PTE) greater than 250 TPY as of the issue date of this permit). The source therefore is not subject to the PSD review requirements of 40 CFR 52.21 (Colorado Regulation 3, Part D, Section IV).

Future modifications to this facility which are major by itself will result in the application of the PSD review requirements. In addition, future modifications at this facility may result in the facility being classified as a major stationary source. Once that threshold is exceeded, future modifications at this facility resulting in a significant net emissions increase (see Reg 3, Part D, Section II.A.27 & 44) for any pollutant as listed in Regulation No. 3, Part D, Section II.A.44 or a modification which is major by itself may result in the application of the PSD review requirements.

4. Accidental Release Prevention Program (112(r))

4.1 Based upon the information provided by the applicant, the sources addressed in this permit are not subject to the provisions of the Accidental Release Prevention Program (section 112(r) of the Federal Clean Air Act).

5. Compliance Assurance Monitoring (CAM)

5.1 The following emission points at this facility use a control device to achieve compliance with an emission limitation or standard to which they are subject and have pre-control emissions that exceed or are equivalent to the major source threshold. They are therefore subject to the provisions of the CAM program as set forth in 40 CFR Part 64, as adopted by reference in Colorado Regulation No. 3, Part C, Section XIV:

None.

6. Summary of Emission Units

6.1 The emissions units regulated by this permit are the following:

Emission Unit Number	AIRS Stack Number	Unit ID	Description	Pollution Control Device
P001	001	S001	Fugitive Particulate Emissions	None
P002	002	S002	Landfill gas emissions	LFG Specialties utility flare, Model: T/PCF61816

SECTION II - Specific Permit Terms

1. P001 – Fugitive Particulate Matter Emissions

Parameter	Permit Condition Number	Limitations		Compliance Emission Factor	Monitoring	
		Short Term	Long Term		Method	Interval
Fugitive PM	1.1		32.53 tons/yr		Certification	Semi-annually
Fugitive PM_{10}			19.08 tons/yr			
Waste Acceptance	1.2		760,595 tons/yr		Recordkeeping	Monthly
Fugitive Particulate Matter Emissions	1.3	Not to exceed 20% opacity		Per Division approved control plan	Visual observation	Weekly
		No off-property transport				
		No nuisance conditions created				
Fugitive Emissions Control Plan	1.4				Certification	Semi-annually

1.1 Particulate Matter (PM and PM_{10}) emissions shall not exceed the limits that are outlined in the table above. The implementation of the Fugitive Emissions Control Plan serves as a demonstration of compliance with this condition. The owner/operator shall certify semi-annually that the Fugitive Emissions Control Plan is being implemented and followed. (Construction Permit 90EP210, as modified under the provisions of Section I, Condition 1.3.)

1.2 Waste acceptance shall not exceed 760,595 tons per year (Construction Permit 90EP210, as modified under the provisions of Section I, Condition 1.3). Actual waste acceptance shall be recorded monthly. A twelve-month rolling total will be maintained to monitor compliance with the annual limitation.

1.3 A weekly check of the facility shall be conducted to determine if the control practices of Condition 1.4 are being implemented and are effective. Records of the observations shall be maintained and made available for Division review upon request. (NOTE: The 20% opacity, no off-property transport, and nuisance emission limitation are guidelines and not enforceable standards and no person shall be cited for violation thereof pursuant to C.R.S. 1973, 25-7-115 as amended.)

1.3.1 20% opacity - During the weekly check, when visible emissions persist for longer than fifteen (15) continuous minutes, the cause shall be determined and corrective actions taken. In addition, a revised Fugitive Emissions Control Plan shall be submitted within 30 days for Division review and approval. A record of the existing condition and the action taken shall be maintained and made available to the Division for review upon request.

1.3.2 Off-Property Transport and Nuisance Provision - During the weekly check, when visible emissions exist within the facility fence line and they persist for longer than fifteen (15) continuous minutes, an inspection shall be made to determine if the visible emissions are

being transported off the property on which the source is located. If there is off-property transport of the visible emissions, the cause shall be determined and corrective actions taken. In addition, a revised Fugitive Emission Control Plan shall be submitted within thirty (30) calendar days for Division review and approval. A record of the existing condition and the action taken shall be maintained and made available to the Division for review upon request.

As used herein, "nuisance" shall mean the emission of fugitive particulate which constitutes a private or public nuisance as defined in common law, the essence of which is that such emissions are unreasonable interfering with another person's use and enjoyment of his property. Such interference must be "substantial" in its nature as measured by a standard that it would be of definite offensiveness, inconvenience, or annoyance to a normal person in the community.

1.4 The owner/operator shall apply such control measures and operating procedures as are necessary to minimize fugitive particulate emissions (Colorado Regulation No. 1, Section III.D.1.a). The owner/operator shall certify semi-annually that all appropriate measures have been taken to minimize fugitive emissions. The following fugitive emission control measures shall be used for enforcement purposes on the fugitive emission producing sources, as required by Colorado Regulation No.1 (Construction Permit 90EP210).

1.4.1 Adequate soil moisture must be maintained in topsoil and overburden to control emissions during removal. Watering shall be implemented if necessary.

1.4.2 Topsoil and overburden stockpiles shall be compacted and revegetated as needed.

1.4.3 Emissions from material handling (i.e. removal, loading, and hauling) shall be controlled by watering at all times unless natural moisture is sufficient to control emissions.

1.4.4 Vehicle speed on haul roads and service roads shall not exceed a maximum of 25 m.p.h. Speed limit signs shall be posted.

1.4.5 Unpaved haul roads and disturbed areas shall be watered as often as needed to control fugitive particulate emissions.

1.4.6 Access roads located on the facility shall be paved or graveled and maintained.

1.4.7 Haul roads shall be graded and maintained.

2. P002 – Landfill Gas Emissions and flare

Parameter	Permit Condition Number	Limitations Short Term	Limitations Long Term	Compliance Emission Factor	Monitoring Method	Monitoring Interval
VOC Emissions	2.1		7.04 tons/yr	EPA's Landfill Gas Emissions Model (Version 2.01 or most current version), or AP-42 2.4	Calculation	Annually
PM	2.2		2.03 tons/yr	17 pounds per million dscf methane	Recordkeeping & Calculation	Monthly
PM_{10}			2.03 tons/yr	17 pounds per million dscf methane		
SO_2			1.56 tons/yr	AP-42 2.4		
CO			89.66 tons/yr	750 pounds per million dscf methane		
NOx			4.78 tons/yr	40 pounds per million dscf methane		
Landfill gas combustion	2.3		239,100 million BTU per year		Recordkeeping	Monthly
Flare destruction efficiency	2.4	Reduce VOC and HAPs by at least 98%.			Measurement & Recordkeeping	Daily
Standards of Performance for Municipal Solid Waste Landfills	2.5				NSPS Subpart WWW	As Defined
NSPS General Provisions	2.6				Subject to NSPS General Provisions	
Opacity	2.7	No visible emissions			Observation	Weekly
					Method 22	As required
National Emission Standards for Hazardous Air Pollutants: MSW Landfills	2.8				MACT Subpart AAAA	As Defined
Odor	2.9					
Heat (BTU) content & methane content of landfill gas	2.10				40 CFR § 60.18 (f)(3)	Annually
Petroleum contaminated materials	2.11		5.0 ton VOC per year	Mass balance	Sampling	Twice per year
					Record keeping & Calculation	Monthly

2.1 Emissions of Volatile Organic Compounds (VOC) from the landfill shall not exceed the limits listed in the table above. The landfill gas emissions shall be calculated annually using EPA's Landfill Gas Emissions Model (Version 2.01 or the most current version of the model), or the calculation methods outlined in AP-42 2.4. The VOC emissions shall be 39% of the total non-methane organic compound (NMOC) emission that is estimated by the model. (Construction Permit 90EP210, as modified under the provisions of Section I, Condition 1.3.)

2.2 Pollutant emissions shall not exceed the limits listed in the table above. Compliance with the annual limits shall be determined on a rolling (12) month total. By the end of each month a new twelve month total is calculated based on the previous twelve months' data. The permit holder shall calculate monthly emissions and keep a compliance record on site for Division review. (Construction Permit 90EP210, as modified under the provisions of Section I, Condition 1.3.).

2.3 Combustion of landfill gas shall not exceed 239,100 million BTU per year. Monthly records of the actual combustion rate shall be maintained by the applicant and made available to the Division for inspection upon request. Compliance with the yearly limit shall be determined on a rolling twelve (12) month total. The most recent heat content of the landfill gas, required by Condition 2.10, shall be used to determine the total BTU content of the gas (Construction Permit 90EP210, as modified under the provisions of Section I, Condition 1.3.).

2.4 This source shall be equipped with a flare capable of reducing uncontrolled emissions of VOC and HAPs by at least 98%.

The following conditions must be met to achieve 98% control:

2.4.1 Minimum flow rate of 59 SCFM.

2.4.2 Minimum methane content of 30%.

2.4.3 The flare temperature shall be at least 1220ºF

2.4.4 The operation conditions and maintenance procedures found in Appendix G shall be followed.

The flare temperature and flow rate shall be measured and recorded on a daily basis. The methane content shall be determined as specified in Condition 2.10 (Construction Permit 90EP210, as modified under the provisions of Section I, Condition 1.3.).

2.5 MSW Landfills that commenced construction, reconstruction or modification or began accepting waste on or after May 30, 1991 are subject to the New Source Performance Standards requirements of Regulation No. 6, Part A, Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills, including, but not limited to, the following:

2.5.1 Each owner or operator shall submit to the Division an initial design capacity report and an initial emission rate report in accordance with §60.757 within ninety (90) days of the

effective date of Subpart WWW (March 12, 1996). An amended design capacity report shall be submitted to the Division when there is any increase in the design capacity.

2.5.2 Control of MSW landfill emissions is required at each MSW landfill meeting the following conditions:

2.5.2.1 The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition;

2.5.2.2 The landfill has a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters; and

2.5.2.3 The landfill has a nonmethane organic compound (NMOC) emission rate of 50 megagrams per year or more. The NMOC emission rate will be submitted to the Division in the initial emission rate report and also on an annual basis in an annual emissions report.

2.5.3 Landfills meeting the above conditions shall comply with §60.752 (b)(2)(ii), which requires the installation of a collection and control system that effectively captures the gas generated within the landfill. The system design must be approved by the Division and meet the following requirements:

2.5.3.1 An open flare designed and operated in accordance with the parameters established in §60.18 (General Provision); or

2.5.3.2 A control system designed and operated to reduce NMOC by 98 weight percent; or

2.5.3.3 An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, dry basis at 3 percent oxygen, or less.

2.5.4 The NMOC emission rate shall be recalculated annually and an annual emission report shall be submitted to the Division.

2.5.5 Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic meters is subject to part 70 permit requirements.

2.5.6 If the NMOC emission rate, upon recalculation required in paragraph (b)(1)(ii) of §60.752, is equal to or greater than 50 megagrams per year, the owner or operator shall install a collection and control system in compliance with paragraph (b)(2) of §60.752.

2.5.7 The facility shall comply with the following requirements:

2.5.7.1 §60.753 Operational standards for collection and control systems

2.5.7.2 §60.754 Test methods and procedures

2.5.7.3 §60.755 Compliance provisions

2.5.7.4 §60.756 Monitoring of operations

2.5.7.5 §60.757 Reporting requirements

2.5.7.6 §60.758 Recordkeeping requirements

2.6 In addition, the following requirements of Regulation No. 6, Part A, Subpart A, General Provisions, apply.

2.6.1 At all times, including periods of start-up, shutdown, and malfunction, the facility and control equipment shall, to the extent practicable, be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether or not acceptable operating and maintenance procedures are being used will be based on information available to the Division, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. (Reference: Regulation 6, Part A. General Provisions from 40 CFR 60.11)

2.6.2 No article, machine, equipment or process shall be used to conceal an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere. (§ 60.12)

2.6.3 Written notification of construction and initial startup dates shall be submitted to the Division as required under § 60.7.

2.6.4 Records of startups, shutdowns, and malfunctions shall be maintained, as required under § 60.7.

2.6.5 Written notification of opacity observation or monitor demonstrations shall be submitted to the Division as required under § 60.7.

2.6.6 Performance tests shall be conducted as required under § 60.8.

2.6.7 Compliance with opacity standards shall be demonstrated according to § 60.11.

2.7 The flare must be operated in accordance with the standards detailed in 40 CFR § 60.18. A visible observation of the flare must be conducted weekly. If visible emissions are present during the weekly observation, a two (2) hour reading shall be performed in accordance with Method 22, the cause of the visible emissions should be determined, and corrective action taken. At least one reading shall be performed in accordance with EPA Method 22 annually. Records of the Method 22 observations shall be maintained and made available for Division inspection upon request.

2.7.1 Flares shall be designed for and operated with no visible emissions as determined by the methods specified in § 60.18 (f), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

2.7.2 Flares shall be operated with a flame present at all times, as determined by the methods specified in § 60.18 (f).

2.7.3 Owners or operators of flares used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs.

2.7.4 Flares used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

2.7.5 Method 22 of appendix A to this part shall be used to determine the compliance of flares with the visible emission provisions of this subpart. The observation period is 2 hours and shall be used according to Method 22.

2.7.6 The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.

2.8 This source is subject to the National Emissions Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills (40 CFR Part 63, Subpart AAAA) as follows:

2.8.1 The permittee must develop and implement a written SSM plan according to the provisions in 40 CFR 63.6(e)(3). A copy of the SSM plan must be maintained on site.

2.8.2 The annual reports described in 40 CFR 60.757(f) must be submitted every 6 months.

2.8.3 The permittee must comply with the general provisions of this part specified in table 1 of this subpart.

2.9 This source is subject to the odor requirements of Regulation Number 2 (**state only**).

2.10 The heat (BTU) content of the landfill gas shall be determined annually per 40 CFR § 60.18(f)(3). The methane content of the landfill gas shall be determined annually. All calculations requiring the use of the landfill gas heat content or methane content shall utilize the most recent analytical results.

2.11 VOC emissions associated with petroleum-contaminated materials shall not exceed the limitation listed in the table above. The source shall calculate emissions from contaminated materials received by using a mass balance calculation based on the concentration of contaminants and the quantity of materials accepted. (Construction Permit 90EP210, as modified under the provisions of Section I, Condition 1.3.).

2.11.1 The source shall sample incoming contaminated materials twice per year to determine VOC content for use in the calculations. Tests shall be conducted at least two months apart.

SECTION III - Permit Shield

Regulation No. 3, 5 CCR 1001-5, Part C, §§ I.A.4, V.D. & XIII.B; § 25-7-114.4(3)(a), C.R.S.

1. Specific Non-Applicable Requirements

Based on the information available to the Division and supplied by the applicant, the following parameters and requirements have been specifically identified as non-applicable to the facility to which this permit has been issued. This shield does not protect the source from any violations that occurred prior to or at the time of permit issuance. In addition, this shield does not protect the source from any violations that occur as a result of any modifications or reconstruction on which construction commenced prior to permit issuance.

No requirements have been specifically identified as non-applicable for this facility.

2. General Conditions

Compliance with this Operating Permit shall be deemed compliance with all applicable requirements specifically identified in the permit and other requirements specifically identified in the permit as not applicable to the source. This permit shield shall not alter or affect the following:

2.1 The provisions of §§25-7-112 and 25-7-113, C.R.S., or §303 of the federal act, concerning enforcement in cases of emergency;

2.2 The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

2.3 The applicable requirements of the federal Acid Rain Program, consistent with §408(a) of the federal act;

2.4 The ability of the Air Pollution Control Division to obtain information from a source pursuant to §25-7-111(2)(I), C.R.S., or the ability of the Administrator to obtain information pursuant to §114 of the federal act;

2.5 The ability of the Air Pollution Control Division to reopen the Operating Permit for cause pursuant to Regulation No. 3, Part C, §XIII.

2.6 Sources are not shielded from terms and conditions that become applicable to the source subsequent to permit issuance.

3. Streamlined Conditions

The following applicable requirements have been subsumed within this operating permit using the pertinent streamlining procedures approved by the U.S. EPA. For purposes of the permit shield, compliance with the listed permit conditions will also serve as a compliance demonstration for purposes of the associated subsumed requirements.

No conditions have been streamlined.

SECTION IV - General Permit Conditions

1. Administrative Changes

Regulation No. 3, 5 CCR 1001-5, Part A, §III.

The permittee shall submit an application for an administrative permit amendment to the Division for those permit changes that are described in Regulation No. 3, Part A, § I.B.1. The permittee may immediately make the change upon submission of the application to the Division.

2. Certification Requirements

Regulation No. 3, 5 CCR 1001-5, Part C, §§ III.B.9., V.C.16.a.& e. and V.C.17.

a. Any application, report, document and compliance certification submitted to the Air Pollution Control Division pursuant to Regulation No. 3 or the Operating Permit shall contain a certification by a responsible official of the truth, accuracy and completeness of such form, report or certification stating that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

b. All compliance certifications for terms and conditions in the Operating Permit shall be submitted to the Air Pollution Control Division at least annually unless a more frequent period is specified in the applicable requirement or by the Division in the Operating Permit.

c. Compliance certifications shall contain:

(i) the identification of each permit term and condition that is the basis of the certification;

(ii) the compliance status of the source;

(iii) whether compliance was continuous or intermittent;

(iv) method(s) used for determining the compliance status of the source, currently and over the reporting period; and

(v) such other facts as the Air Pollution Control Division may require to determine the compliance status of the source.

d. All compliance certifications shall be submitted to the Air Pollution Control Division and to the Environmental Protection Agency at the addresses listed in Appendix D of this Permit.

e. If the permittee is required to develop and register a risk management plan pursuant to § 112(r) of the federal act, the permittee shall certify its compliance with that requirement; the Operating Permit shall not incorporate the contents of the risk management plan as a permit term or condition.

3. Common Provisions

Common Provisions Regulation, 5 CCR 1001-2 §§ II.A., II.B., II.C., II,.E., II.F., II.I, and II.J

a. To Control Emissions Leaving Colorado

When emissions generated from sources in Colorado cross the State boundary line, such emissions shall not cause the air quality standards of the receiving State to be exceeded, provided reciprocal action is taken by the receiving State.

b. Emission Monitoring Requirements

The Division may require owners or operators of stationary air pollution sources to install, maintain, and use instrumentation to monitor and record emission data as a basis for periodic reports to the Division.

c. Performance Testing

The owner or operator of any air pollution source shall, upon request of the Division, conduct performance test(s) and furnish the Division a written report of the results of such test(s) in order to determine compliance with applicable emission control regulations.

Performance test(s) shall be conducted and the data reduced in accordance with the applicable reference test methods unless the Division:

(i) specifies or approves, in specific cases, the use of a test method with minor changes in methodology;

(ii) approves the use of an equivalent method;

(iii) approves the use of an alternative method the results of which the Division has determined to be adequate for indicating where a specific source is in compliance; or

(iv) waives the requirement for performance test(s) because the owner or operator of a source has demonstrated by other means to the Division's satisfaction that the affected facility is in compliance with the standard. Nothing in this paragraph shall be construed to abrogate the Commission's or Division's authority to require testing under the Colorado Revised Statutes, Title 25, Article 7, and pursuant to regulations promulgated by the Commission.

Compliance test(s) shall be conducted under such conditions as the Division shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Division such records as may be necessary to determine the conditions of the performance test(s). Operations during period of startup, shutdown, and malfunction shall not constitute representative conditions of performance test(s) unless otherwise specified in the applicable standard.

The owner or operator of an affected facility shall provide the Division thirty days prior notice of the performance test to afford the Division the opportunity to have an observer present. The Division may waive the thirty day notice requirement provided that arrangements satisfactory to the Division are made for earlier testing.

The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

(i) Sampling ports adequate for test methods applicable to such facility;

(ii) Safe sampling platform(s);

(iii) Safe access to sampling platform(s); and

(iv) Utilities for sampling and testing equipment.

Each performance test shall consist of at least three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic mean of results of at least three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the Division's approval, be determined using the arithmetic mean of the results of the two other runs.

Nothing in this section shall abrogate the Division's authority to conduct its own performance test(s) if so warranted.

d. Upset Conditions and Breakdowns

Upset conditions, as defined, shall not be deemed to be in violation of the Colorado regulations, provided that the Division is notified as soon as possible, but no later than two (2) hours after the start of the next working day, followed by a written notice to the Division explaining the cause of the occurrence and that proper action has been or is being taken to correct the conditions causing the violation and to prevent such excess emission in the future.

e. Circumvention Clause

A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air pollutants to the atmosphere, reduces or conceals an emission which would otherwise constitute a violation of this regulation. No person shall circumvent this regulation by using more openings than is considered normal practice by the industry or activity in question.

f. Compliance Certifications

For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in the Colorado State Implementation Plan, nothing in the Colorado State Implementation Plan shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed. Evidence that has the effect of making any relevant standard or permit term more stringent shall not be credible for proving a violation of the standard or permit term.

When compliance or non-compliance is demonstrated by a test or procedures provided by permit or other applicable requirement, the owner or operator shall be presumed to be in compliance or non-compliance unless other relevant credible evidence overcomes that presumption.

g. Affirmative Defense Provision for Excess Emissions During Startup and Shutdown

Note that until such time as the U.S. EPA approves this provision into the Colorado State Implementation Plan (SIP), it shall apply only to State-Only permit terms and conditions and shall be enforceable only by the State.

An affirmative defense is provided to owners and operators for civil penalty actions for excess emissions during periods of startup and shutdown. To establish the affirmative defense and to be relieved of a civil penalty in any action to enforce an applicable requirement, the owner or operator of the facility must meet the notification requirements below in a timely manner and prove by a preponderance of the evidence that:

(i) The periods of excess emissions that occurred during startup and shutdown were short and infrequent and could not have been prevented through careful planning and design;

(ii) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation or maintenance;

(iii) If the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(iv) The frequency and duration of operation in startup and shutdown periods were minimized to the maximum extent practicable;

(v) All possible steps were taken to minimize the impact of excess emissions on ambient air quality;

(vi) All emissions monitoring systems were kept in operation (if at all possible);

(vii) The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs or other relevant evidence; and,

(viii) At all times, the facility was operated in a manner consistent with good practices for minimizing emissions. This subparagraph is intended solely to be a factor in determining whether an affirmative defense is available to an owner or operator, and shall not constitute an additional applicable requirement.

The owner or operator of the facility experiencing excess emissions during startup and shutdown shall notify the Division verbally as soon as possible, but no later than two (2) hours after the start of the next working day, and shall submit written quarterly notification following the initial occurrence of the excess emissions. The notification shall address the criteria set forth above.

The Affirmative Defense Provision contained in this section shall not be available to claims for injunctive relief.

The Affirmative Defense Provision does not apply to State Implementation Plan provisions or other requirements that derive from new source performance standards or national emissions standards for hazardous air pollutants, or any other federally enforceable performance standard or emission limit with an averaging time greater than twenty-four hours. In addition, an affirmative defense cannot be used by a single source or small group of sources where the excess emissions have the potential to cause an exceedance of the ambient air quality standards or Prevention of Significant Deterioration (PSD) increments.

In making any determination whether a source established an affirmative defense, the Division shall consider the information within the notification required above and any other information the Division deems necessary, which may include, but is not limited to, physical inspection of the facility and review of documentation pertaining to the maintenance and operation of process and air pollution control equipment.

4. Compliance Requirements

Regulation No. 3, 5 CCR 1001-5, Part C, §§ III.C.9., V.C.11. & 16.d. and § 25-7-122.1(2), C.R.S.

a. The permittee must comply with all conditions of the Operating Permit. Any permit noncompliance relating to federally-enforceable terms or conditions constitutes a violation of the federal act, as well as the state act and Regulation No. 3. Any permit noncompliance relating to state-only terms or conditions constitutes a violation of the state act and Regulation No. 3, shall be enforceable pursuant to state law, and shall not be enforceable by citizens under § 304 of the federal act. Any such violation of the federal act, the state act or regulations implementing either statute is grounds for enforcement action, for permit termination, revocation and reissuance or modification or for denial of a permit renewal application.

b. It shall not be a defense for a permittee in an enforcement action or a consideration in favor of a permittee in a permit termination, revocation or modification action or action denying a permit renewal application that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

c. The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of any request by the permittee for a permit modification, revocation and reissuance, or termination, or any notification of planned changes or anticipated noncompliance does not stay any permit condition, except as provided in §§ X. and XI. of Regulation No. 3, Part C.

d. The permittee shall furnish to the Air Pollution Control Division, within a reasonable time as specified by the Division, any information that the Division may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Division copies of records required to be kept by the permittee, including information claimed to be confidential. Any information subject to a claim of confidentiality shall be specifically identified and submitted separately from information not subject to the claim.

e. Any schedule for compliance for applicable requirements with which the source is not in compliance at the time of permit issuance shall be supplemental, and shall not sanction noncompliance with, the applicable requirements on which it is based.

f. For any compliance schedule for applicable requirements with which the source is not in compliance at the time of permit issuance, the permittee shall submit, at least every 6 months unless a more frequent period is specified in the applicable requirement or by the Air Pollution Control Division, progress reports which contain the following:

(i) dates for achieving the activities, milestones, or compliance required in the schedule for compliance, and dates when such activities, milestones, or compliance were achieved; and

(ii) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

g. The permittee shall not knowingly falsify, tamper with, or render inaccurate any monitoring device or method required to be maintained or followed under the terms and conditions of the Operating Permit.

5. Emergency Provisions

Regulation No. 3, 5 CCR 1001-5, Part C, § VII.

An emergency means any situation arising from sudden and reasonably unforeseeable events beyond 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 the technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency. "Emergency" does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. An emergency constitutes an affirmative defense to an enforcement action brought for noncompliance with a technology-based emission limitation if the permittee demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;

b. the permitted facility was at the time being properly operated;

c. during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

d. the permittee submitted oral notice of the emergency to the Air Pollution Control Division no later than noon of the next working day following the emergency, and followed by written notice within one month of the time when emissions limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

This emergency provision is in addition to any emergency or upset provision contained in any applicable

6. Emission Standards for Asbestos

Regulation No. 8, 5 CCR 1001-10, Part B

The permittee shall not conduct any asbestos abatement activities except in accordance with the provisions of Regulation No. 8, Part B, "emission standards for asbestos."

7. Emissions Trading, Marketable Permits, Economic Incentives

Regulation No. 3, 5 CCR 1001-5, Part C, § V.C.13.

No permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are specifically provided for in the permit.

8. Fee Payment

C.R.S. §§ 25-7-114.1(6) and 25-7-114.7

a. The permittee shall pay an annual emissions fee in accordance with the provisions of § 25-7-114.7. A 1% per month late payment fee shall be assessed against any invoice amounts not paid in full on the 91st day after the date of invoice, unless a permittee has filed a timely protest to the invoice amount.

b. The permittee shall pay a permit processing fee in accordance with the provisions of C.R.S § 25-7-114.7. If the Division estimates that processing of the permit will take more than 30 hours, it will notify the permittee of its estimate of what the actual charges may be prior to commencing any work exceeding the 30 hour limit.

c. The permittee shall pay an APEN fee in accordance with the provisions of § 25-7-114.1(6) for each APEN or revised APEN filed.

9. Fugitive Particulate Emissions

Regulation No. 1, 5 CCR 1001-3, § III.D.1.

The permittee shall employ such control measures and operating procedures as are necessary to minimize fugitive particulate emissions into the atmosphere, in accordance with the provisions of Regulation No. 1, § III.D.1.

10. Inspection and Entry

Regulation No. 3, 5 CCR 1001-5, Part C, § V.C.16.b.

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Air Pollution Control Division, or any authorized representative, to perform the following:

a. enter upon the permittee's premises where an Operating Permit source is located, or emissions-related activity is conducted, or where records must be kept under the terms of the permit;

b. have access to, and copy, at reasonable times, any records that must be kept under the conditions of the permit;

c. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the Operating Permit;

d. sample or monitor at reasonable times, for the purposes of assuring compliance with the Operating Permit or applicable requirements, any substances or parameters.

11. Minor Permit Modifications

Regulation No. 3, 5 CCR 1001-5, Part C, §§ X. & XI.

The permittee shall submit an application for a minor permit modification before making the change requested in the application. The permit shield shall not extend to minor permit modifications.

12. New Source Review

Regulation No. 3, 5 CCR 1001-5, Part B

The permittee shall not commence construction or modification of a source required to be reviewed under the New Source Review provisions of Regulation No. 3, Part B, without first receiving a construction permit.

13. No Property Rights Conveyed

Regulation No. 3, 5 CCR 1001-5, Part C, § V.C.11.d.

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

14. Odor

Regulation No. 2, 5 CCR 1001-4, Part A

As a matter of state law only, the permittee shall comply with the provisions of Regulation No. 2 concerning odorous emissions.

15. Off-Permit Changes to the Source

Regulation No. 3, 5 CCR 1001-5, Part C, § XII.B.

The permittee shall record any off-permit change to the source that causes the emissions of a regulated pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from the change, including any other data necessary to show compliance with applicable ambient air quality standards. The permittee shall provide contemporaneous notification to the Air Pollution Control Division and to the Environmental Protection Agency at the addresses listed in Appendix D of this Permit . The permit shield shall not apply to any off-permit change.

16. Opacity

Regulation No. 1, 5 CCR 1001-3, §§I., II.

The permittee shall comply with the opacity emissions limitation set forth in Regulation No. 1, §§ I.-II.

17. Open Burning

Regulation No. 9, 5 CCR 1001-11

The permittee shall obtain a permit from the Division for any regulated open burning activities in accordance with provisions of Regulation No .9.

18. Ozone Depleting Compounds

Regulation No. 15, 5 CCR 1001-17

The permittee shall comply with the provisions of Regulation No. 15 concerning emissions of ozone depleting compounds. Sections I., II.C., II.D., III. IV., and V. of Regulation No. 15 shall be enforced as a matter of state law only.

19. Permit Expiration and Renewal

Regulation No. 3, 5 CCR 1001-5, Part C, §§ III.B.6., IV.C., V.C.2.

a. The permit term shall be five (5) years. The permit shall expire at the end of its term. Permit expiration terminates the permittee's right to operate unless a timely and complete renewal application is submitted.

b. Applications for renewal shall be submitted at least twelve months, but not more than 18 months, prior to the expiration of the Operating Permit. An application for permit renewal may address only those portions of the permit that require revision, supplementing, or deletion, incorporating the remaining permit terms by reference from the previous permit. A copy of any materials incorporated by reference must be included with the application.

20. Portable Sources

Regulation No. 3, 5 CCR 1001-5, Part C, § II.D.

Portable Source permittees shall notify the Air Pollution Control Division at least 10 days in advance of each change in location.

21. Prompt Deviation Reporting

Regulation No. 3, 5 CCR 1001-5, Part C, § V.C.7.b.

The permittee shall promptly report any deviation from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. Unless required by a permit term or condition to report deviations on a more frequent basis, "prompt" reporting shall entail submission of reports of deviations from permit requirements every six (6) months in accordance with paragraph 22.d. below. "Prompt reporting" does not constitute an exception to the requirements of "Emergency Provisions" for the purpose of avoiding enforcement actions.

22. Record Keeping and Reporting Requirements

Regulation No. 3, 5 CCR 1001-5, Part A, § II.; Part C, §§ V.C.6., V.C.7.

a. Unless otherwise provided in the source specific conditions of this Operating Permit, the permittee shall maintain compliance monitoring records that include the following information:

   (i) date, place as defined in the Operating Permit, and time of sampling or measurements;

   (ii) date(s) on which analyses were performed;

   (iii) the company or entity that performed the analysis;

   (iv) the analytical techniques or methods used;

   (v) the results of such analysis; and

   (vi) the operating conditions at the time of sampling or measurement.

b. The permittee shall retain records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Support information, for this purpose, includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the Operating Permit. With prior approval of the Air Pollution Control Division, the permittee may maintain any of the above records in a computerized form.

c. Permittees must retain records of all required monitoring data and support information for the most recent twelve (12) month period, as well as compliance certifications for the past five (5) years on-site at all times. A permittee shall make available for the Air Pollution Control Division's review all other records of required monitoring data and support information required to be retained by the permittee upon 48 hours advance notice by the Division.

d. The permittee shall submit to the Air Pollution Control Division all reports of any required monitoring at least every six (6) months, unless an applicable requirement, the enhanced monitoring rule, or the Division requires submission on a more frequent basis. All instances of deviations from any permit requirements must be clearly identified in such reports.

e. The permittee shall file an Air Pollutant Emissions Notice ("APEN") prior to constructing, modifying, or altering any facility, process, activity which constitutes a stationary source from which air pollutants are or are to be emitted,

unless such source is exempt from the APEN filing requirements of Regulation No. 3, Part A, § II.D. A revised APEN shall be filed annually whenever a significant change in emissions, as defined in Regulation No. 3, Part A, § II.C.2., occurs; whenever there is a change in owner or operator of any facility, process, or activity; whenever new control equipment is installed; whenever a different type of control equipment replaces an existing type of control equipment; whenever a permit limitation must be modified; or before the APEN expires. An APEN is valid for a period of five years. The five-year period recommences when a revised APEN is received by the Air Pollution Control Division. Revised APENs shall be submitted no later than 30 days before the five-year term expires. Permittees submitting revised APENs to inform the Division of a change in actual emission rates must do so by April 30 of the following year. Where a permit revision is required, the revised APEN must be filed along with a request for permit revision. APENs for changes in control equipment must be submitted before the change occurs. Annual fees are based on the most recent APEN on file with the Division.

23. Reopenings for Cause

Regulation No. 3, 5 CCR 1001-5, Part C, § XIII.

a. The Air Pollution Control Division shall reopen, revise, and reissue Operating Permits; permit reopenings and reissuance shall be processed using the procedures set forth in Regulation No. 3, Part C, § III., except that proceedings to reopen and reissue permits affect only those parts of the permit for which cause to reopen exists.

b. The Division shall reopen a permit whenever additional applicable requirements become applicable to a major source with a remaining permit term of three or more years, unless the effective date of the requirements is later than the date on which the permit expires, or unless a general permit is obtained to address the new requirements; whenever additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program; whenever the Division determines the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or whenever the Division determines that the permit must be revised or revoked to assure compliance with an applicable requirement.

c. The Division shall provide 30 days' advance notice to the permittee of its intent to reopen the permit, except that a shorter notice may be provided in the case of an emergency.

d. The permit shield shall extend to those parts of the permit that have been changed pursuant to the reopening and reissuance procedure.

24. Section 502(b)(10) Changes

Regulation No. 3, 5 CCR 1001-5, Part C, § XII.A.

The permittee shall provide a minimum 7-day advance notification to the Air Pollution Control Division and to the Environmental Protection Agency at the addresses listed in Appendix D of this Permit. The permittee shall attach a copy of each such notice given to its Operating Permit.

25. Severability Clause

Regulation No. 3, 5 CCR 1001-5, Part C, § V.C.10.

In the event of a challenge to any portion of the permit, all emissions limits, specific and general conditions, monitoring, record keeping and reporting requirements of the permit, except those being challenged, remain valid and enforceable.

26. Significant Permit Modifications

Regulation No. 3, 5 CCR 1001-5, Part C, § III.B.2.

The permittee shall not make a significant modification required to be reviewed under Regulation No. 3, Part B ("Construction Permit" requirements) without first receiving a construction permit. The permittee shall submit a complete

Operating Permit application or application for an Operating Permit revision for any new or modified source within twelve months of commencing operation, to the address listed in Item 1 in Appendix D of this permit. If the permittee chooses to use the "Combined Construction/Operating Permit" application procedures of Regulation No. 3, Part C, then the Operating Permit must be received prior to commencing construction of the new or modified source.

27. Special Provisions Concerning the Acid Rain Program

Regulation No. 3, 5 CCR 1001-5, Part C, §§ V.C.1.b. & 8

a. Where an applicable requirement of the federal act is more stringent than an applicable requirement of regulations promulgated under Title IV of the federal act, 40 Code of Federal Regulations (CFR) Part 72, both provisions shall be incorporated into the permit and shall be federally enforceable.

b. Emissions exceeding any allowances that the source lawfully holds under Title IV of the federal act or the regulations promulgated thereunder, 40 CFR Part 72, are expressly prohibited.

28. Transfer or Assignment of Ownership

Regulation No. 3, 5 CCR 1001-5, Part C, § II.C.

No transfer or assignment of ownership of the Operating Permit source will be effective unless the prospective owner or operator applies to the Air Pollution Control Division on Division-supplied Administrative Permit Amendment forms, for reissuance of the existing Operating Permit. No administrative permit shall be complete until a written agreement containing a specific date for transfer of permit, responsibility, coverage, and liability between the permittee and the prospective owner or operator has been submitted to the Division.

29. Volatile Organic Compounds

Regulation No. 7, 5 CCR 1001-9, §§ III & V.

a. For sources located in an ozone non-attainment area or the Denver Metro Attainment Maintenance Area, all storage tank gauging devices, anti-rotation devices, accesses, seals, hatches, roof drainage systems, support structures, and pressure relief valves shall be maintained and operated to prevent detectable vapor loss except when opened, actuated, or used for necessary and proper activities (e.g. maintenance). Such opening, actuation, or use shall be limited so as to minimize vapor loss.

   Detectable vapor loss shall be determined visually, by touch, by presence of odor, or using a portable hydrocarbon analyzer. When an analyzer is used, detectable vapor loss means a VOC concentration exceeding 10,000 ppm. Testing shall be conducted as in Regulation No. 7, Section VIII.C.3.

   Except when otherwise provided by Regulation No. 7, all volatile organic compounds, excluding petroleum liquids, transferred to any tank, container, or vehicle compartment with a capacity exceeding 212 liters (56 gallons), shall be transferred using submerged or bottom filling equipment. For top loading, the fill tube shall reach within six inches of the bottom of the tank compartment. For bottom-fill operations, the inlet shall be flush with the tank bottom.

b. The permittee shall not dispose of volatile organic compounds by evaporation or spillage unless Reasonably Available Control Technology (RACT) is utilized.

c. No owner or operator of a bulk gasoline terminal, bulk gasoline plant, or gasoline dispensing facility as defined in Colorado Regulation No. 7, Section VI, shall permit gasoline to be intentionally spilled, discarded in sewers, stored in open containers, or disposed of in any other manner that would result in evaporation.

30. Wood Stoves and Wood burning Appliances

Regulation No. 4, 5 CCR 1001-6

The permittee shall comply with the provisions of Regulation No. 4 concerning the advertisement, sale, installation, and use of wood stoves and wood burning appliances.

OPERATING PERMIT APPENDICES

A - INSPECTION INFORMATION
B - MONITORING AND PERMIT DEVIATION REPORT
C - COMPLIANCE CERTIFICATION REPORT
D - NOTIFICATION ADDRESSES
E - PERMIT ACRONYMS
F - PERMIT MODIFICATIONS

*DISCLAIMER:

None of the information found in these Appendices shall be considered to be State or Federally enforceable, except as otherwise provided in the permit, and is presented to assist the source, permitting authority, inspectors, and citizens.

APPENDIX A - Inspection Information

Directions to Plant:

The site is located approximately six miles southeast of I-25 and Highway 16 interchange in El Paso County. The facility address is 10000 Squirrel Creek Road, Fountain.

Safety Equipment Required:

None

Facility Plot Plan:

Figure 1 (following page) shows the site map as submitted on March 12, 1997 with the source's Title V Operating Permit Application.

List of Insignificant Activities:

The following list of insignificant activities was provided by the source to assist in the understanding of the facility layout. Since there is no requirement to update such a list, activities may have changed since the last filing.

- Chemical storage tanks or containers that hold less than 500 gallons, and which have a daily throughput less than 25 gallons.
- Landscaping and site housekeeping devices equal to or less than 10 HP in size (lawnmowers, trimmers, snow blowers, etc.)
- Chemical storage areas where chemicals are stored in closed containers, and where total storage capacity does not exceed 5000 gallons. This exemption applies solely to storage of such chemicals. This exemption does not apply to transfer of chemicals from, to, or between such containers.
- Storage of propane, butane, or liquified petroleum gas in a vessel with a capacity of less than 60,000 gallons, provided the requirements of Regulation No. 7, Section IV are met, where applicable.
- Storage tanks of capacity < 40,000 gallons of lubricating oil.
- Fuel storage and dispensing equipment in ozone attainment areas operated solely for company-owned vehicles where the daily fuel throughput is no more than 400 gallons per day, averaged over a 30 day period.
- Each individual piece of fuel burning equipment which uses gaseous fuel, and which has a design rate less than or equal to 10 MMBTU/hr, and which is used solely for heating buildings for personal comfort.
- Air pollution emission units, operations, or activities with emissions less than the appropriate de minimis reporting level.
- Storage tanks meeting all of the following criteria:
  - (i) annual throughput is less than 400,000 gallons; and
  - (ii) the liquid stored is one of the following:
    - (A) diesel fuels 1-D, 2-D, or 4-D
    - (B) fuel oils #1 through #6
    - (C) gas turbine fuels 1-GT through 4-GT

(D) an oil/water mixture with a vapor pressure lower than that of diesel fuel (RVP of 0.025 psia)

APPENDIX B

Reporting Requirements and Definitions

with codes ver 2/1/01

Please note that, pursuant to 113(c)(2) of the federal Clean Air Act, any person who knowingly:

(A) makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan, or other document required pursuant to the Act to be either filed or maintained (whether with respect to the requirements imposed by the Administrator or by a State);

(B) fails to notify or report as required under the Act; or

(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under the Act shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 2 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

The permittee must comply with all conditions of this operating permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

The Part 70 Operating Permit program requires three types of reports to be filed for all permits.
All required reports must be certified by a responsible official.

Report #1: Monitoring Deviation Report (due at least every six months)

For purposes of this operating permit, the Division is requiring that the monitoring reports are due every six months unless otherwise noted in the permit. All instances of deviations from permit monitoring requirements must be clearly identified in such reports.

For purposes of this operating permit, monitoring means any condition determined by observation, by data from any monitoring protocol, or by any other monitoring which is required by the permit as well as the recordkeeping associated with that monitoring. This would include, for example, fuel use or process rate monitoring, fuel analyses, and operational or control device parameter monitoring.

Report #2: Permit Deviation Report (must be reported "promptly")

In addition to the monitoring requirements set forth in the permits as discussed above, each and every requirement of the permit is subject to deviation reporting. The reports must address deviations from permit requirements, including those attributable to upset conditions and malfunctions as defined in this Appendix, the

probable cause of such deviations, and any corrective actions or preventive measures taken. All deviations from any term or condition of the permit are required to be summarized or referenced in the annual compliance certification.

For purposes of this operating permit, "upset" shall refer to both emergency conditions and upsets. Additional discussion on these conditions is provided later in this Appendix.

For purposes of this operating permit, the Division is requiring that the permit deviation reports are due every six months unless otherwise noted in the permit. Where the underlying applicable requirement contains a definition of prompt or otherwise specifies a time frame for reporting deviations, that definition or time frame shall govern. For example, quarterly Excess Emission Reports required by an NSPS or Regulation No. 1, Section IV.

In addition to the monitoring deviations discussed above, included in the meaning of deviation for the purposes of this operating permit are any of the following:

(1) A situation where emissions exceed an emission limitation or standard contained in the permit;

(2) A situation where process or control device parameter values demonstrate that an emission limitation or standard contained in the permit has not been met;

(3) A situation in which observations or data collected demonstrates noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit; or,

(4) A situation in which an excursion or exceedance as defined in 40CFR Part 64 (the Compliance Assurance Monitoring (CAM) Rule) has occurred. (only if the emission point is subject to CAM)

For reporting purposes, the Division has combined the Monitoring Deviation Report with the Permit Deviation Report. All deviations shall be reported using the following codes:

1 = Standard:	When the requirement is an emission limit or standard
2 = Process:	When the requirement is a production/process limit
3 = Monitor:	When the requirement is monitoring
4 = Test:	When the requirement is testing
5 = Maintenance:	When required maintenance is not performed
6 = Record:	When the requirement is recordkeeping
7 = Report:	When the requirement is reporting
8 = CAM:	A situation in which an excursion or exceedance as defined in 40CFR Part 64 (the Compliance Assurance Monitoring (CAM) Rule) has occurred.
9 = Other:	When the deviation is not covered by any of the above categories

Report #3: Compliance Certification (annually, as defined in the permit)

Submission of compliance certifications with terms and conditions in the permit, including emission limitations, standards, or work practices, is required not less than annually.

Compliance Certifications are intended to state the compliance status of each requirement of the permit over the certification period. They must be based, at a minimum, on the testing and monitoring methods specified in the permit that were conducted during the relevant time period. In addition, if the owner or operator knows of other material information (i.e. information beyond required monitoring that has been specifically assessed in relation to how the information potentially affects compliance status), that information must be identified and addressed in the compliance certification. The compliance certification must include the following:

- The identification of each term or condition of the permit that is the basis of the certification;
- The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each permit term and condition during the certification period and whether such methods or other means provide continuous or intermittent data. Such methods and other means shall include, at a minimum, the methods and means required in the permit. If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Federal Clean Air Act, which prohibits knowingly making a false certification or omitting material information;
- The status of compliance with the terms and conditions of the permit, and whether compliance was continuous or intermittent. The certification shall identify each deviation and take it into account in the compliance certification. Note that not all deviations are considered violations.[1]
- Such other facts as the Division may require, consistent with the applicable requirements to which the source is subject, to determine the compliance status of the source.

The Certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40CFR Part 64 (the Compliance Assurance Monitoring (CAM) Rule) has occurred. (only for emission points subject to CAM)

Note the requirement that the certification shall identify each deviation and take it into account in the compliance certification. Previously submitted deviation reports, including the deviation report submitted at the time of the annual certification, may be referenced in the compliance certification.

[1] For example, given the various emissions limitations and monitoring requirements to which a source may be subject, a deviation from one requirement may not be a deviation under another requirement which recognizes an exception and/or special circumstances relating to that same event. Further, periods of excess emissions during startup, shutdown and malfunction may not be found to be a violation of an emission limitation or standard where the source adequately shows that any potential deviations as a result of these infrequent periods were minimized to the extent practicable and could not have been prevented through careful planning, design, or were unavoidable to prevent loss of life, personal injury, or severe property damage.

Startup, Shutdown, Malfunctions, Emergencies, and Upsets

Understanding the application of Startup, Shutdown, Malfunctions, Emergency provisions, and the Upset provisions is very important in both the deviation reports and the annual compliance certifications.

Startup, Shutdown, and Malfunctions

Please note that exceedances of some New Source Performance Standards (NSPS) and Maximum Achievable Control Technology (MACT) standards that occur during Startup, Shutdown or Malfunctions may not be considered to be non-compliance since emission limits or standards often do not apply unless specifically stated in the NSPS. Such exceedances must, however, be reported as excess emissions per the NSPS/MACT rules and would still be noted in the deviation report. In regard to compliance certifications, the permittee should be confident of the information related to those deviations when making compliance determinations since they are subject to Division review. The concepts of Startup, Shutdown and Malfunctions also exist for Best Available Control Technology (BACT) sources, but are not applied in the same fashion as for NSPS and MACT sources.

Emergencies and Upsets

Under the Emergency provisions of Part 70 and the Upset provisions of the State regulations, certain operational conditions may act as an affirmative defense against enforcement action if they are properly reported.

DEFINITIONS

Malfunction (NSPS) means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

Malfunction (SIP) means any sudden and unavoidable failure of air pollution control equipment or process equipment or unintended failure of a process to operate in a normal or usual manner. Failures that are primarily caused by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

Emergency means any situation arising from sudden and reasonably unforeseeable events beyond 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.

Upset means an unpredictable failure of air pollution control or process equipment which results in the violation of emission control regulations and which is not due to poor maintenance, improper or careless operations, or is otherwise preventable through exercise of reasonable care.

Monitoring and Permit Deviation Report - Part I

1. Following is the **required** format for the Monitoring and Permit Deviation report to be submitted to the Division on a semi-annual basis unless otherwise noted in the permit. The Table below must be completed for all equipment or processes for which specific Operating Permit terms exist.

2. Part II of this Appendix B shows the format and information the Division will require for describing periods of monitoring and permit deviations, or upset or emergency conditions as indicated in the Table below. One Part II Form must be completed for each Deviation. Previously submitted reports (e.g. EERs or Upsets) may be referenced and the form need not be filled out in its entirety.

FACILITY NAME: Fountain Landfill
OPERATING PERMIT NO: 0410331
REPORTING PERIOD: _____ (see first page of the permit for specific reporting period and dates)

Operating Permit Unit ID	Unit Description	Deviations Noted During Period?[1]		Deviation Code[2]	Upset/Emergency Condition Reported During Period?	
		YES	NO		YES	NO
P001	Fugitive Particulate Emisisons					
P002	Landfill gas emissions with Flare					
General Conditions						
Insignificant Activities						

[1] See previous discussion regarding what is considered to be a deviation. Determination of whether or not a deviation has occurred shall be based on a reasonable inquiry using readily available information.

[2]Use the following entries as appropriate:

1 = Standard: When the requirement is an emission limit or standard
2 = Process: When the requirement is a production/process limit
3 = Monitor: When the requirement is monitoring
4 = Test: When the requirement is testing
5 = Maintenance: When required maintenance is not performed
6 = Record: When the requirement is recordkeeping
7 = Report: When the requirement is reporting
8 = CAM: A situation in which an excursion or exceedance as defined in 40CFR Part 64 (the Compliance Assurance Monitoring (CAM) Rule) has occurred.
9 = Other: When the deviation is not covered by any of the above categories

Monitoring and Permit Deviation Report - Part II

FACILITY NAME: Fountain Landfill
OPERATING PERMIT NO: 97OPEP182
REPORTING PERIOD: _____

Is the deviation being claimed as an: Emergency _____ Upset _____ N/A _____

(For NSPS/MACT) Did the deviation occur during: Startup _____ Shutdown _____ Malfunction _____
Normal Operation _____

OPERATING PERMIT UNIT IDENTIFICATION:

Operating Permit Condition Number Citation

Explanation of Period of Deviation

Duration (start/stop date & time)

Action Taken to Correct the Problem

Measures Taken to Prevent a Reoccurrence of the Problem

Dates of Upsets/Emergencies Reported (if applicable)

Deviation Code (for Division Use Only) _____

SEE EXAMPLE ON THE NEXT PAGE

EXAMPLE

FACILITY NAME: Acme Corp.
OPERATING PERMIT NO: 96OPZZXXX
REPORTING PERIOD: 1/1/96 - 6/30/96

Is the deviation being claimed as an: Emergency _____ Upset __XX____ N/A _____

(For NSPS/MACT) Did the deviation occur during: Startup _____ Shutdown _____ Malfunction _____
Normal Operation _____

OPERATING PERMIT UNIT IDENTIFICATION:

Asphalt Plant with a Scrubber for Particulate Control - Unit XXX

Operating Permit Condition Number Citation

Section II, Condition 3.1 - Opacity Limitation

Explanation of Period of Deviation

Slurry Line Feed Plugged

Duration

START- 1730 4/10/96
END- 1800 4/10/96

Action Taken to Correct the Problem

Line Blown Out

Measures Taken to Prevent Reoccurrence of the Problem

Replaced Line Filter

Dates of Upsets/Emergencies Reported (if applicable)

4/10/96 to S. Busch, APCD

Deviation Code (for Division Use Only) _____

Monitoring and Permit Deviation Report - Part III

REPORT CERTIFICATION

SOURCE NAME: Fountain Landfill

FACILITY IDENTIFICATION NUMBER: 0410331

PERMIT NUMBER: 97OPEP182

REPORTING PERIOD:_____ (see first page of the permit for specific reporting period and dates)

All information for the Title V Semi-Annual Deviation Reports must be certified by a responsible official as defined in Colorado Regulation No. 3, Part A, Section I.B.38. This signed certification document must be packaged with the documents being submitted.

STATEMENT OF COMPLETENESS

I have reviewed the information being submitted in its entirety and, based on information and belief formed after reasonable inquiry, I certify that the statements and information contained in this submittal are true, accurate and complete.

Please note that the Colorado Statutes state that any person who knowingly, as defined in Sub-Section 18-1-501(6), C.R.S., makes any false material statement, representation, or certification in this document is guilty of a misdemeanor and may be punished in accordance with the provisions of Sub-Section 25-7 122.1, C.R.S.

_____

Printed or Typed Name Title

_____

Signature of Responsible Official Date Signed

Note: Deviation reports shall be submitted to the Division at the address given in Appendix D of this permit. No copies need be sent to the U.S. EPA.

APPENDIX C

Required Format for Annual Compliance Certification Report

Following is the format for the Compliance Certification report to be submitted to the Division **and the U.S. EPA** annually based on the effective date of the permit. The Table below must be completed for all equipment or processes for which specific Operating Permit terms exist.

FACILITY NAME: Fountain Landfill
OPERATING PERMIT NO: 97OPEP182
REPORTING PERIOD: _____

I. Facility Status

___ During the entire reporting period, this source was in compliance with **ALL** terms and conditions contained in the Permit, each term and condition of which is identified and included by this reference. The method(s) used to determine compliance is/are the method(s) specified in the Permit.

___ With the possible exception of the deviations identified in the table below, this source was in compliance with all terms and conditions contained in the Permit, each term and condition of which is identified and included by this reference, during the entire reporting period. The method used to determine compliance for each term and condition is the method specified in the Permit, unless otherwise indicated and described in the deviation report(s). **Note that not all deviations are considered violations.**

Operating Permit Unit ID	Unit Description	Deviations Reported [1]		Monitoring Method per Permit?[2]		Was compliance continuous or intermittent?[3]		Was Data Continuous?[4]	
		Previous	Current	YES	NO	continuous	intermittent	YES	NO
P001	Fugitive particulate emissions								
P002	Landfill gas emissions with flare								
	General Conditions								
	Insignificant Activities [5]								

[1] If deviations were noted in the previous deviation report (i.e. for the first six months of the annual reporting period), put an X" under previous". If deviations were noted in the current deviation report (i.e. for the last six months of the annual reporting period), put an X" under current". Mark both columns if both apply.

[2] Note whether the method(s) used to determine the compliance status with each term and condition was the method(s) specified in the permit. If it was not, mark "no" and attach additional information/explanation.

[3] Note whether the compliance status with each term and condition provided was continuous or intermittent. "Intermittent Compliance" can mean either that noncompliance has occurred or that the owner or operator has data sufficient to certify compliance only on an intermittent basis. Certification of intermittent compliance therefore does not necessarily mean that any noncompliance has occurred.

The Periodic Monitoring requirement of the Operating Permit program rule are intended to provide assurance that even in the absence of a continuous system of monitoring the Title V source has operated in continuous compliance for the duration of the reporting period. Therefore, if a source 1) conducts all of the monitoring and recordkeeping required in its permit, even if such a activities are done periodically and not continuously, and if 2) such monitoring and recordkeeping does not indicate non-compliance, and if 3) the Responsible Official is not aware of any credible evidence that indicates non-compliance, then the Responsible Official can certify that the emission point(s) in question were in continuous compliance during the applicable time period.

[4] Note whether the method(s) used to determine the compliance status with each term and condition provided continuous or intermittent data.

[5] Compliance status for these sources shall be based on a reasonable inquiry using readily available information.

II. Status for Accidental Release Prevention Program:

A. This facility _____ is subject _____ is not subject to the provisions of the Accidental Release Prevention Program (Section 112(r) of the Federal Clean Air Act)

B. If subject: The facility _____ is _____ is not in compliance with all the requirements of section 112(r).

1. A Risk Management Plan _____ will be _____ has been submitted to the appropriate authority and/or the designated central location by the required date.

III. Certification

I have reviewed this certification in its entirety and, based on information and belief formed after reasonable inquiry, I certify that the statements and information contained in this certification are true, accurate and complete.

Please note that the Colorado Statutes state that any person who knowingly, as defined in ' 18-1-501(6), C.R.S., makes any false material statement, representation, or certification in this document is guilty of a misdemeanor and may be punished in accordance with the provisions of ' 25-7 122.1, C.R.S.

_____

Printed or Typed Name Title

_____

Signature Date Signed

NOTE: All compliance certifications shall be submitted to the Air Pollution Control Division and to the Environmental Protection Agency at the addresses listed in Appendix D of this Permit.

APPENDIX D

Notification Addresses

1. **Air Pollution Control Division**

Colorado Department of Public Health and Environment
Air Pollution Control Division
Operating Permits Unit
APCD-SS-B1
4300 Cherry Creek Drive S.
Denver, CO 80246-1530

ATTN: Jim King

2. **United States Environmental Protection Agency**

Compliance Notifications:

Office of Enforcement, Compliance and Environmental Justice
Mail Code 8ENF-T
U.S. Environmental Protection Agency, Region VIII
999 18th Street, Suite 300
Denver, CO 80202

Permit Modifications, Off Permit Changes:

Office of Partnerships and Regulatory Assistance
Air and Radiation Programs, 8P-AR
U.S. Environmental Protection Agency, Region VIII
999 18th Street, Suite 300
Denver, CO 80202

APPENDIX E

Permit Acronyms

Listed Alphabetically:

AIRS -	Aerometric Information Retrieval System
AP-42 -	EPA Document Compiling Air Pollutant Emission Factors
APEN -	Air Pollution Emission Notice (State of Colorado)
APCD -	Air Pollution Control Division (State of Colorado)
ASTM -	American Society for Testing and Materials
BACT -	Best Available Control Technology
BTU -	British Thermal Unit
CAA -	Clean Air Act (CAAA = Clean Air Act Amendments)
CCR -	Colorado Code of Regulations
CEM -	Continuous Emissions Monitor
CF -	Cubic Feet (SCF = Standard Cubic Feet)
CFR -	Code of Federal Regulations
CO -	Carbon Monoxide
COM -	Continuous Opacity Monitor
CRS -	Colorado Revised Statute
EF -	Emission Factor
EPA -	Environmental Protection Agency
FI -	Fuel Input Rate in Lbs/mmBtu
FR -	Federal Register
G -	Grams
Gal -	Gallon
GPM -	Gallons per Minute
HAPs -	Hazardous Air Pollutants
HP -	Horsepower
HP-HR -	Horsepower Hour (G/HP-HR = Grams per Horsepower Hour)
LAER -	Lowest Achievable Emission Rate
LBS -	Pounds
M -	Thousand
MM -	Million
MMscf -	Million Standard Cubic Feet
MMscfd -	Million Standard Cubic Feet per Day
N/A or NA -	Not Applicable
NOx -	Nitrogen Oxides
NESHAP -	National Emission Standards for Hazardous Air Pollutants
NSPS -	New Source Performance Standards
P -	Process Weight Rate in Tons/Hr
PE -	Particulate Emissions
PM -	Particulate Matter
PM_{10} -	Particulate Matter Under 10 Microns

PSD -	Prevention of Significant Deterioration
PTE -	Potential To Emit
RACT -	Reasonably Available Control Technology
SCC -	Source Classification Code
SCF -	Standard Cubic Feet
SIC -	Standard Industrial Classification
SO_2 -	Sulfur Dioxide
TPY -	Tons Per Year
TSP -	Total Suspended Particulate
VOC -	Volatile Organic Compounds

APPENDIX F

Permit Modifications

DATE OF REVISION	SECTION NUMBER, CONDITION NUMBER	DESCRIPTION OF REVISION

APPENDIX G

Operation Conditions and Maintenance Procedures