

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
HAZARDOUS WASTE MANAGEMENT FACILITY PERMIT – PART II  
EPA AUTHORIZATION UNDER THE HAZARDOUS AND SOLID WASTE  
AMENDMENTS OF 1984**

**PERMITTEE:**       **Ash Grove Cement Company  
North Santa Fe Street  
Chanute, Kansas**

**RECEIVED  
JUN 17 2010  
BUREAU OF WASTE MANAGEMENT**

**RCRA IDENTIFICATION NUMBER: KSD031203318**

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as further amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. 6901 et seq. (RCRA), and regulations promulgated thereunder by the United States Environmental Protection Agency (EPA) (codified and to be codified in Title 40 of the Code of Federal Regulations (C.F.R.)), this HSWA Permit is issued to Ash Grove Cement Company, as owner and operator (hereafter called the Permittee), for the facility located at North Santa Fe Street, Chanute, Kansas 66720 (37° 41' 51" latitude, and 95° 27' 47" longitude), Chanute, Kansas, with RCRA Identification Number KSD031203318.

The following description of regulated activities is based upon the Permit Application:

- The Permittee operates an industrial furnace and ancillary equipment to combust hazardous waste as a fuel.

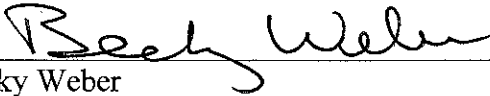
This HSWA Permit consists of the provisions (conditions) contained herein (including this HSWA Permit's attachments) and the applicable regulations contained in 40 C.F.R. Parts 260 through 266, 268, 270, and 124, which are incorporated by reference. This HSWA Permit is based upon the applicable regulations which are in effect on the date of the issuance of the HSWA Permit, in accordance with 40 C.F.R. §270.32(c). The Permittee must comply with all terms and conditions of this HSWA Permit.

This HSWA Permit is based on the assumption that the information submitted in the Permit Application dated February 2006 including the revisions to the Permit Application dated December 14, 2007, March 23, 2009, and June 10, 2009, is accurate and that the facility will be operated as specified in the Permit Application. Any inaccuracies found in the submitted information may be grounds for the termination, revocation and reissuance, or modification of this HSWA Permit in accordance with 40 C.F.R. §§270.41, 270.42, and 270.43, and for enforcement action. The Permittee must inform EPA of any deviation from or changes in the information in the Permit Application which would affect the Permittee's ability to comply with the applicable regulations or permit conditions.

The Regional Administrator of EPA, Region 7 has delegated authority to perform all actions necessary to issue, deny, modify, or revoke and reissue HSWA permits for owners and operators of hazardous waste treatment, storage, and disposal facilities pursuant to Section 3005 of RCRA to the Director of Region 7 Air and Waste Management Division (hereafter referred to as Director) or the Director's designated representative, by delegation No. R7-8-6; January 1, 1995, and revised September 16, 2007.

This HSWA Permit is issued as of the date below. Pursuant to 40 C.F.R. § 124.15, this HSWA Permit shall become effective at 12:01 a.m. on July 20, 2010, and shall remain in effect for ten (10) years from the date of its issuance unless revoked and reissued under 40 C.F.R. §270.41, terminated under 40 C.F.R. §270.43, or continued in accordance with 40 C.F.R. §270.51(a) or (d). This HSWA Permit shall remain in effect even if the RCRA Hazardous Waste Management Permit issued by the Kansas Department of Health and Environment is terminated or expires.

Done at Kansas City, Kansas, this 17 day of June 2010.

  
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Becky Weber  
Director  
Air and Waste Management Division

JUN 17 2010

BUREAU OF WASTE MANAGEMENT

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- Attachment 7 – Contingency Plan

## I. DEFINITIONS

For purposes of this Permit, terms used herein shall have the same meaning as those in 40 C.F.R. Parts, 124, 260, 261, 264, 266, 268, and 270, unless this Permit specifically provides otherwise; where terms are not defined in the regulations or the Permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

“Annually” means one time per calendar year such that at least 11 months and no more than 13 months have elapsed since the last annual event.

“Area of Concern” or “AOC” shall mean any area of the Facility under the control or ownership of the owner or operator where a release to the environment of hazardous waste(s) or hazardous constituents has occurred, is suspected to have occurred, or may occur, regardless of the frequency or duration of the release.

“AWMD” shall mean the Air and Waste Management Division of Region 7 of the EPA, or subsequently renamed division of EPA Region 7 that includes the personnel that conduct oversight of RCRA.

“CERCLA Comprehensive Five-Year Review Guidance,” means the document of the same name given document number OSWER 9355.7-03B-P and any subsequent revisions or modifications.

“Closure Cost Estimate” means the cost estimate attached to Part II as Permit Attachment 2.

“Closure Plan” means the plan attached to Part II as Permit Attachment 1.

“Contingency Plan” means the plan attached to Part II as Permit Attachment 7.

“Daily” means once each calendar day, unless expressly stated to be a working day. “Working day” or “business day” shall mean a day other than a Saturday, Sunday, or a federal holiday. In computing any period of time under this Permit, where the last day would fall on a Saturday, Sunday, or a federal holiday, the period shall run until the close of business of the next working day.

“Data Quality Objectives” shall mean the qualitative or quantitative statements, the application of which is designed to ensure that data of known and appropriate quality are obtained.

“Director” means the Division Director of AWMD, his or her designee, or an authorized representative.

“Ecological Risk Assessment Guidance for Superfund” means the documents of the name: Ecological Risk Assessment and Risk Management Principles for Superfund Sites, October 7, 1999 (OSWER Directive 9285.7-28P) and Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments - Interim Final, June 1997 (OSWER Directive 9285.7-25), and any subsequent revisions or editions.

“EPA” means the United States Environmental Protection Agency.

“Estimated Cost of the Work” means the cost estimate attached to Part II as Permit Attachment 3.

“Facility” means the Ash Grove Cement Company, facility located at North Santa Fe Street, Chanute, Kansas 66720 (37° 41' 51" latitude, and 95° 27' 47" longitude), Chanute, Kansas, and all contiguous property at this location under the control of the Permittee. The Facility is depicted in Figure 1 attached to Part II.

“Hazardous Constituent” means any constituent identified in Appendix VIII of 40 C.F.R. Part 261 or any constituent identified in Appendix IX to 40 C.F.R. Part 264. Hazardous Constituent also means any other constituent present in solid waste, hazardous waste, a solid waste management unit or an area of concern which may endanger human health or the environment.

“Hazardous Waste” means any solid waste as defined at 42 U.S.C. §6903 (27) and 40 C.F.R. §261.2 which also meets any of the criteria of a hazardous waste as listed in 42 U.S.C. § 6903 (5) and 40 C.F.R. §261.3. The term hazardous waste includes hazardous constituent as defined above.

“Inspection Schedule” shall mean the schedule attached to Part II as Permit Attachment 5.

“Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups,” is the document of the same title EPA 540-F-00-005, OSWER 9355.0-74FS-P, September 2000 and any subsequent revisions or modifications.

“Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups,” is the draft document of the same name dated February 2003 and any subsequent revisions or modifications.

“Interim Measure” means those actions taken to immediately control or abate threats or potential threats to human health or the environment from releases or potential releases of hazardous waste or hazardous constituents, which can be initiated before implementation of the final corrective measures for a facility.

“KDHE” means the Kansas Department of Health and Environment and any successor agency.

“Monthly” means 12 times per year (once per calendar month) such that at least 15 days and no more than 45 days have elapsed since the last monthly event.

“Methods Innovation Rule” means Waste Management System; Testing and Monitoring Activities; Final Rule: Methods Innovation Rule and SW-846 Final Update IIIB, [70 FR 34538, June 14, 2005] and any subsequent revisions or modifications.

“Notice of Compliance” means the notice required to be submitted by the Hazardous Waste Combustion National Emission Standards for Hazardous Air Pollutants, 40 C.F.R. Part 63, Subpart EEE, in pertinent part 40 C.F.R. §63.1210(d).

“PDF format” means the Adobe Portable Document Format developed by Adobe Systems Incorporated.

“Part I” means the RCRA Hazardous Waste Management Permit issued by the Kansas Department of Health and Environment.

“Part II” means the RCRA HSWA Permit issued by EPA.

“Permit Application” means the permit application dated February 2006 including the revisions to the Permit Application dated December 14, 2007, March 23, 2009, and June 10, 2009, and the Part A Permit Application therein dated June 9, 2009.

“Personnel Training Plan” means the plan attached to Part II as Permit Attachment 6.

“Quality Assurance Project Plan” means a plan of the same name prepared consistent with the EPA’s document titled “EPA Requirements for Quality Assurance Project Plans (EPA QA/R-5)” and any subsequent revisions or editions.

“Quarterly” means four times per calendar year such that at least 2 months and no more than 4 months have elapsed since the last quarterly event.

“RCRA Corrective Action Plan” means the document of the same name dated May 1994 and given the OSWER Directive Number 9902.3-2A and EPA Document Number 520-R-94-004 and any subsequent revisions or editions.

“RCRA Facility Investigation Guidance” or “RFI Guidance” means the document of the same name dated May 1989 and given the OSWER Directive Number 9502.00-6D and the EPA Document Number 530/SW-89-031 and any subsequent revisions or editions.

“Regional Administrator” means the Regional Administrator of EPA, Region VII, or his or her designee.

“Release” means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous wastes (including hazardous constituents) into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes and/or hazardous constituents.

“Risk Assessment Guidance for Superfund” means the document of the names, Risk Assessment Guidance for Superfund Human Health Evaluation Manual Volume 1, Human Health Evaluation Manual, Parts A-E (Part A – EPA/540/1-89/002, December 1989; Part B – EPA/540/R-92/003, OSWER Directive 9285.7-01B, December 1991; Part C – OSWER Directive 9285.7-01C, October 1991; Part D – OSWER Directive 9285.7-47, December 2001; and Part E – EPA/540/R/99/005, OSWER Directive 9285.7-02EP, July 2004), and any subsequent revisions or editions.

“Semi-Annually” means two times per calendar year such that at least 5 months and no more than 7 months have elapsed since the last semi-annual event.

“Solid Waste Management Unit” or “SWMU” means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released.

“Stabilization” means actions to control or abate threats to human health and/or the environment from releases at RCRA facilities, and/or to prevent or minimize the further spread of contamination while long-term remedies are pursued.

“Standard Operating Procedure” or “SOP” means a document that establishes or prescribes methods to be followed in the operation of hazardous waste storage, treatment and disposal activities. All SOPs must be signed by a responsible corporate officer and include the certification in 40 C.F.R. §270.11(d)(1). The responsible corporate officer shall be as defined in 40 C.F.R. §270.11(a).

“Waste Analysis Plan” means the plan attached to Part II as Permit Attachment 4.

“Weekly” means 52 times per calendar year such that no fewer than 5 days and no more than 10 days have elapsed since the last weekly event.

## **II. GENERAL CONDITIONS**

### **II.A. FACILITY INFORMATION**

#### **II.A.1.a. Owner**

The facility owner is Ash Grove Cement Company, hereinafter referred to as the Permittee.

#### **II.A.1.b. Operator**

The facility operator is Ash Grove Cement Company, hereinafter referred to as the Permittee.

#### **II.A.1.c. Location**

The Ash Grove Cement Company, facility is located in Neosho County at North Santa Fe Street, Chanute, Kansas 66720 (37° 41' 51" latitude, and 95° 27' 47" longitude). A facility location map is attached as Figure 1.

#### **II.A.1.d. Description**

The Facility is a commercial facility for the combustion of hazardous waste in an industrial furnace.

### **II.B. EFFECT OF PERMIT**

The Permittee is authorized to store hazardous waste in the hazardous waste management unit(s) authorized by and operated in accordance with Part I subject also to the requirements of Part II. Any storage, treatment and/or disposal of hazardous waste not authorized in Part I is/are prohibited. Part II consists of the conditions contained herein, including those in any attachments thereto; the application; and the applicable regulations contained in 40 C.F.R. Parts 124, 260 through 264, 268, and 270. Applicable regulations are those which are in effect on the date of issuance of this Permit. The Permittee remains subject to any regulations governing activities not covered by Part II, for example, those regulations to which hazardous waste generators are subject.

1. Subject to 40 C.F.R. §270.4, compliance with Part II during its term constitutes compliance, for purposes of enforcement, with those portions of Subtitle C of RCRA as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) included in Part II, except for those requirements not included in Part II which:

- a. Become effective by statute;

- b. Are promulgated under 40 C.F.R. Part 268 restricting the placement of hazardous wastes in or on the land;
  - c. Are promulgated under 40 C.F.R. Part 265, Subparts AA, BB, or CC limiting air emissions; or
  - d. Are promulgated such that the requirement becomes effective for facilities with RCRA permits.
2. The issuance of Part II does not convey any property rights of any sort, or any exclusive privilege.
3. The issuance of Part II does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.
4. Compliance with the terms of Part II does not constitute a defense to any order issued or any action brought under Sections 3008(a), 3008(h), 3013, or 7003 of RCRA, 42 U.S.C. §§ 6928(a), 6928(h), 6934, and 6973, Sections 106(a), 104 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., commonly known as CERCLA); or any other law providing for protection of public health or the environment.

## **II.C. PERMIT ACTIONS**

### **II.C.1. Permit Modification, Revocation and Reissuance, and Termination by EPA**

If at any time the EPA determines that modification, revocation and reissuance or termination of Part II is necessary, the EPA may initiate a modification to Part II, revocation and reissuance of Part II or termination of Part II in accordance with 40 C.F.R. §270.41 and 270.43. The initiation of a modification to Part II, revocation or reissuance of Part II, or termination of Part II does not stay the applicability or enforceability of any Part II Permit Condition.

### **II.C.2. Modification of the Permit by the Permittee**

Pursuant to the provisions of 40 C.F.R. §270.42, the Permittee may request a modification of Part II at any time. The filing of a request for a permit modification or the notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any Part II Permit Condition. Modifications to Part II do not constitute a reissuance of Part II.

### **II.C.3. Permit Modification Correspondence File**

The Permittee shall maintain a file that contains all correspondence relating to modifications made pursuant to Permit Conditions II.C.1 and II.C.2. This correspondence file shall be available for review by EPA or its designated representative(s) and the public. Note that the file shall be made available during normal business hours.

- a. The Permittee shall reference the availability of this file in all notices made regarding permit modifications and include a contact person in order to view the file.
- b. The Permittee shall include in the correspondence file all modification requests, copies of all permit modification notices sent out, the current permit modification mailing list, and all correspondence from EPA regarding modification requests.

### **II.C.4. Permit Expiration**

#### **II.C.4.a. Permit Duration**

Pursuant to 40 C.F.R. §270.50, Part II shall be effective for a fixed term not to exceed ten (10) years. Except as provided in Permit Condition II.C.4.b below, the term of a permit shall not be extended by modification beyond the maximum term of ten (10) years. The Director may issue a permit for durations of less than ten (10) years or may grant a permit modification to allow earlier permit termination.

#### **II.C.4.b. Continuation of Expiring Permits**

Part II, and all conditions herein, will remain in effect and continue in force under 5 U.S.C. §558(c) until the effective date of a new permit if:

- i. The Permittee has submitted a timely, complete permit application under 40 C.F.R. §270.14 and the applicable sections in 40 C.F.R. §§270.15 through 270.29 and 40 C.F.R. §270.10(c); and
- ii. The Director through no fault of the Permittee, does not issue a new Part II with an effective date under 40 C.F.R. § 124.15 on or before the expiration date of the previous Part II.
- iii. Part II's continued under this permit condition remain fully effective and enforceable.

#### **II.C.4.c. Enforcement**

If the Permittee is not in compliance with the conditions of the expiring or expired Part II, the Director may choose to do any or all of the following:

- i. Initiate enforcement action based upon the Part II which has been continued;
- ii. Issue a notice of intent to deny the new Part II under 40 C.F.R. § 124.6. If the new Part II is denied, the Permittee shall cease the activities authorized by the continued Part II or be subject to enforcement action for operating without a permit;
- iii. Issue a new Part II under 40 C.F.R. Part 124 with appropriate conditions; or
- iv. Take other actions authorized by RCRA.

#### **II.C.4.d. Continuance of Part II upon State Authorization**

In the event that the KDHE receives hazardous waste program authorization under 40 C.F.R. Part 271 for any or all of the HWSA conditions in Part II after the effective date of Part II and if the Permittee submits a timely and complete application under applicable State law and regulations, the affected HSWA conditions of Part II shall continue in force beyond the expiration date of Part II, but only until the effective date of the KDHE's issuance or denial of a complete RCRA Hazardous Waste Permit.

#### **II.C.5. Part II Renewal**

Part II may be renewed as specified in 40 C.F.R. §270.30(b) and Part II Permit Condition II.E.2. Review of any application for Part II renewal shall consider improvements in the state of control and measurement technology, as well as changes in applicable regulations.

#### **II.C.6. Appeal of Part II**

Part II may be appealed pursuant to the provisions of 40 C.F.R. § 124.19(a), which provides as follows:

- a. Within thirty (30) calendar days after a final Part II decision has been issued under 40 C.F.R. § 124.15, any person who filed comments on the draft Part II or participated in the public hearing may petition the Environmental Appeals Board, in writing, to review any condition of the

Part II decision. Any person who failed to file comments or failed to participate in the public hearing on the draft Part II may petition for administrative review only to the extent of the changes from the draft to the final Part II decision. The 30-day period within which a person may request review under this section begins with the service of notice of the Regional Administrator's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:

- i. A finding of fact or conclusion of law which is clearly erroneous, or
- ii. An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review.

#### **II.D. SEVERABILITY**

The provisions of Part II are severable, and if any provision of Part II, or the application of any provision of Part II to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of Part II shall not be affected thereby.

#### **II.E. DUTIES AND REQUIREMENTS**

##### **II.E.1. Duty to Comply**

The Permittee shall comply with all conditions of Part II, except to the extent and for the duration such noncompliance is authorized by an emergency Permit. Any Part II noncompliance, other than noncompliance authorized by an emergency Permit, constitutes a violation of RCRA and is grounds for enforcement action; for Part II termination, revocation and reissuance, or modification; and/or for denial of a Part II renewal application.

##### **II.E.2. Duty to Reapply**

If the Permittee wishes to continue an activity regulated by Part II after the expiration date of Part II, the Permittee shall submit a complete application for a new Part II at least 180 days prior to Part II expiration. The Permittee shall also reapply for Part II if any investigations and/or corrective measures remain to be completed including any long term operations, maintenance, monitoring, reporting or institutional controls.

**II.E.3. Part II Expiration**

As set forth in 40 C.F.R. §270.51(a), unless revoked or terminated, Part II shall be effective for a fixed term not to exceed ten years, except that, as long as EPA is the Part II authority, Part II and all conditions herein will remain in effect beyond the Part II's expiration date, if the Permittee has submitted a timely, complete application and, through no fault of the Permittee, the EPA has not issued a new Part II.

**II.E.4. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for the Permittee, in an enforcement action, that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of Part II.

**II.E.5. Duty to Mitigate**

In the event of noncompliance with Part II, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

**II.E.6. Proper Operation and Maintenance**

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the Permittee to achieve compliance with the conditions of Part II. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of Part II.

**II.E.7. Duty to Provide Information**

Within thirty (30) days of a request for information from the Director, or such other time as approved by the Director, the Permittee shall furnish to the Director any relevant information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating Part II, or to determine compliance with Part II. The Permittee shall also furnish to the Director, within thirty (30) days of request, copies of records required to be kept by Part II.

**II.E.8. Inspection and Entry**

a. Pursuant to 40 C.F.R. §270.30(i), the Permittee shall allow the EPA, or an authorized representative, upon the presentation of credentials and other documents, as may be required by law, to:

i. Enter at reasonable times upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of Part II;

ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of Part II;

iii. Inspect, photograph, and/or record (audio and/or visual), at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under Part II; and

iv. Sample or monitor, at reasonable times, for the purposes of assuring Part II compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

b. Notwithstanding any provision of Part II, EPA retains the inspection and access authority which it has under RCRA and other applicable laws.

**II.E.9. Monitoring and Records**

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample to be analyzed must be the appropriate method from Appendix I of 40 C.F.R. Part 261 or an equivalent method approved by the EPA. Laboratory methods shall be in accordance with the Methods Innovation Rule.

b. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, the certification required by 40 C.F.R. §264.73(b)(9), and records of all data used to complete the application for Part II through the term of Part II or for a period of at least three (3) years from the date of the sample, measurement, report, record, certification, or application; whichever is longer. These periods may be extended by request of the EPA at any time and are automatically

extended during the course of any unresolved enforcement action regarding this facility. The Permittee shall maintain all records from all ground water monitoring wells and associated ground water surface elevations until released from this requirement by EPA.

c. Pursuant to 40 C.F.R. §270.30(j)(2) and (3), records of monitoring information shall specify:

- i. The dates, exact place, and times of sampling or measurements;
- ii. The individuals who performed the sampling or measurements;
- iii. The dates analyses were performed;
- iv. The individuals who performed the analyses;
- v. The analytical techniques or methods used; and
- vi. The results of such analyses.

d. The Permittee shall ensure its analytical data meet the Data Quality Objectives (DQOs) in the Quality Assurance Project Plan (QAPP).

#### **II.E.10. Reporting Planned Changes**

The Permittee shall give thirty (30) days advance notice to the EPA of any planned physical alterations or additions which may affect any hazardous waste management units, solid waste management units, areas of concern, contaminated media or debris, or existing institutional or engineering controls.

#### **II.E.11. Reporting Anticipated Noncompliance**

a. The Permittee shall give at least thirty (30) days advance notice to the EPA prior to any planned changes in the facility or other activity which may result in noncompliance with Part II. Examples of such changes or activities include, but are not limited to, shutdown, construction or modification of new or existing units for the treatment, storage, or disposal of hazardous waste.

#### **II.E.12. Certification of Construction**

a. For a new hazardous waste management unit, the Permittee may not treat, store, or dispose of hazardous waste in the unit; and for a

hazardous waste management unit being modified, the Permittee may not treat, store, or dispose of hazardous waste in the modified portion of the unit except as provided in 40 C.F.R. §270.42, until the Permittee has submitted to EPA, by certified mail or hand delivery, a letter signed by the Permittee and a registered professional engineer stating that the hazardous waste management unit has been constructed or modified in compliance with Part II; and

- i. The EPA has inspected the modified or newly constructed unit and finds it is in compliance with the conditions of Part II; or
- ii. The EPA has either waived the inspection or has not notified the Permittee within 15 days of EPA's intent to inspect.

#### **II.E.13. Monitoring Reports**

If required, monitoring results shall be reported at the intervals specified elsewhere in Part II.

#### **II.E.14. Reports of Compliance Schedules**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of Part II shall be submitted no later than 14 days following each scheduled date.

#### **II.E.15. Transfer of Part II**

- a. Before transferring ownership or operation of the Facility or any part of the Facility, the Permittee shall notify the new owner or operator in writing of the requirements of 40 C.F.R. Parts 264 and 270 and Part II. At least ninety (90) calendar days prior to the anticipated date of transfer, the new owner and/or operator shall submit to the EPA a certification that the new owner or operator has read Part II, understand the Part II requirements and will comply with the terms and conditions herein. If the property transfer involves subdividing the property to more than one owner or operator, a map and legal description shall be provided to the Director that identifies the properties to be occupied by each new owner.
- b. An owner or operator's failure to notify the new owner or operator of the requirements of Part II in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.
- c. Part II will be modified or revoked and reissued in accordance with 40 C.F.R. §270.40(b) or 270.41(b)(2) respectively. The Director may

incorporate such other requirements as may be necessary under RCRA as part of the modification to Part II.

d. In order to transfer the Facility or any part of the Facility, the new Owner and/or Operator shall submit a revised permit application no later than ninety (90) days prior to the scheduled change in ownership and/or operational control. A written agreement containing a specific date for transfer of Part II responsibility between the Permittee and new Permittee(s) must also be submitted no later than ninety (90) days prior to the scheduled change in ownership and/or operational control.

e. Whenever Part II is transferred to a new Permittee, the old Permittee shall maintain compliance with the requirements of 40 C.F.R. Part 264, Subpart H, (Financial Requirements) until the new Permittee has demonstrated compliance with the requirements of same. The new Permittee shall demonstrate compliance with 40 C.F.R. Part 264, Subpart H, within six months of the date of the transfer of Part II. Upon the new Permittee's demonstration of compliance with 40 C.F.R. Part 264, Subpart H, the Director shall notify the old Permittee of any remaining 40 C.F.R. Part 264, Subpart H, requirements.

f. Whenever Part II is transferred to a new Permittee, the old Permittee shall maintain compliance with the requirements of Permit Condition III.Q, until such time as the new Permittee has demonstrated compliance with these requirements. The new Permittee shall demonstrate compliance with the requirements of Permit Condition III.Q within six months of the date of the transfer of Part II. Upon the new Permittee's demonstration of compliance with Permit Condition III.Q, the Director shall notify the old Permittee of any remaining financial assurance requirements.

g. In the case of bankruptcy of the Permittee pursuant to Title 11 of the United States Code, the bankruptcy Trustee shall provide the required notices to the Director and shall ensure the new Owner and/or Operator submits a revised permit application no later than ninety (90) days prior to the scheduled change in ownership and/or operational control. A written agreement containing a specific date for transfer of permit responsibility between the Court and/or the old Permittee and new Permittee(s) must also be submitted no later than ninety (90) days prior to the scheduled change in ownership and/or operational control. The new Permittee shall demonstrate compliance with 40 C.F.R. Part 264, Subpart H, within six months of the date of the transfer of Part II. The new Permittee shall demonstrate compliance with Permit Condition III.Q, within six months of the date of the transfer of Part II. Upon the

new Permittee's demonstration of compliance with Permit Condition III.Q, the Director shall notify the old Permittee of any remaining financial assurance requirements.

#### **II.E.16. Twenty-Four Hour Reporting**

a. The Permittee shall report to the EPA any occurrence which may endanger health or the environment. Any such information shall be reported orally within 24 hours from the time the Permittee becomes aware of the circumstances. Examples of such occurrences include, but are not limited to, fires, explosions, natural disasters, accidents, imminent or existing hazard from a release of hazardous waste or hazardous constituents, cracks or other breaches in the structure of any hazardous waste units, any fire or explosion at or near a permitted unit or other hazardous waste management area, solid waste management unit, area of concern or any other occurrence which may cause the release or threatened release of hazardous waste or hazardous constituents from any area within the permitted facility. The report shall include the following:

- i. Information concerning the release of any hazardous waste or hazardous constituents that may endanger public drinking water supplies.
  - ii. Information concerning the release or discharge of any hazardous waste, or hazardous constituents, or a fire or explosion at the facility, which could threaten the environment or human health outside the facility.
- b. The description of the occurrence and its cause shall include:
- i. Name, address, and telephone number of the owner or operator;
  - ii. Name, address, and telephone number of the facility;
  - iii. Date, time, and type of incident;
  - iv. Name and quantity of materials involved;
  - v. The extent of injuries, if any;
  - vi. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

vii. Estimated quantity and disposition of recovered material that resulted from the incident.

c. A written submission shall also be provided to EPA within five (5) days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the occurrence and its cause; the period(s) of the occurrence (including exact dates and times); whether the occurrence has been corrected; and, if not, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the occurrence. The EPA may waive the five-day written notice requirement in favor of a written report within 15 days.

**II.E.17. Other Noncompliance**

a. The Permittee shall report to EPA in writing all other instances of RCRA noncompliance not otherwise required to be reported in Permit Conditions II.E.10 - II.E.16, within thirty (30) days of the occurrence. The reports shall contain the information listed in Permit Condition II.E.16.

b. Examples of such instances of RCRA noncompliance include, but are not limited to, any noncompliance, no matter how minor, with waste handling and disposal requirements or requirements related to facility safety, including noncompliance with contingency plan requirements. Repeated or chronic instances of noncompliance with recordkeeping requirements must also be reported, although isolated or one-time instances of noncompliance with recordkeeping requirements need not be reported.

**II.E.18. Information Repository**

The EPA may require the Permittee to establish and maintain an information repository at any time, based on the factors set forth in 40 C.F.R. § 124.33(b). The information repository will be governed by the provisions in 40 C.F.R. § 124.33 (c) through (f).

**II.E.19. Other Information**

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the Permit Application, or submitted incorrect information in a Permit Application or in any report to the EPA, the Permittee shall submit such facts or information to EPA in writing within seven (7) days of discovery.

**II.E.20. Incorporations to Part II**

- a. All plans and schedules required by the conditions of Part II are, upon approval of the Director, enforceable under Part II. Any noncompliance with such approved plans and schedules shall constitute noncompliance with Part II.
- b. Any portion of the Permit Application is enforceable under Part II. Any noncompliance with the Permit Application shall constitute noncompliance with Part II.
- c. Any changes necessary to items incorporated into Part II shall be made in accordance with the review and approval procedures in Permit Condition III.T, except that any changes to the Permit Application shall be made in accordance with the permit modification procedures in Permit Condition II.C.

**II.E.21. Supplemental Data**

All raw data, such as laboratory reports, drilling logs, bench-scale or pilot-scale data, and other supporting information gathered or generated during activities undertaken pursuant to Part II shall be maintained at the Facility or other such location as approved by the Director during the term of Part II, including the term of any reissued or continued permits. Such information shall be made available to the Director upon request.

**II.F. SIGNATORY REQUIREMENT**

All applications, reports, or information submitted to or requested by the Director shall be signed and certified in accordance with 40 C.F.R. §270.11 and 270.30(k).

**II.G. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO THE EPA**

- a. Failure to submit the information required by Part II, or falsification of any submitted information, is subject to enforcement and/or termination of Part II.
- b. The Permittee shall ensure that all plans, reports, notifications, and other submissions to the Director required by Part II to be submitted to the EPA are signed and certified in accordance with 40 C.F.R. §§270.11 and 270.30(k).

c. Extensions of the due dates specified in Part II may be granted by the Director in accordance with the permit modification procedures set forth in 40 C.F.R. §270.42.

d. Unless otherwise specified, two (2) copies of plans, reports, notifications or other submissions required by Part II to be submitted to the EPA shall be sent by certified mail, delivery service or hand delivered to:

U.S. Environmental Protection Agency Region 7  
Air and Waste Management Division  
RCRA Corrective Action & Permits Branch  
ATTN: Ken Herstowski  
901 North 5th Street  
Kansas City, Kansas 66101  
phone number: 913-551-7631  
facsimile number: 913-551-7946  
email address: herstowski.ken@epa.gov

e. In addition, one (1) copy of these plans, reports, notifications or other submissions shall be submitted to:

Kansas Department of Health and Environment  
Division of Environment  
Bureau of Waste Management  
Hazardous Waste Permit Section  
Attn: Mostafa Kamal, Chief  
Curtis State Office Building  
1000 SW Jackson St., Ste. 320  
Topeka, Kansas 66612-1366

f. EPA may designate a new recipient in writing to the Permittee without a permit modification.

## **II.H. CONFIDENTIAL INFORMATION**

In accordance with 40 C.F.R. §270.12, the Permittee may claim confidential any information required to be submitted by Part II.

## **II.I. DOCUMENTS TO BE MAINTAINED AT THE FACILITY**

The Permittee shall maintain at the facility, through the term of Part II or for a minimum of three (3) years, whichever is longer, the following documents and all amendments, revisions and modifications to these documents:

1. Permit Application
2. Closure Plan
3. Closure Cost Estimate
4. Waste Analysis Plan
5. Personnel Training Plan
6. Inspection Schedule
7. Personnel training documents and records, as required by this Permit.
8. Operating record, as required by this Permit.
9. Corrective Action documents, including [RFI, CMS, etc.]
10. Corrective Action Cost Estimate and Financial Assurance documentation, as required by this Permit.
11. Permit modifications file, as required by this Permit

## **II.J. GENERAL CLOSURE REQUIREMENTS**

### **II.J.1. Performance Standard**

The Permittee shall close the facility, in accordance with 40 C.F.R. §264.111 and the Closure Plan, Part II Attachment 1.

### **II.J.2. Amendment to the Closure Plan**

The Permittee shall amend the Closure Plan, in accordance with 40 C.F.R. §264.112(c), whenever necessary.

### **II.J.3. Notification of Closure**

The Permittee shall notify the EPA, in writing, at least forty-five (45) days prior to the date on which the Permittee expects to begin partial or final closure of the facility.

#### **II.J.4. Time Allowed for Closure**

After receiving the final volume of hazardous waste, the Permittee shall treat, remove from the unit or facility, all hazardous waste and shall complete closure activities, in accordance with 40 C.F.R. §264.113 and the schedules specified in the Closure Plan.

#### **II.J.5. Disposal or Decontamination of Equipment, Structures, and Soils**

The Permittee shall decontaminate and/or dispose of all contaminated equipment, structures, and soils, as required by 40 C.F.R. §264.114 and the Closure Plan.

#### **II.J.6. Certification of Closure**

The Permittee shall certify that the facility has been closed in accordance with the specifications in the Closure Plan, in accordance with 40 C.F.R. §264.115.

### **II.K. COST ESTIMATE FOR CLOSURE**

1. The Permittee shall adjust the Closure Cost Estimate, Part II Attachment 2, for facility closure annually, as required by 40 C.F.R. §264.142(b).
2. The Permittee shall revise the closure cost estimate no later than 30 days after the Director has approved a request to modify the closure plan if the change in the closure plan increases the cost of closure as required by 40 C.F.R. §264.142(c).

### **II.L. FINANCIAL ASSURANCE REQUIREMENTS**

#### **II.L.1. Facility Closure**

The Permittee shall demonstrate continuous compliance with 40 C.F.R. §264.143 by providing documentation of financial assurance, as required by 40 C.F.R. §264.151, in at least the amount of the cost estimate required by 40 C.F.R. §264.142 and Part II. Changes in financial assurance mechanisms must be approved by the EPA pursuant to 40 C.F.R. §264.143.

#### **II.L.2. Liability Requirement**

The Permittee shall demonstrate continuous compliance with the requirement of 40 C.F.R. §264.147(a) to have and maintain liability coverage for sudden and accidental occurrences in the amount of at least \$1 million per occurrence, with an annual aggregate of at least \$2 million, exclusive of legal defense cost.

### III. CORRECTIVE ACTION

#### III.A. AUTHORITY

Section 3004(u) of RCRA, 42 U.S.C. §6924, and 40 C.F.R. §264.101, require that all permits issued after November 8, 1984, address corrective action for all releases of hazardous waste or hazardous constituents from any solid waste management unit (SWMU) at a treatment, storage, or disposal facility seeking the permit, regardless of when the waste was placed in the unit or whether the unit is closed. Those sections further require that permits issued under Section 3005 of RCRA, 42 U.S.C. §6925, contain schedules of compliance for corrective action (where corrective action cannot be completed prior to permit issuance) and assurances of financial responsibility for completing such corrective action. Section 3004(v) of RCRA, 42 U.S.C. §6924(v), authorizes the Administrator to require that corrective action be taken by the facility owner or operator beyond the facility boundary when necessary to protect human health and the environment, unless the owner or operator demonstrates to the Administrator's satisfaction that permission to undertake such action, despite the owner/operator's best efforts, was denied. Section 3005(c)(3) of RCRA, 42 U.S.C. §6925(c)(3), requires that each permit issued under that section shall contain terms and conditions as the Administrator determines necessary to protect human health and the environment. Part II fulfills this statutory and regulatory obligation.

#### III.B. IDENTIFICATION OF SWMUS, AOCS, OPERABLE UNITS

The EPA has conducted a RCRA Facility Assessment (RFA) to identify releases or potential releases from any SWMU at the facility. The RFA identified the following SWMUs at the facility:

- SWMU #1 Paraffin Waste Disposal Landfill
- SWMU #2 Satellite Waste Accumulation Point (SWAP): Primary Crusher
- SWMU #3 SWAP: Shop and Storeroom
- SWMU #4 SWAP: Control Area
- SWMU #5 SWAP: Electrical Substation
- SWMU #6 SWAP: Laboratory
- SWMU #7 SWAP: Rail Loading Area
- SWMU #8 Central Hazardous Materials Storage Area/Tank
- SWMU #9 Rainwater Storage Tank for Chem-Fuel Secondary Containment Area
- SWMU #10 Chem-Fuel Tank Area and Secondary Containment
- SWMU #11 Chem-Fuel Lines
- SWMU #12 Chem-Fuel Rail Unloading Area
- SWMU #13 Chem-Fuel Truck Unloading Area
- SWMU #14 Chem-Fuel Sump Drums
- SWMU #15 Parts Washers (4)

SWMU #16 Industrial Waste Landfill, Permit No. 177  
SWMU #17 Kiln Dust Landfill, Permit No. 345  
SWMU #18 Former Waste Refractory Brick Disposal Area

The RFA also identified the following areas of concern ("AOCs"):

AOC A Clinker Storage Area  
AOC B Lubricant Storage Area  
AOC C General Storage  
AOC D Muriatic Acid Storage Area

Subsequent to the RFA, several other SWMUs were identified:

SWMU #19 No. 1 and No. 2 Cement Kilns  
SWMU #20 Container Storage (Surge) Building  
SWMU #21 Solid Waste Derived Fuel Storage Building  
SWMU #22 New Industrial Waste Landfill  
SWMU #23 Inactive Kiln Dust Fill Area  
SWMU #24 Ruan Waste Transferring area  
SWMU #25 Cement Kiln Dust (CKD) Staging Area  
SWMU #26 Future CKD Monofill  
SWMU #27 Shot Rock Stockpile

A SWMU and AOC location map is attached as Figure 2.

### **III.C. NOTIFICATION REQUIREMENTS FOR NEWLY-IDENTIFIED SWMUS, AOCs AND RELEASES**

1. The Permittee shall notify the EPA in writing of any newly-identified SWMU, AOC and releases discovered during the course of ground water monitoring, field investigations, environmental audits, or other activities or by any other means, no later than fifteen (15) calendar days after discovery. As used in this part of the Permit, the terms "discover", "discovery", or "discovered" refer to the date on which the Permittee or an EPA representative either, (1) visually observed evidence of a new SWMU, AOC, or release (2) visually observed evidence of a previously unidentified release of hazardous constituents to the environment, or (3) receives information which suggests the presence of a new release of hazardous waste or hazardous constituents to the environment. The notification shall include, at a minimum, a unique sequential identification number, the location of the SWMU, AOC, or release and all available information pertaining to the nature of the release (e.g., media affected, hazardous constituents released, magnitude of release, etc.).

2. After such notification, the Director may request, in writing, that the Permittee prepare a SWMU, AOC or Release Assessment Work Plan, a proposed schedule of implementation and completion of the Work Plan, and a SWMU, AOC or Release Assessment Report. Alternatively, the Director may require a new or supplemental RFI or CMS for the newly-identified SWMU(s), AOC(s) or release(s) in accordance with this Permit.

### **III.D. ASSESSMENT OF NEWLY-IDENTIFIED SWMUS, AOCS AND RELEASES**

1. Within sixty (60) calendar days after receipt of notice that the Director requires a Release Assessment Work Plan, the Permittee shall submit a Release Assessment Work Plan. The Release Assessment Work Plan shall describe all the activities to be completed in order to characterize the newly-identified SWMUs, AOCs or releases so that the Director can determine if a RCRA Facility Investigation is necessary. The Release Assessment Work Plan for the investigation shall include any of the following as specified in the Director's notice:

- a. A discussion of past waste management practices at the unit or area;
- b. A sampling and analysis program for ground water, land surface and subsurface strata, surface water and air, to determine whether a release of hazardous waste and/or hazardous constituents from the newly identified SWMU, AOC or otherwise has occurred, or is occurring and/or to determine whether a newly-identified release is harmful to human health or the environment;
- c. A discussion of Data Quality Objectives;
- d. A Quality Assurance Project Plan for the collection and analysis of samples that has been reviewed and approved by EPA and EPA's Quality Assurance personnel;
- e. A proposed schedule for implementation and completion of the Release Assessment Work Plan;
- f. The sampling and analysis program, if required, shall be capable of yielding representative samples and must include parameters sufficient to identify migration of hazardous waste and/or hazardous constituents from the newly-identified releases to the environment. The Release Assessment Work Plan shall specify any data to be collected to provide for a complete Release Assessment Report, as defined below;

- g. The Release Assessment Work Plan will be reviewed in accordance with the procedures set forth in Permit Condition III.T. Upon EPA's approval of the Release Assessment Work Plan, the Permittee shall implement said Release Assessment Work Plan in accordance with the schedules contained therein;
- h. The Permittee shall provide written notice to the Director thirty (30) days prior to conducting field sampling.
2. The Permittee shall submit a Release Assessment Report to the EPA according to the schedule specified in the approved Release Assessment Work Plan. The Release Assessment Report shall present and discuss the information obtained from implementation of the approved Release Assessment Work Plan. At a minimum, the Release Assessment Report shall provide the following information for each newly-identified SWMU, AOC and/or release:
- a. The location of the newly-identified SWMU, AOC and/or release, including its location in relation to other SWMUs, AOCs, other areas where a release has occurred, and regulated units;
  - b. The type and function of the SWMU, AOC, unit or other release area;
  - c. The general dimensions, capacities, and structural description of the SWMU, AOC, unit or other release area;
  - d. The period during which the SWMU, AOC, unit or other release area was operated;
  - e. The physical and chemical properties of all wastes, and hazardous materials that have been or are being managed at the SWMU, AOC, unit or other release area, to the extent such information is available;
  - f. The results of all sampling and analysis conducted;
  - g. Past and present operating practices;
  - h. Previous uses of the area in which the release occurred;
  - i. Amounts of waste and hazardous materials handled; and
  - j. Drainage areas and/or drainage patterns near the release.
3. The Release Assessment Report will be reviewed in accordance with the procedures set forth in Permit Condition III.T. Based on the findings of the

Release Assessment Report, and any other available information, the Director will determine the need for further investigation, interim measures, stabilization, a RCRA Facility Investigation, or a Corrective Measures Study.

### **III.E. INTERIM MEASURES AND STABILIZATION**

1. Interim measures shall be used whenever necessary to achieve the goal of stabilization, which is to control or abate immediate threats to human health and the environment, and to prevent or minimize the spread of contaminants while long-term corrective remedies are being evaluated. The Permittee shall evaluate available data and assess the need for interim measures in addition to any interim measures specifically required by Part II.
2. The Permittee shall notify the Director within twenty-four (24) hours of becoming aware of a situation that requires interim measures, stabilization, or both.
3. If the Director determines that a release or potential release of hazardous waste and/or hazardous constituents poses a threat to human health or the environment, the Director may require interim measures, stabilization, or both to control or abate such threat, or to minimize or prevent the further spread of contamination until final corrective measures can be initiated. The Director will determine the specific action(s) that must be taken to implement interim measures, stabilization or both, including the schedule for implementing the interim measures and/or stabilization requirements, and will inform the Permittee of the action(s) in writing.
4. If at any time, the Permittee determines that the interim measures and/or stabilization activities are not controlling or abating the threat or effectively minimizing or preventing the further spread of contamination, the Permittee must notify the Director in writing no later than ten (10) days after such a determination is made. The Director may then require that the interim measures and/or stabilization activities be revised to make them more effective; or that final corrective measures be implemented to remediate the contaminated media.

### **III.F. RCRA FACILITY INVESTIGATION WORK PLAN**

The Permittee has submitted a RCRA Facility Investigation (RFI) Work Plan and has initiated the RFI. The following RFI Work Plan requirements shall be followed if additional RFI is necessary to characterize releases of hazardous waste and/or hazardous constituents from SWMUs and AOCs identified in Part II or if new SWMUs and/or AOCs or new releases from currently identified SWMUs and/or AOCs require a RFI.

1. The objectives of the RFI include, but are not limited to, all actions necessary to characterize the nature, direction, three-dimensional extent, rate, movement, and concentration of releases of hazardous waste and/or hazardous constituents from specific SWMUs, AOCs or releases, and their actual or potential receptors. The RFI shall be designed to obtain sufficient information to support further corrective action decisions at the facility.

2. Within ninety (90) calendar days of a written request from the Director, the Permittee shall prepare and submit to the Director for review and approval in accordance with Permit Condition III.T, a RFI Work Plan for conducting a RFI for those SWMUs, AOCs or releases identified by the Director. The RFI Work Plan shall be consistent with the requirements of the Scope of Work for a RCRA Facility Investigation in the RCRA Corrective Action Plan. The RFI Work Plan shall also be consistent with the RCRA Facility Investigation Guidance. The RFI Work Plan shall describe in detail all proposed activities and procedures to be conducted at the facility and the overall technical and analytical approach to completing all actions necessary to achieve the objectives of the RFI. In order to support corrective action decisions, the RFI Work Plan shall include, but is not limited to:

- a. A description of the current conditions at the facility;
- b. The full characterization of the environmental setting;
- c. The full characterization of the sources and nature of hazardous wastes and constituents;
- d. The procedures required to achieve full characterization of the three-dimensional extent and rate of on-site and/or off-site migration of releases of hazardous waste and/or hazardous constituents from SWMUs, AOCs and/or releases at the facility and their actual or potential receptors;
- e. The work to identify and completely characterize all contaminant plumes;
- f. Identification of any additional SWMUs, AOCs and/or releases not previously identified consistent with Permit Condition III.D;
- g. Collection of sufficient data to conduct a Risk Assessment consistent with Risk Assessment Guidance for Superfund and Ecological Risk Assessment Guidance for Superfund; and

- h. The collection of any other pertinent data which are necessary to support a Corrective Measures Study and/or any further corrective action decisions.
  - i. The schedule for implementing and completing such investigations and submitting reports, including the RFI Report;
  - j. The qualifications of personnel performing or directing the investigations, including contractor personnel; and
  - k. The overall management of the RFI.
3. The RFI Work Plan shall include the submittal of a Sampling and Analysis Plan (SAP) prepared in accordance with the RCRA Corrective Action Plan and the RFI Guidance. The SAP shall include, but not limited to, the following:
- a. Description of all sampling procedures including sample collection by media, field measurement and/or analysis, analytical methods, containerization, preservation, packaging, and shipment (including chain-of-custody) procedures;
  - b. Plans for the handling and disposal of all investigation-derived wastes, such as drilling spoils, water produced during well development, water produced during purging prior to ground water sample collection, and fluids generated during decontamination of drilling and sampling equipment;
  - c. A map with all SWMUs, AOCs, and/or release areas shown and maps of each SWMU, AOC or release area showing all sampling points, depth intervals, and constituents to be sampled and analyzed for.
4. The RFI Work Plan shall include the submittal of a Quality Assurance Project Plan (QAPP) prepared in accordance with "Requirements for Quality Assurance Project Plans," EPA QA/R-5, March 2001, and "Guidance for Quality Assurance Project Plans," EPA QA/G-5, December 2002, and any subsequent revisions or editions. The QAPP shall present the policies, organization, objectives, functional activities, and specific quality assurance and quality control activities designed to achieve the data quality goals of the RFI. The QAPP shall identify procedures that will be performed during the investigation to characterize the nature and extent of contamination in order to ensure that all information and data resulting from the investigation are technically defensible, representative, and accurate in support of corrective action and risk management decisions. These documents must be reviewed and approved by the EPA Region 7 Quality Assurance Office. The QAPP shall include, but is not limited to, the following:

- a. The RFI objectives, analytical and laboratory methods, field and laboratory quality assurance and quality control samples, chain-of-custody procedures, and data review and management, validation and reporting procedures, sample collection, field measurement and/or analysis, containerization, preservation, packaging, shipment.
  - b. A laboratory QAPP or equivalent which is provided by the laboratory selected to perform sample analysis.
  - c. Laboratory methods shall be in accordance with Methods Innovation Rule.
5. The Permittee shall prepare and maintain a health and safety plan during the project that assures the RFI activities are conducted in a manner that is protective of human health and the environment.
  6. The Permittee shall prepare a public involvement plan (inclusion of this requirement is at the discretion of the project manager)
  7. The Director will review and approve the RFI Work Plan in accordance with the procedures set forth in Permit Condition III.T.

### **III.G. RFI WORK PLAN IMPLEMENTATION**

Upon receipt of written approval from the Director for the RFI Work Plan and any subsequent RFI Work Plans, the Permittee shall implement the EPA-approved RFI Work Plan according to the schedules therein and the following:

1. The Permittee shall notify the Director at least ten (10) days prior to any sampling, testing, or monitoring activity required by the RFI Work Plan to give EPA personnel the opportunity to observe investigation procedures and/or obtain split samples.
2. Any proposed deviations from the EPA-approved RFI Work Plan must be approved in advance verbally by the Director and fully documented and described in the progress reports and in the RFI Final Report.
3. The Director may require any additional work necessary to accomplish the RFI pursuant to Permit Condition III.P.

### **III.H. RFI REPORT**

The Permittee has submitted a RFI Report. The following RFI Report requirements shall be followed if additional RFI is necessary to characterize releases of hazardous waste and/or hazardous constituents from SWMUs and AOCs identified in Part II or if new

SWMUs and/or AOCs or new releases from currently identified SWMUs and/or AOCs require a RFI.

1. The Permittee shall submit an RFI Report according to the schedule contained in the EPA-approved RFI Work Plan and/or any RFI Work Plan Addenda. The RFI Report shall be consistent with the requirements of the RCRA Corrective Action Plan. The RFI Report shall also be consistent with the RFI Guidance. The RFI Report shall present all information gathered under the EPA-approved RFI Work Plan and/or any RFI Work Plan Addenda along with a facility description and map showing the property boundary and all SWMUs, AOCs, and other areas where a release occurred. The RFI Report must contain sufficient information to support further corrective action decisions at the facility. The RFI Report shall describe the procedures, methods, and results of all investigations of newly-identified SWMUs and AOCs and associated releases, including but not limited to the following:

a. Characterization of the extent, nature, direction, rate, movement and concentration of releases from the facility.

b. Characterizations of the environmental setting at the facility, including:

i. Hydrogeological conditions;

ii. Climatological conditions;

iii. Soil characteristics;

iv. Surface water and sediment quality; and

v. Air quality and meteorological conditions.

c. Characterization of SWMUs, AOCs, or other areas from which releases have been or may be occurring, including unit and waste or hazardous constituent characteristics.

d. Descriptions of human populations and environmental systems which are, may have been, or, based on site-specific circumstances, may be exposed to release(s).

e. Any other information that will assist the Director in assessing risks to human health and the environment from releases from SWMUs, AOCs, or other unit/area.

- f. Conclusions regarding future contaminant movement.
  - g. Laboratory, bench-scale or pilot-scale tests or studies conducted to determine the feasibility or effectiveness of treatment technologies or other technologies that may be appropriate in implementing remedies at the facility.
  - h. Statistical analyses to aid in the interpretation of data.
  - i. Results of any interim measures.
  - j. Any deviations from the EPA-approved RFI Work Plan.
2. The Director will review and approve the RFI Report in accordance with the procedures set forth in Permit Condition III.T.
  3. If the Director determines that additional investigation or study of SWMUs or AOCs is necessary, the Permittee will conduct those activities in accordance with Permit Condition III.P.
  4. If the Director determines that an interim measure or corrective measure is required, the Director will notify the Permittee in writing to request either interim measures as specified in Permit Condition III.E or a corrective measures study as specified in Permit Conditions III.I and III.K.

### **III.I. CORRECTIVE MEASURES STUDY WORK PLAN**

The Permittee has submitted a Corrective Measures Study (CMS) Work Plan and has initiated the CMS. The following CMS Work Plan requirements shall be followed if additional CMS is necessary to characterize releases of hazardous waste and/or hazardous constituents from SWMUs and AOCs identified in Part II or if new SWMUs and/or AOCs or new releases from currently identified SWMUs and/or AOCs require a CMS.

1. If the Director determines that there has been a release of hazardous waste and/or hazardous constituents that may present a threat to human health or the environment, the Director may require a CMS and will notify the Permittee in writing.
2. The Permittee shall submit three (3) copies of a CMS Work Plan to the Director within sixty (60) calendar days of notification of the requirement to conduct a CMS. The CMS Work Plan shall describe all the investigations, studies and other work necessary to select a corrective measure or measures to protect human health and the environment from releases of hazardous wastes and hazardous constituents. Corrective measures described in the CMS Work Plan may include measures that incorporate engineering or institutional controls

subject to EPA's approval. The CMS Work Plan shall be consistent with the most recent version of the EPA guidance document entitled, RCRA Corrective Action Plan (EPA/520-R-94-004).

3. If the CMS Work Plan will consider corrective measures that leave contamination on-site at a level that does not allow for unrestricted use and unlimited exposure, the Permittee shall include as a component of such corrective measures a plan to implement institutional and/or engineering controls to prevent unacceptable exposures to human health and the environment in perpetuity. Such a plan shall be consistent with EPA guidance including but not limited to "Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups," EPA 540-F-00-005, OSWER 9355.0-74FS-P, September 2000 and the draft "Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups," February 2003.

4. At a minimum, the CMS Work Plan shall provide the following information:

- a. A description of the general approach to investigating and evaluating potential corrective measures;
- b. A site specific description of the overall purpose of the corrective measures study;
- c. A description of the corrective measures objectives, including proposed target media cleanup standards and points of compliance or a description of how a risk assessment will be performed;
- d. A definition of the specific objectives of the CMS;
- e. A description of the specific corrective measure technologies and/or corrective measure alternatives which will be studied;
- f. A detailed description of any proposed pilot, laboratory and/or bench-scale studies;
- g. A description of overall project management including overall approach, levels of authority, lines of communication, project schedules, budget and personnel. Include a description of qualifications for personnel directing or performing the work;

- h. A description of the method to be used to evaluate corrective measures. The CMS Work Plan shall specify that the CMS Report will include an evaluation of each corrective measure studied using, at a minimum, four “threshold criteria” and five “balancing criteria.”
  - i. Threshold criteria:
    - i. Protection of human health and the environment;
    - ii. Attainment of media cleanup standards set by, or risk-based standards approved by, EPA;
    - iii. Controlling the sources of releases to reduce or eliminate further releases that may pose a threat to human health and the environment, and
    - iv. Compliance with applicable standards for management of wastes.
  - j. Balancing criteria:
    - i. Long-term reliability and effectiveness;
    - ii. Reduction of toxicity, mobility or volume of wastes;
    - iii. Short-term effectiveness;
    - iv. Implementability; and
    - v. Cost.
- k. The schedules for conducting the CMS and submitting a CMS Report; and
- l. The proposed format for the presentation of information in the CMS Report. The format for the CMS Report shall include at a minimum:
  - i. Introduction/Purpose;
  - ii. Description of Current Conditions;
  - iii. Media Cleanup Standards;

- iv. Identification, Screening, and Development of Corrective Measures Alternatives;
  - v. Evaluation of a Final Corrective Measures Alternative;
  - vi. Recommendation by Permittee for a Final Corrective Measure Alternative; and
  - vii. Public Involvement Plan.
- m. The Director may require the Permittee to evaluate as part of the CMS one or more specific potential remedies. These remedies may include a specific technology or combination of technologies that, in the EPA's judgment, achieves protection of human health and the environment.
- n. The Director will review and approve the CMS Work Plan in accordance with Permit Condition III.T.
- o. The Permittee shall provide written notice to the Director ten (10) days prior to conducting field sampling.

### **III.J. CMS WORK PLAN IMPLEMENTATION**

Upon receipt of written approval from the Director for the CMS Work Plan and any subsequent CMS Work Plans, the Permittee shall implement the EPA-approved CMS Work Plan according to the schedules therein and the following:

- 1. The Permittee shall notify the Director at least ten (10) days prior to any sampling, testing, or monitoring activity required by the CMS Work Plan to give EPA personnel the opportunity to observe investigation procedures and/or obtain split samples.
- 2. Any proposed deviations from the EPA-approved CMS Work Plan must be approved in advance verbally by the Director and fully documented and described in the progress reports and in the CMS Report.
- 3. The Director may require any additional work necessary to accomplish the CMS pursuant to Permit Condition III.P.

### **III.K. CMS REPORT**

Upon receipt of written approval from the Director for the CMS Work Plan, the Permittee shall implement the EPA-approved CMS Work Plan according to the schedules therein and the following:

1. The Permittee shall submit three (3) copies of a CMS Report according to the schedule contained in the approved CMS Work Plan. The CMS Report shall present all information gathered under the approved CMS Work Plan and shall be consistent with the RCRA Corrective Action Plan.
2. If the CMS Report proposes corrective measures that leave contamination on-site at a level that does not allow for unrestricted use and unlimited exposure, the Permittee shall include as a component of such corrective measures a plan to implement institutional and/or engineering controls to prevent unacceptable exposures to human health and the environment in perpetuity. Such a plan shall be consistent with EPA guidance including but not limited to Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups, and Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups.
3. The CMS Report shall include:
  - a. A brief summary discussion of any new information that would significantly effect the evaluation and selection of the corrective measures alternative;
  - b. A summary of the risks to human health and the environment which require implementation of a corrective measure(s);
  - c. Proposed media cleanup standards for the protection of human health and the environment;
  - d. The results of the investigations for each remedy studied and of any bench-scale or pilot tests or modeling (if applicable) conducted;
  - e. An estimate of the costs for implementing each corrective measure;
  - f. A detailed evaluation of each corrective measure using the four threshold criteria and the five balancing criteria listed in Permit Conditions III.I.4.i and III.I.4.j;
  - g. A detailed evaluation of each proposed institutional control and the inclusion of draft language for each proposed institutional control; and

- h. The Permittee's recommendation, with justification, of the appropriate corrective measure or measures, based upon the above criteria and the information in Permit Conditions III.I.4.i and III.I.4.j.
4. The Director may require the Permittee to evaluate as part of the CMS one or more specific potential corrective measures. These corrective measures may include a specific technology or combination of technologies that, in the EPA's judgment, achieves protection of human health and the environment.
5. The CMS Report must contain adequate information for the Director to select the corrective measure(s) necessary to protect human health and the environment from releases of hazardous wastes and hazardous constituents at or from the Facility.
6. The Director will review and approve the CMS Report in accordance with the procedures set forth in the Permit Condition III.T.

### **III.L. CORRECTIVE MEASURES SELECTION**

#### **III.L.1. Corrective Measures Selection**

The Director will select corrective measure(s) that (1) protect human health and the environment; (2) attain media cleanup standards set by the Director; (3) control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases that may pose a threat to human health and the environment; and (4) comply with any applicable standards for management of wastes. Before selecting corrective measures, the Director will prepare a Statement of Basis that identifies the preferred corrective measure or measures and provides the reasons for the selection. The Director will make a final corrective measures decision after public notice and public review of the Statement of Basis and review of all public comments. If necessary, EPA will initiate a permit modification pursuant to 40 C.F.R. §270.41 to require implementation of the preferred corrective measure or measures. Alternatively, the Permittee may request a permit modification pursuant to 40 C.F.R. §270.42(c) for the implementation of the EPA selected corrective measure or measures.

#### **III.L.2. Corrective Measures Selected**

RESERVED

#### **III.L.3. Institutional controls Provided by Part II**

RESERVED

**III.L.4. Other institutional controls**

RESERVED

**III.M. CORRECTIVE ACTION MEDIA CLEANUP STANDARDS**

RESERVED

**III.N. CORRECTIVE MEASURES IMPLEMENTATION**

**III.N.1. Corrective Measure Implementation Work Plan**

a. Within sixty (60) calendar days of approval by the Director of a final remedy/corrective measure, the Permittee shall submit a Corrective Measures Implementation (CMI) Work Plan to implement the selected corrective measure(s). The CMI Work Plan shall be developed in a manner consistent with the CMI Scope of Work in the RCRA Corrective Action Plan.

b. The CMI Work Plan shall detail the design, construction, operation, maintenance, and monitoring of the selected corrective measure. If the CMI will consider corrective measures that leave contamination on-site at a level that does not allow for unrestricted use and unlimited exposure, the Permittee shall include as a component of such corrective measures a plan to implement institutional and/or engineering controls to prevent unacceptable exposures to human health and the environment. Within ten (10) days of a request by the Director, the Permittee shall provide an editable version of the CMI Work Plan in an electronic format such as Word<sup>®</sup>, AutoCAD<sup>®</sup>, etc. The CMI Work Plan, at a minimum, shall include the following sections:

- i. Program Management
- ii. Public Involvement
- iii. Design Plans and Specifications
- iv. Institutional Control Plan
- v. Operation and Maintenance
- vi. Monitoring and Recordkeeping Plan
- vii. Cost Estimate

- viii. Project Schedule
  - ix. Construction Quality Assurance
  - x. Quality Assurance Project Plan
  - xi. Data Management
  - xii. Periodic Reports
- c. Institutional Control (IC) Plan: The Permittee shall provide in the CMI Work Plan a detailed IC plan for the establishment of enforceable and other ICs. The ICs shall be consistent with EPA guidance including but not limited to Institutional Controls: A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups and the draft Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups. The CMI Work Plan shall include drafts of all proposed IC documents. The CMI Work Plan shall include a schedule for the implementation of the IC plan. Upon approval of the CMI Work Plan by the Director, the Permittee shall implement the IC plan.
- d. Effectiveness and Performance Monitoring Plan: The Permittee shall provide in the CMI Work Plan a detailed plan to conduct long-term monitoring, inspection, maintenance, recordkeeping and reporting to demonstrate and report the effectiveness of the corrective measures and any failures of the corrective measures. The plan shall include inspection, monitoring, maintenance and review of the corrective measures. The Permittee shall determine if any construction, excavation or activity has not been in accordance with the ICs above. The Permittee shall determine whether hazardous waste or constituents are present in the ground water above the established media cleanup standards in Permit Condition III.M Upon approval of the CMI Work Plan by the Director, the Permittee shall implement the long-term monitoring, inspection, maintenance, recordkeeping and reporting to document the effectiveness and performance of the corrective measures and any failures of the corrective measures.
- e. Concurrent with the submission of a CMI Work Plan, the Permittee shall submit to the Director a CMI Health and Safety Plan.

- f. The Director will review and approve the CMI Work Plan in accordance with the procedures set forth in Permit Condition III.T.
- g. Upon approval the CMI Work Plan by the Director, the Permittee shall implement the plan in accordance with the schedule contained therein.
- h. The Permittee shall submit an electronic copy of the work plan in PDF format on a CD-ROM that incorporates all changes and/or revisions required for, or as, a condition of approval.

### **III.N.2. Corrective Measures Implementation Report**

The Permittee shall submit a CMI Report to the Director in accordance with the approved CMI Work Plan schedule. Within ten (10) days of a request by the Director, the Permittee shall provide an editable version of the CMI Report in an electronic format such as Word<sup>®</sup>, AutoCAD<sup>®</sup>, etc. The report shall be consistent with the RCRA Corrective Action Plan.

### **III.N.3. Corrective Measures Implementation Annual Report**

The Permittee shall submit a report to the Director no later than March 1 of each year of the prior year's effectiveness and performance of the corrective measures above. The annual report shall include documentation of all samples and data collected and their analysis and determinations made from long-term inspection, monitoring and maintenance. The report shall include any deficiencies or violations of ECs or ICs determined from the inspection, maintenance, and monitoring required in Permit Condition III.N. Based upon EPA's review of the report, the Director may require the Permittee to conduct additional investigation, study, and/or work in order to modify an existing corrective measure or to select a new corrective measure or measures. If action is needed to protect human health or the environment from releases or to prevent or minimize the further spread of contamination while long-term remedies are pursued, the Director may require the Permittee to implement Interim Measures pursuant to Permit Condition III.E. Note that the Permittee must still report all instances of non-compliance as required elsewhere by Part II.

### **III.N.4. Corrective Measures Implementation Five-year Review**

- a. The Permittee shall submit a report that evaluates the corrective measures effectiveness and performance every five (5) years to the Director. The Permittee shall submit the report to the Director beginning on August 8, 2010. The evaluation shall be consistent with the CERCLA

Comprehensive Five-Year Review Guidance. The review shall evaluate and report on:

- i. Annual reports required in Permit Condition III.N.3
  - ii. Effectiveness of corrective measures in protecting human health and the environment as planned in the statement of basis.
  - iii. Effectiveness of ECs and ICs in protecting human health and the environment as planned in the statement of basis.
  - iv. Results of sampling and analysis to determine the effectiveness and performance of the corrective measures.
  - v. Any changed circumstances that render the corrective measure, including ECs and ICs, ineffective.
  - vi. Possible modifications to the corrective measures to provide necessary protection.
  - vii. Any other reporting requirements included in the EPA approved CMI Work Plan.
- b. Within ten (10) days of a request by the Director, the Permittee shall provide an edit able version of the report in an electronic format such as Word<sup>®</sup>, AutoCAD<sup>®</sup>, etc. The Permittee shall also submit an electronic copy of the report in PDF format on a CD-ROM.
- c. Based upon EPA's review of the report, the Director may require the Permittee to conduct additional investigation, study, and/or work in order to modify an existing corrective measure or to select a new corrective measure or measures. If action is needed to protect human health or the environment from releases or to prevent or minimize the further spread of contamination while long-term remedies are pursued, the Director may require the Permittee to implement Interim Measures pursuant to Permit Condition III.E.

### **III.N.5. Corrective Measure Completion Report**

- a. The Permittee shall submit a Corrective Measures Completion (CMC) Report to the Director within ninety (90) calendar days of the completion of all remedial activities required by Permit Condition III consistent with the RCRA Corrective Action Plan. The purpose of the CMC Report is to fully document how the corrective measure completion criteria have been satisfied and to justify why the corrective measure

and/or monitoring may cease. The CMC Report shall, at a minimum, include the following elements:

- i. Purpose;
  - ii. Synopsis of the corrective measure;
  - iii. Corrective Measure Completion Criteria: Describe the process and criteria for determining when corrective measures, maintenance and monitoring may cease. Corrective measure completion criteria were given in the final Operation and Maintenance (O&M) Plan
  - iv. Demonstration that the completion criteria have been met. Include results of testing and/or monitoring, indicating how operation of the corrective measure compares to the completion criteria;
  - v. Summary of work accomplishments (e.g., performance levels achieved, total treated and/or excavated volumes, nature and volume of wastes generated, etc.);
  - vi. Summary of significant activities that occurred during operations. Include a discussion of problems encountered and how they were addressed;
  - vii. Summary of inspection findings (include copies of key inspection documents in appendices);
  - viii. Summary of total operation and maintenance costs; and
  - ix. Determination of whether ECs and/or ICs are required to continue to be maintained.
- b. The Director will review and approve the CMC Report in accordance with the procedures set forth in Permit Condition III.T.
- c. The Permittee shall submit an electronic copy of the report in a format and on a media approved by the Director that incorporates all changes and/or revisions required for approval.
- d. The requirements for ICs and ECs shall be maintained as specified in this Permit and shall not be terminated until the concentration of hazardous constituents in the soil and ground water are at such levels to allow for unlimited use and unrestricted exposure.

### **III.O. CHANGE IN PROPERTY USE**

To change the property use allowed in this Permit, the Permittee shall submit a request for a permit modification to include a new risk assessment and corrective measures study that addresses potential exposures associated with the proposed facility use. The Director will review the revised risk assessment/CMS Report for approval in accordance with the procedures set forth in Permit Condition III.T. The corrective measure shall be selected in accordance with procedures in Permit Condition III.L. Upon final selection and modification into Part II, the Permittee shall implement the new corrective measure.

### **III.P. ADDITIONAL WORK**

If at any time during implementation of corrective action under this permit the EPA determines that additional work is necessary to accomplish the corrective action required under this permit, EPA will provide written notification to the Permittee of the requirement for additional work to be performed by the Permittee. EPA may determine that certain tasks, including, but not limited to, investigatory work or engineering evaluation are necessary in addition to the tasks and deliverables already required in Permit Condition III. EPA will specify the basis and reasons for its determination that the additional work is necessary and will request submittal of a draft work plan to perform the additional work. Within sixty (60) days of the EPA's request, the Permittee shall submit a draft work plan for EPA review and approval as described in Permit Condition III.T. Upon EPA approval, the Permittee shall perform the additional work according to the EPA-approved work plan and the schedule therein. The completion of the additional work, as specified in this permit condition, shall be documented by the Permittee in accordance with the approved schedule for the additional work.

### **III.Q. FINANCIAL ASSURANCE FOR CORRECTIVE ACTION**

#### **III.Q.1. Estimated Cost of the Work**

- a. The Permittee shall prepare detailed written estimates, in current dollars, of the cost of hiring a third party to perform all of the activities (hereafter called the Work) required by the Director under Permit Condition III.
- b. The Estimated Cost of the Work shall account for the total costs of all the work activities as described in all required work plans and implementing documents required by the Director. Estimated Cost of the Work shall include long term costs such as operation and maintenance costs and monitoring costs. A third party is a party who (i) is neither a parent nor a subsidiary of Permittee, and (ii) does not share a common parent or subsidiary with Permittee. The cost estimates shall not incorporate any salvage value that may be realized from the sale of

wastes, facility structures or equipment, land or other assets associated with the facility.

c. The Permittee shall submit to the Director, for review and approval under Permit Condition III.T, an Estimated Cost of the Work to be Performed for each of the tasks identified in Permit Condition III, unless this requirement is waived by the Director in writing. The Estimated Cost of the Work shall be due within thirty (30) days after the Director has approved the workplan for each respective task:

- i. Interim Measure and/or Stabilization Work Plan and implementing documents.
- ii. Corrective Measures Implementation Work Plan and implementing documents.
- iii. Interim Measure Work Plan and implementing documents.
- iv. RCRA Facility Investigation Work Plan and implementing documents.
- v. Corrective Measures Study Work Plan and implementing documents.
- vi. Corrective Measures Implementation Work Plan and implementing documents.

d. Within thirty (30) days of the Director's approval of each new, additional or revised Work Plan required under Permit Condition III or otherwise required under Permit Condition III, the Permittee shall submit a new, additional or revised Estimated Cost of the Work.

e. Within thirty (30) days of notice from the Director that additional Work is required that will increase the Estimated Cost of the Work, the Permittee shall submit an adjusted Estimated Cost of the Work.

f. Within thirty (30) days of any condition that increases the Estimated Cost of the Work, the Permittee shall submit an adjusted Estimated Cost of the Work.

g. Within thirty (30) days after the anniversary date of the Director's initial approval of such Estimated Cost of the Work, the Permittee shall submit inflation adjusted Estimated Cost of the Work. The inflation adjustment shall be determined by using the procedures described in 40

C.F.R. §264.142(b) except that the inflation factor should be derived from the most recent annual Implicit Price Deflator for the Gross Domestic Product instead of the Gross National Product, for the Estimated Cost of the Work. The annual inflation adjustments are required until all the activities required by Permit Condition III are completed.

h. The Director will review and approve each Estimated Cost of the Work in accordance with Permit Condition III.T. The approved Estimated Cost of the Work shall be incorporated into Part II as Part II Attachment 3.

### **III.Q.2. Assurances of Financial Responsibility for Completing the Work**

a. In order to secure the full and final completion of the Work in accordance with this Part II, Permittee shall establish and maintain financial assurance for the benefit of the EPA in the amount of the most recently approved Estimated Cost of the Work. Permittee may use one or more of the financial assurance forms generally described in Permit Conditions III.Q.2.a.i through III.Q.2.a.vi. Any and all financial assurance instruments provided pursuant to Part II shall be satisfactory in form and substance as determined by the Director. The Director may limit the choices of the Permittee, to one or more of the financial assurance forms generally described in Permit Conditions III.Q.2.a.i through III.Q.2.a.vi.

i. A trust fund established for the benefit of EPA, administered by a trustee who has the authority to act as a trustee under Federal or State law and whose trust operations are regulated and examined by a Federal or State agency, and that is acceptable in all respects to the EPA. The trust agreement shall provide that the trustee shall make payments from the fund as the Director shall direct in writing (1) to reimburse Permittee from the fund for expenditures made by Permittee for Work performed in accordance with this Part II, or (2) to pay any other person whom the Director determines has performed or will perform the Work in accordance with this Part II of the permit. The trust agreement shall further provide that the trustee shall not refund to the grantor any amounts from the fund unless and until EPA has advised the trustee that the Work under this Part II of the permit has been successfully completed.

ii. A surety bond unconditionally guaranteeing performance of the Work in accordance with this Part II of the permit, or guaranteeing payment at the direction of EPA into a standby trust

fund that meets the requirements of the trust fund in Permit Condition III.Q.2.a.i. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal Bonds as set forth in Circular 570 of U.S. Department of the Treasury, and acceptable to EPA.

iii. An irrevocable letter of credit, payable at the direction of Director, into a standby trust fund that meets the requirements of the trust fund in Permit Condition III.Q.2.a.i. The letter of credit shall be issued by a financial institution (i) that has the authority to issue letters of credit, and (ii) whose letter-of-credit operations are regulated and examined by a Federal or State agency.

iv. A policy of insurance that (i) provides EPA with rights as a beneficiary which are acceptable to EPA; and (ii) is issued by an insurance carrier that (a) has the authority to issue insurance policies in the applicable jurisdiction(s), and (b) whose insurance operations are regulated and examined by a Federal or State agency. The insurance policy shall be issued for a face amount at least equal to the most recently approved Estimated Cost of the Work, except where costs not covered by the insurance policy are covered by another financial assurance instrument, as permitted in Permit Condition III.Q.2.e. The policy shall provide that the insurer shall make payments as the Director shall direct in writing (i) to reimburse Permittee for expenditures made by Permittee for Work performed in accordance with this Part II, or (ii) to pay any other person whom the Director determines has performed or will perform the Work in accordance with this Part II, up to an amount equal to the face amount of the policy. The policy shall also provide that it may not be canceled, terminated or non-renewed and the policy shall remain in full force and effect in the event that (i) the Permittee is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or (ii) EPA notifies the insurer of Permittee's failure to perform, under Permit Condition III.Q.3.

v. A corporate guarantee, executed in favor of the EPA by one or more of the following: (i) a direct or indirect parent company, or (ii) a company that has a "substantial business relationship" with Permittee (as defined in 40 C.F.R. §264.141(h)), to perform the Work in accordance with Permit Condition III or to establish a trust fund as permitted by Permit Condition III.Q.2.a.i; provided, however, that any company providing such a guarantee shall

demonstrate to the satisfaction of the EPA that it satisfies the financial test requirements of 40 C.F.R. §264.143(f) with respect to the Estimated Cost of the Work that it proposes to guarantee; or

vi. A demonstration by Permittee that Permittee meets the financial test criteria of 40 C.F.R. §264.143(f) with respect to the Estimated Cost of the Work, provided that all other requirements of 40 C.F.R. §264.143(f) are satisfied.

vii. For the purposes of the financial test guarantees described in Permit Conditions III.Q.2.a.v and III.Q.2.a.vi, references in 40 C.F.R. §264.143(f) to “the sum of current closure and post closure costs and the current plugging and abandonment cost estimates” shall mean the sum of all environmental obligations including obligations under CERCLA, RCRA, UIC, TSCA, and any other environmental obligation guaranteed by such company as “financial assurance” or for which such company is otherwise financially obligated in addition to the Estimated Cost of the Work.

b. Within thirty (30) days after EPA has selected Interim Measures which Permittee shall perform under Permit Condition III, selected Corrective Measures to be Implemented under Permit Condition III, and/or has approved a new, revised or additional RFI or CMS workplan, the Permittee shall submit draft financial assurance instruments and related documents to EPA, concurrently with Permittee’s submission of the initial Estimated Cost of the Work, for EPA’s review and approval. Within ten (10) days after EPA’s approval of both the initial Estimated Cost of the Work, and the draft financial assurance instruments, whichever date is later, Permittee shall execute or otherwise finalize all instruments or other documents required in order to make the selected financial assurance legally binding in a form substantially identical to the financial assurance documents reviewed and approved by EPA. Permittee shall submit all original executed and/or otherwise finalized financial assurance instruments or other documents to EPA within thirty (30) days after EPA’s approval of the initial Estimated Cost of the Work and the draft financial assurance instruments, whichever date is later.

c. The Permittee shall submit all financial assurance instruments and related required documents by certified mail to the Director with a copy to the EPA Project Manager.

d. If at any time during the effective period of Part II the Permittee provides financial assurance for completion of the Work by means of a corporate guarantee or financial test pursuant to Permit Conditions

III.Q.2.a.v and III.Q.2.a.vi, the Permittee shall also comply with the other relevant requirements of 40 C.F.R. §264.143(f), 40 C.F.R. §264.151(f), and 40 C.F.R. §264.151(h)(1) relating to these methods, unless otherwise provided in Part II, including but not limited to, (i) initial submission of required financial reports and statements from the guarantors' chief financial officer and independent certified public accountant; (ii) annual re-submission of such reports and statements within ninety (90) days after the close of each of the guarantors' fiscal years; and (iii) notification of EPA within ninety (90) days after the close of any of the guarantors' fiscal years in which any such guarantor no longer satisfies the financial test requirements set forth at 40 C.F.R. §264.143(f)(1). If the Permittee provides financial assurance by means of a corporate guarantee or financial test, EPA may request additional information (including financial statements and accountant's reports) from the Permittee or corporate guarantor at any time.

e. The Permittee may combine more than one mechanism to demonstrate financial assurance for the Work to be performed in accordance with Part II, except that mechanisms guaranteeing performance rather than payment may not be combined with other instruments.

f. If at any time EPA determines that a financial assurance instrument provided pursuant to Permit Condition III.Q.2 is inadequate, or no longer satisfies the requirements set forth or incorporated by reference in Permit Condition III.Q.2, whether due to an increase in the Estimated Cost of the Work or for any other reason, EPA shall so notify the Permittee in writing. If at any time the Permittee becomes aware of information indicating that any financial assurance instrument provided pursuant to Permit Condition III.Q.2 is inadequate or no longer satisfies the requirements set forth or incorporated by reference in Permit Condition III.Q.2, whether due to an increase in the estimated cost of completing the Work or for any other reason, then the Permittee shall notify EPA in writing of such information within ten (10) days. Within thirty (30) days of receipt of notice of EPA's determination, or within thirty (30) days of the Permittee's becoming aware of such information, as the case may be, the Permittee shall obtain and present to EPA for approval a proposal for a revised or alternative form of financial assurance listed in Permit Condition III.Q.2 that satisfies all requirements set forth or incorporated by reference in Permit Condition III.Q.2. In seeking approval for a revised or alternative form of financial assurance, Permittee shall follow the procedures set forth in Permit Condition III.Q.4.

g. The Permittee's inability or failure to establish or maintain financial assurance for completion of the Work shall in no way excuse performance of any other requirements of Permit Condition III, including, without limitation, the obligation of Permittee to complete the Work in strict accordance with the terms of Permit Condition III.

h. Any and all financial assurance instruments provided pursuant to Permit Conditions III.Q.2.a.ii through III.Q.2.a.vi shall be automatically renewed at the time of their expiration unless the financial assurance provider has notified both the Permittee and the EPA Project Manager at least one hundred and twenty (120) days prior to expiration, cancellation or termination of the instrument of a decision to cancel, terminate or not renew a financial assurance instrument. Under the terms of the financial assurance instrument, the one hundred and twenty (120) days will begin to run with the date of receipt of the notice by both the EPA Project Manager and the Permittee. Furthermore, if Permittee has failed to provide alternate financial assurance and obtain written approval for such alternate financial assurance within ninety (90) days following receipt of such notice by both Permittee and the EPA Project Manager, then the EPA Project Manager will so notify the financial assurance provider in writing prior to the expiration of the instrument, and the financial assurance provider shall immediately deposit into the standby trust fund, or a newly created trust fund approved by EPA, the remaining funds obligated under the financial assurance instrument for the performance of the Work in accordance with Permit Condition III.

### **III.Q.3. Performance Failure**

a. In the event that EPA determines that the Permittee (i) has ceased implementation of any portion of the Work, (ii) is deficient or late in its performance of the Work, or (iii) is implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice ("Performance Failure Notice") to both the Permittee and the financial assurance provider of the Permittee's failure to perform. The notice issued by EPA will specify the grounds upon which such a notice was issued and will provide the Permittee with a period of ten (10) days within which to remedy the circumstances giving rise to the issuance of such notice.

b. Failure by the Permittee to remedy the relevant Performance Failure to EPA's satisfaction before the expiration of the ten (10) day notice period specified in Permit Condition III.Q.3.a shall trigger EPA's right to have immediate access to and benefit of the financial assurance provided pursuant to Permit Condition III.Q.2. EPA may at any time

thereafter direct the financial assurance provider to immediately (i) deposit into the standby trust fund, or a newly created trust fund approved by EPA, the remaining funds obligated under the financial assurance instrument (ii) or arrange for performance of the Work in accordance with Permit Condition III.

c. If EPA has determined that any of the circumstances described in clauses (i), (ii), or (iii) of Permit Condition III.Q.3.a have occurred, and if EPA is nevertheless unable after reasonable efforts to secure the payment of funds or performance of the Work in accordance with Permit Condition III from the financial assurance provider pursuant to Permit Condition III, then, upon receiving written notice from EPA, the Permittee shall within ten (10) days thereafter deposit into the standby trust fund, or a newly created trust fund approved by EPA, in immediately available funds and without setoff, counterclaim, or condition of any kind, a cash amount equal to the estimated cost of the remaining Work to be performed in accordance with Permit Condition III as of such date, as determined by EPA.

d. The Permittee may invoke the procedures set forth in Permit Condition III.U, to dispute EPA's determination that any of the circumstances described in clauses (i), (ii), or (iii) of Permit Condition III.Q.3.a have occurred. Invoking the dispute resolution provisions shall not excuse, toll or suspend the obligation of the financial assurance provider, under Permit Condition III.Q.2, to fund the trust fund or perform the Work. Furthermore, notwithstanding the Permittee's invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion direct the trustee of such trust fund to make payments from the trust fund to any person that has performed the Work in accordance with Permit Condition III until the earlier of (i) the date that the Permittee remedies, to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Performance Failure Notice or (ii) the date that a final decision is rendered in accordance with Permit Condition III.U, that the Permittee has not failed to perform the Work in accordance with Permit Condition III.

#### **III.Q.4. Modification of Amount and/or Form of Performance Guarantee.**

##### **III.Q.4.a. Reduction of Amount of Financial Assurance**

If the Permittee believes that the estimated cost to complete the remaining Work has diminished below the amount covered by the existing financial assurance provided under Permit Condition III, the

Permittee may, at the same time that the Permittee submits the annual cost adjustment, pursuant to Permit Condition III.Q.1.g, or at any other time agreed to by EPA, submit a written proposal to EPA to reduce the amount of the financial assurance provided under III.Q so that the amount of the financial assurance is equal to the estimated cost of the remaining Work to be performed. The written proposal shall specify, at a minimum, the cost of the remaining Work to be performed and the basis upon which such cost was calculated. In seeking approval of a revised financial assurance amount, the Permittee shall follow the procedures set forth in Permit Condition III.Q.4.c.ii. If EPA decides to accept such a proposal, EPA shall notify the Permittee of its decision in writing. After receiving EPA's written decision, the Permittee may reduce the amount of the financial assurance only in accordance with and to the extent permitted by such written decision. In the event of a dispute, the Permittee may reduce the amount of the financial assurance required hereunder only in accordance with the final EPA decision made in accordance with Permit Condition III.U. No change to the form or terms of any financial assurance provided under this Section, other than a reduction in amount, is authorized except as provided in Permit Condition III.Q.4.c.

#### **III.Q.4.b. Increase of Amount of Financial Assurance**

Whenever the most current Estimated Cost of the Work exceeds the amount of financial assurances provided pursuant to Permit Condition III.Q, the Permittee shall revise the instrument(s) according to the requirements in Permit Condition III.Q. The Permittee shall notify the Director in writing within fourteen (14) days of determining that the most current Estimated Cost of the Work exceeds the amount of financial assurances provided. The requirements of this Permit Condition shall apply to such a determination by the Permittee or by the Director and shall apply when, but not limited to, the following causes of the Estimated Cost of the Work to exceed the amount of financial assurances provided: adjustment for inflation; additional costs resulting from a request by the Director for additional work or EPA approval of a work plan pursuant to Permit Condition III.T; EPA selection of a corrective measure or measures; the determination of the need for or the implementation of interim measures; or inadequacy of current financial assurance instrument(s). Within thirty (30) days following such a determination or cause, whichever is sooner, the Permittee shall obtain and present to the Director for review and approval pursuant to Permit Condition III.T, a revised form of financial assurance that meets the requirements of Permit Condition III.Q.2 for the new Estimated Cost of

the Work. Within ten (10) days after the Director's approval of the revised financial assurance instrument(s) and/or other documents, the Permittee shall execute or otherwise finalize all instruments and/or other documents required in order to make the approved financial assurance instrument(s) legally binding. The Permittee shall submit all original executed and/or otherwise finalized financial assurance instrument(s) and/or other documents to the Director within thirty (30) days after the Director's approval of the revised financial assurance instrument(s) and/or other documents.

**III.Q.4.c. Change of Form of Financial Assurance**

i. If the Permittee desires to change the form or terms of financial assurance, the Permittee may, at the same time that Permittee submits the annual inflation cost adjustment, pursuant to Permit Condition III.Q.1.g, or at any other time agreed to by EPA, submit a written proposal to EPA to change the form of financial assurance. The submission of such proposed revised or alternative form of financial assurance shall be as provided in Permit Condition III.Q.4.c.ii. The decision whether to approve a proposal submitted under Permit Condition III.Q.4.c shall be made in EPA's sole and un-reviewable discretion and such decision shall not be subject to challenge by the Permittee pursuant to the dispute resolution provisions of Permit Condition III.U or in any other forum.

ii. A written proposal for a revised or alternative form of financial assurance shall specify, at a minimum, the cost of the remaining Work to be performed, the basis upon which such cost was calculated, and the proposed revised form of financial assurance, including all proposed instruments or other documents required in order to make the proposed financial assurance legally binding. The proposed revised or alternative form of financial assurance shall satisfy all requirements set forth or incorporated by reference in Permit Condition III.Q. EPA shall notify the Permittee in writing of its decision to accept or reject a revised or alternative form of financial assurance submitted pursuant to Permit Condition III.Q.4. Within ten (10) days after receiving a written decision approving the proposed revised or alternative financial assurance, the Permittee shall execute and/or otherwise finalize all instruments or other documents required in order to make the selected financial assurance legally binding in a form substantially identical to the documents submitted to EPA as part

of the proposal, and such financial assurance shall be fully effective. The Permittee shall submit all executed and/or otherwise finalized instruments or other documents required in order to make the selected financial assurance legally binding to the EPA Project Officer within thirty (30) days of receiving a written decision approving the proposed revised or alternative financial assurance. EPA shall release, cancel or terminate the prior existing financial assurance instruments only after the Permittee has submitted all executed and/or otherwise finalized new financial assurance instruments or other required documents to EPA.

### **III.Q.5. Release of Financial Assurance for Corrective Action**

The Permittee may submit a written request to the Director that EPA release the Permittee from the requirement to maintain financial assurance under Permit Condition III at such time as EPA determines that corrective action is complete without controls. The Director shall notify both the Permittee and the provider(s) of the financial assurance that the Permittee is released from all financial assurance obligations under Permit Condition III. The Permittee shall not release, cancel or terminate any financial assurance provided pursuant to Permit Condition III.Q except as provided in Permit Condition III.Q.4. In the event of a dispute, the Permittee may not release, cancel, or terminate the financial assurance required by Permit Condition III except and only in accordance with the final decision resolving such dispute.

### **III.R. INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS**

The Permittee shall notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the Permittee as debtor, within ten (10) days after commencement of the proceeding, in accordance with 40 C.F.R. §264.148. A guarantor or a corporate guarantee as specified in 40 C.F.R. §264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 C.F.R. §264.151(h)). A Permittee who fulfills the requirements of 40 C.F.R. §264.143 or 40 C.F.R. §264.147 by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The Permittee must establish other financial assurance or liability coverage within 60 days after such an event.

### **III.S. QUARTERLY PROGRESS REPORTS**

The Director may, upon written request to Permittee, require progress reports when corrective action activities commence, or other activities require such reporting to the Director. The Permittee shall submit to the Director a signed Quarterly Progress Report covering all activities within the current reporting period which are conducted pursuant to Permit Condition III. Each Quarterly Progress Report shall be due thirty (30) calendar days after the last day of each calendar quarter. The first quarter for which a Quarterly Progress Report is due is the first quarter in which the Director requires the Permittee to begin corrective action activities pursuant to Part II, including development of Work Plans. These Quarterly Progress Reports shall be submitted until such time that the activities pursuant to the corrective action provisions of Part II are complete as determined by the Director. The Director may change, reduce or discontinue reporting requirements if technical documentation demonstrates the change, reduction or cessation in reporting requirements will not impact operation and monitoring of remedial actions. The Progress Reports shall include the following information for the period being reported:

1. A description of all work completed in that period;
2. Summaries of all findings, including summaries of laboratory data;
3. Summaries of all problems or potential problems encountered during the reporting period and actions taken to rectify problems;
4. Deviations from the approved work plan(s), SAPs
5. Projected work for the next period and,
6. Any instances of noncompliance with Part II not otherwise required to be reported pursuant to Permit Condition II.E.17.

### **III.T. REVIEW AND APPROVAL PROCEDURES**

1. After submission of any document, plan, or report, the Director will either approve or disapprove the document, plan, or report in writing.
2. If the Director disapproves the document, plan, or report, the Director will notify the Permittee in writing of the document, plan, or report's deficiencies, indicate required revisions, and specify a due date for submittal of a revised document, plan, or report.
3. If the Director also disapproves the revised document, plan, or report, the Director may modify the document, plan, or report and notify the Permittee of the

modifications. The document, plan, or report as modified by the Director is the EPA-approved document, plan, or report, and shall become part of this Permit.

4. If the Permittee takes exception to the modifications made by the Director, the Permittee shall follow the dispute resolution procedures in Permit Condition III.U.

5. The Permittee shall implement all documents, plans, or reports according to the specifications and schedules contained in the EPA-approved document, plan, or report.

### **III.U. DISPUTE RESOLUTION**

1. If the Permittee disagrees, in whole or in part, with any EPA disapproval, conditional approval with comment, modification, or other decision or directive made by EPA pursuant to Permit Condition III, the Permittee shall notify EPA in writing of its objections and bases for them within ten (10) days of receipt of EPA's disapproval, conditional approval with comment, modification, or other decision or directive. The notice shall set forth specific points of the dispute, the position the Permittee maintains should be adopted as consistent with the requirements of Part II, the factual and legal basis for the Permittee's position, and all matters the Permittee considers necessary for EPA's determination. EPA and the Permittee shall then have an additional twenty (20) days from EPA's receipt of the Permittee's objection to attempt to resolve the dispute. If agreement is reached, the resolution will be reduced to writing by EPA and shall become part of Part II. If the parties are unable to reach complete agreement within this twenty (20) day period, the matter will be submitted to the Director for resolution. This resolution shall become part of Part II.

2. The existence of a dispute as defined herein and EPA's consideration of such matters as placed in dispute shall not excuse, toll or suspend any obligation or deadline required pursuant to Part II, that is not the subject of dispute, during pendency of the dispute resolution process.

## **IV. GENERAL FACILITY CONDITIONS**

### **IV.A. REQUIRED NOTICES**

#### **IV.A.1. Hazardous Waste Imports**

a. The Permittee shall notify the Regional Administrator in writing at least four (4) weeks in advance of the date the Permittee expects to receive hazardous waste from a foreign source, as required by 40 C.F.R.

§264.12(a)(1). Notice of subsequent shipments of the same waste from the same foreign source in the same calendar year is not required.

b. The Permittee shall follow the requirements for importers of hazardous waste in 40 C.F.R. Part 262, Subparts F and H, if the Permittee acts as the hazardous waste importer.

#### **IV.A.2. Hazardous Waste from Off-Site Sources**

When the Permittee is to receive hazardous waste from an off-site source (except where the Permittee is also the generator), he must inform the generator in writing that he has the appropriate Permits, (one time per waste stream per generator), and will accept the waste the generator is shipping. The Permittee must keep a copy of this written notice as part of the operating record.

#### **IV.B. GENERAL WASTE ANALYSIS**

The Permittee shall obtain analysis of hazardous wastes in accordance with 40 C.F.R. §264.13 and as described in the Waste Analysis Plan, Part II Attachment 4, that ensures the facility's compliance with the requirements of Part II. The Permittee shall verify the analysis of each waste stream no less than once every two (2) years as part of its quality assurance program, in accordance with the Quality Assurance/Quality Control Plan developed as part of the Waste Analysis Plan. At a minimum, the Permittee shall maintain proper functional instruments, use approved sampling and analytical methods, verify the validity of sampling and analytical procedures, and perform correct calculations. If the Permittee uses a contract laboratory to perform analyses, then the Permittee shall inform the laboratory in writing that it must operate under the waste analysis conditions set forth in Part II.

#### **IV.C. GENERAL INSPECTION REQUIREMENTS**

In accordance with 40 C.F.R. §264.15, the Permittee shall inspect the facility for malfunctions and deterioration, operator errors, discharges, or other condition that may be causing, or may lead to: (1) release of hazardous waste constituents to the environment, or (2) a threat to human health. Inspections shall be conducted to identify problems in time to correct them before they result in a release, or harm to human health or the environment.

1. The Permittee shall follow the Inspection Schedule, Part II Attachment 5, for the inspection of monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes, sump pumps, etc.) that are important to preventing, detecting, or responding to fires, explosions, releases and other environmental or human health hazards. At a minimum, the inspection schedule must provide for weekly inspections of each

container storage area looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors; all other operating portions of the facility shall be inspected at least once each operating day looking for releases and for deterioration of the facility and treatment equipment.

2. The Permittee shall remedy any deterioration or malfunction of equipment or structures discovered by an inspection which ensures that the problem does not lead to an environmental or human health hazard. The Permittee shall take immediate action, including cessation of hazardous waste management activities if necessary, where a hazard is imminent or has already occurred.

3. Records of inspection and replacements or repairs shall be kept in accordance with 40 C.F.R. §264.15(d). At a minimum, the Permittee shall record the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

#### **IV.D. PERSONNEL TRAINING**

The Permittee shall conduct personnel training as required by 40 C.F.R. §264.16 and as described in the Personnel Training Plan, Part II Attachment 6. This training program shall provide that facility personnel successfully complete a program of classroom instruction or on the job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of Part II.

1. A person trained in hazardous waste management procedures must direct this program, and must teach facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to their employment positions. At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by including instruction on operating procedures, emergency procedures, emergency equipment, and emergency systems, including all of the following, where applicable:

- a. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment.
- b. Procedures for inspection, monitoring, and maintenance and repair of equipment and systems to control volatile organic emissions.
- c. Communications or alarm systems.
- d. Response to fires or explosions.

- e. Shutdown of operations.
  - f. Use of Standard Operating Procedures.
2. The Permittee shall ensure that facility personnel must successfully complete the program required in this section within six (6) months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of Part II must not work in unsupervised positions until they have completed the training requirements of Permit Condition IV.D.
3. The Permittee must ensure that facility personnel take part in an annual review of the initial training required in this section.
4. The Permittee shall maintain the following documents and records at your facility:
- a. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
  - b. A written job description for each position listed under this section. This description must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;
  - c. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under this section;
  - d. Records that document facility personnel have received and completed the training or job experience required under this section.
5. The Permittee shall keep training records on current personnel until your facility closes. The Permittee shall keep training records on former employees for at least three years from the date the employee last worked at your facility. Personnel training records may accompany personnel transferred within your company.

#### **IV.E. CONTINGENCY PLAN**

##### **IV.E.1. Implementation of Plan**

The Permittee shall immediately carry out the provisions of the Contingency Plan, Part II Attachment 7, whenever there is a fire, explosion, or release of hazardous waste or constituents which could threaten human health or the environment. The purpose of the Contingency Plan is to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to air, soil, or surface water.

The Permittee shall include in the facility operating record the date, time and details of any verbal reports, and copies of written reports provided to response and regulatory agencies required by the Contingency Plan. The Permittee shall also include in the facility operating record the date, time and details of any fire, explosion or release of hazardous waste for which the Contingency Plan was not required to be implemented or for which the Permittee failed to implement the plan.

**IV.E.2. Copies of Plan**

The Permittee shall comply with the requirements of 40 C.F.R. §264.53.

**IV.E.3. Amendments to Plan**

The Permittee shall review and immediately amend the Contingency Plan, if necessary pursuant to the requirements of 40 C.F.R. §264.54, whenever:

- a. The facility permit is revised.
- b. The plan fails in an emergency.
- c. The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or release of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency.
- d. A change to the list of emergency coordinators.
- e. A change to the list of emergency equipment.

**IV.E.4. Emergency Coordinator**

A trained emergency coordinator shall be available at all times, either on the facility premises or on call in case of an emergency. This emergency coordinator must be thoroughly familiar with all aspects of the Contingency Plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. This person must have the authority to commit the resources needed to carry out the Contingency Plan.

#### **IV.F. SPECIAL PROVISIONS FOR IGNITABLE, REACTIVE, OR INCOMPATIBLE WASTE MANAGEMENT**

The Permittee shall comply with the requirements of 40 C.F.R. §264.17(a) for the storage, handling and treatment of ignitable, reactive, and incompatible wastes. The Permittee shall prepare and follow written Standard Operating Procedures and take precautions to prevent accidental ignition, reaction and/or mixing of ignitable, reactive or incompatible waste.

1. When storing and handling these wastes, the Permittee shall separate them and protect them from sources of ignition or reaction such as: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition, and radiant heat.
2. When treating these wastes, the Permittee shall take precautions to prevent reactions that:
  - a. Generate extreme heat or pressure, fire or explosions, or violent reactions.
  - b. Produce uncontrolled mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment.
  - c. Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions.
  - d. Damage the structural integrity of the device or facility.
  - e. Threaten human health or the environment in any similar way.

#### **IV.G. RECORD KEEPING AND REPORTING**

In addition to the record keeping and reporting requirements specified elsewhere in Part II, the Permittee shall do the following:

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#### **IV.H. OPERATING RECORD**

The Permittee shall maintain a written operating record at the facility, in accordance with applicable sections in 40 C.F.R. §264.73.

**V. CONTAINER STORAGE REQUIREMENTS**

**V.A. AIR EMISSION REQUIREMENTS**

The Permittee manages hazardous waste in containers with volatile organic content greater than 500 parts per million by weight and is subject to the requirements to install, operate and maintain air emission controls and to keep records and report compliance pursuant to 40 C.F.R. Part 264, Subpart CC. The Permittee is also subject to and required to install, operate and maintain air emission controls and to keep records and report compliance under regulations promulgated pursuant to the Clean Air Act found at 40 C.F.R. Part 63, Subpart DD. Based upon the Permittee's certification that the container storage areas in the table below are equipped with and operating container air emission controls in accordance with the requirements of 40 C.F.R. Part 63, Subpart DD, the requirements of 40 C.F.R. Part 264, Subpart CC, to do not apply with the container storage units listed in the table below in accordance with 40 C.F.R. §264.1080(b).

Storage Area	Storage Capacity	40 C.F.R Part 63, Subpart DD Container Controls
SWDF Container Storage Building	Maximum of 111,636 total gallons	Container Level 1 Controls
SWDF Surge Building	Maximum of 40,320 total gallons	Container Level 1 Controls
SWDF Container Feed Area	Maximum of 11,508 total gallons	Container Level 1 Controls
North LWDF Unloading Area	Maximum of 5,700 total gallons (Bulk LWDF or BWDF Containers only)	Container Level 1 or Level 2 Controls, as applicable
South LWDF Unloading Area	Maximum of 5,700 total gallons (Bulk LWDF or BWDF Containers only)	Container Level 1 or Level 2 Controls, as applicable
BWDF Storage Area	Maximum of 22,000 total gallons (Approximately 4 Truck Trailers)	Container Level 1 or Level 2 Controls, as applicable

**VI. STORAGE TANK REQUIREMENTS**

**VI.A. AIR EMISSION REQUIREMENTS**

The Permittee manages hazardous waste in tanks with volatile organic content greater than 500 parts per million by weight and is subject to the requirements to install, operate and maintain air emission controls and to keep records and report compliance pursuant to 40 C.F.R. Part 264, Subpart CC. The Permittee is also subject to and required to install, operate and maintain air emission controls and to keep records and report compliance under regulations promulgated pursuant to the Clean Air Act found at 40 C.F.R. Part 63, Subpart DD. Based upon the Permittee's certification that storage tanks in the table below are equipped with and operating air emission controls in accordance with the requirements of 40 C.F.R. Part 63, Subpart DD, the requirements of 40 C.F.R. Part 264, Subpart CC, to do not apply with the storage tanks units listed in the table below in accordance with 40 C.F.R. §264.1080(b).

Tank System	Tank Number	Capacity (Gallons)	40 C.F.R Part 63, Subpart DD Tank Controls
West LWDF Tank System	1	38,000	Tank Level 2 Controls
	2	38,000	Tank Level 2 Controls
East LWDF Tank System	3	38,000	Tank Level 2 Controls
	4	38,000	Tank Level 2 Controls
	5	38,000	Tank Level 2 Controls
BWDF Tank System	6	300 (cubic yards)	Tank Level 2 Controls

**VII. LAND DISPOSAL RESTRICTIONS**

A. The Permittee must comply with all regulations implementing the land disposal restrictions required in 40 C.F.R. Part 268. The Permittee also must comply with regulations implementing the land disposal restrictions that are promulgated after the effective date of Part II, as these requirements are self-implementing provisions of HSWA.

B. If allowed in Part I and only as allowed in Part I, the Permittee may store wastes to which the land disposal restriction applies for up to one year unless EPA can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal as provided in 40 C.F.R. §268.50(b). For storage of hazardous waste to which the land disposal prohibition applies beyond one year, however, the Permittee shall bear the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal as provided in 40 C.F.R. §268.50(c).

## **VIII. INDUSTRIAL FURNACE REQUIREMENTS**

### **VIII.A. Description of Industrial Furnace**

The industrial furnace is a cement kiln pyroprocessing system (preheater/precalciner kiln system) consisting of a rotary kiln, five stages of cyclone-type preheater vessels, and a pre-calciner. Raw materials are reduced in size to a fine powder in an in-line roller mill. The raw materials now which have been ground to a fine powder are removed and conveyed from the roller mill by the exhaust gases exiting the first stage of the pre-heater including any entrained particulate in those hot exhaust gases. The raw materials and any entrained particulate removed from the exhaust gases by the main baghouse are collected and stored for use as the raw material feed to the preheater/precalciner. In addition to the main baghouse discussed previously, a baghouse is used to remove particulates from hot exhaust gases discharged by the alkali by-pass system associated with the rotary kiln section of the industrial furnace. Both the main baghouse and alkali by-pass baghouse are equipped with polytetrafluoroethylene (PTFE) membrane fabric filters for particulate matter control. Pumpable hazardous wastes may be burned at the [clinker] discharge end of the rotary kiln section of the industrial furnace and in the down draft section of the pre-calciner as an alternative to fossil fuels. Non-pumpable hazardous wastes may be burned at the feed end (opposite of the discharge end) of the rotary kiln section of the industrial furnace using an interlock system.

The industrial furnace is subject to the requirements of 40 C.F.R. part 63, subpart EEE (also known as the Clean Air Act Hazardous Waste Combustor NESHAP) and shall be in compliance with those requirements.

### **VIII.B. Limitation on Waste Feed**

The Permittee shall not burn any hazardous wastes having EPA Hazardous Waste Codes F020, F021, F022, F023, F026 and F027 (commonly known as the dioxin wastes). The Permittee shall not burn any hazardous wastes which contain more than 50 parts per million polychlorinated biphenyls (PCBs).

### **VIII.C. Omnibus Conditions**

EPA is required to include provisions in hazardous waste management permits if they are necessary to protect human health and the environment. Such permit conditions are known as "omnibus conditions" and are established pursuant to 40 C.F.R. 270.32(b). If information becomes available that shows that additional conditions are necessary, EPA will modify the permit in accordance with 40 C.F.R. 270.41.

**VIII.D. Inspection**

The industrial furnace and associated equipment (pumps, valves, pipes, etc.) shall be subjected to thorough visual inspection when they contain hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering, as specified in the Inspection Schedule, Part II Attachment 5.

**VIII.E. Direct Transfer of Hazardous Waste**

The Permittee is not authorized to directly transfer hazardous waste from hazardous waste transport vehicles or from hazardous waste containers into the cement kiln pyroprocessing system.

**VIII.F. Regulation of Residues**

1. The Permittee shall sample and analyze cement kiln dust as described in the Waste Analysis Plan, Part II Attachment 4.
2. Records to document compliance with the provisions of 40 C.F.R. §266.112 shall be retained until closure of the cement kiln pyroprocessing system. At a minimum, the following shall be recorded:
  - a. The date and time of sampling;
  - b. The individual(s) who performed the sampling;
  - c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses; and
  - e. Results of analyses.

**VIII.G. Record Keeping**

Unless otherwise required by this permit, the Permittee shall record and maintain in its operating record all information monitored and data required by Permit Condition VIII for three years as required by 40 C.F.R. §264.73. This period may be extended by request of the Director at any time and shall be automatically extended in the event of an enforcement action regarding this facility, until such time as:

1. the enforcement proceeding is dismissed;
  2. any settlement agreement signed by the parties has expired or terminated;
- or

3. a final, unappealable order has been issued in the proceeding.

**VIII.H. Closure**

1. Within ninety (90) days after the cement kiln pyroprocessing system receives the final volume of hazardous waste, the Permittee shall treat or remove all hazardous wastes from the cement kiln pyroprocessing system in accordance with the Closure Plan, Part II Attachment 1.
2. Within one hundred eighty (180) days after the cement kiln pyroprocessing system receives the final volume of hazardous waste, the Permittee shall complete closure of the cement kiln pyroprocessing system in accordance with the Closure Plan, Part II Attachment 1.
3. Within sixty (60) days of completion of closure of the cement kiln pyroprocessing system, the Permittee shall submit to the Director, by registered mail, a certification that the cement kiln pyroprocessing system has been closed in accordance with the specifications in the Closure Plan, Part II Attachment 1. The certification shall be signed by the Permittee and by a qualified Professional Engineer.
4. The Permittee shall include with the closure certification documentation supporting the closure certification that demonstrates that the closure plan was fully implemented for the cement kiln pyroprocessing system.

**IX. SUMMARY OF SUBMITTALS**

The following is a summary table and does not modify or change the requirements of any Part II Permit Condition.

Part II Permit Condition	Triggering Event	Submittal	Due Date
II.C.6.a Appeal of Part II	Final Part II decision	Appeal	Within 30 days of
II.E.2 Duty to Reapply	Permit Expiration	Permit Application	At least 180 days prior to
II.E.7 Duty to Provide Information	Request	Requested Information	Within 30 days of

Part II Permit Condition	Triggering Event	Submittal	Due Date
II.E.10 Reporting Planned Changes	Date of Planned Change	Report	At least 30 days advance of
II.E.11.a Reporting Anticipated Noncompliance	Date of Planned Change	Report	At least 30 days advance of
II.E.14 Reports of Compliance Schedules	Compliance Schedule Date	Report	No later than 14 days following
II.E.15.a Transfer of Part II	Anticipated Date of Transfer	Certification	At least 90 days prior to
II.E.15.d Transfer of Part II	Scheduled Change in Ownership	Permit Application	At least 90 days prior to
II.E.15.e Transfer of Part II	Date of transfer	Financial Assurance Documentation	Within 6 months
II.E.15.f Transfer of Part II	Date of transfer	Financial Assurance Documentation	Within 6 months
II.E.15.g Transfer of Part II	Date of transfer	Permit Application	At least 90 days prior to
II.E.15.g Transfer of Part II	Date of transfer	Written Agreement	At least 90 days prior to
II.E.15.g Transfer of Part II	Date of transfer	Financial Assurance Documentation	Within 6 months
II.E.15.g Transfer of Part II	Date of transfer	Financial Assurance Documentation	Within 6 months
II.E.16.a Twenty-four Hour Reporting	Each occurrence	Report	Within 24 hours of
II.E.16.c Twenty-four Hour Reporting	Each occurrence	Notice	Within 5 days of

Part II Permit Condition	Triggering Event	Submittal	Due Date
II.E.16.c Twenty-four Hour Reporting	Each occurrence	Report	Within 15 days of (requires EPA waiver)
II.E.17.a Other Noncompliance	Each occurrence	Report	Within 30 days of
II.E.19 Other Information	Discovery	Report	Within 7 days of
II.J.3 Notification of Closure	Expected Closure Date	Notice	At least 45 days prior to
II.K.1 Cost Estimate for Closure	Annual Anniversary	Adjusted closure cost estimate	Anniversary Date
II.K.2 Cost Estimate for Closure	Approval of closure plan modification	Revised closure cost estimate	Within 30 days of
III.C.1 Notification Requirements for Newly-Identified SWMUs, AOCs and Releases	Discovery	Notice/Report	Within 15 days of
III.D.1 Assessment of Newly-Identified SWMUs, AOCs and Releases	Notice	Work Plan	Within 60 days of
III.D.1.h Assessment of Newly-Identified SWMUs, AOCs and Releases	Start of Activity	Notice	At least 10 days prior to
III.E.2 Interim Measures and Stabilization	Discovery	Notice	Within 24 hours of

Part II Permit Condition	Triggering Event	Submittal	Due Date
III.E.4 Interim Measures and Stabilization	Determination	Notice	Within 10 days of
III.F.2 RFI Work Plan	Request	Work Plan	Within 90 days of
III.G.1 RFI Work Plan Implementation	Start of Activity	Notice	At least 10 days prior to
III.I.2 CMS Work Plan	Notice	Work Plan	Within 60 days of
III.I.4.o CMS Work Plan	Start of Activity	Notice	At least 10 days prior to
III.J.1 CMS Work Plan Implementation	Start of Activity	Notice	At least 10 days prior to
III.N.1.a CMI Work Plan	Approval of Corrective Measure	Work Plan	Within 60 days of
III.N.1.b CMI Work Plan	Request	Electronic Work Plan file	Within 10 days of
III.N.2 CMI Report	Request	Electronic Work Plan file	Within 10 days of
III.N.4.b CMI 5-Year Review	Request	Electronic Work Plan file	Within 10 days of
III.N.5.a CMI Report	Completion of Remedial Activities	Report	Within 90 days of
III.P Additional Work	Request	Work Plan	Within 60 days of
III.Q.1.c Estimated Cost of the Work	Approval	Cost Estimate	Within 30 days of
III.Q.1.d Estimated Cost of the Work	Approval	Cost Estimate	Within 30 days of

Part II Permit Condition	Triggering Event	Submittal	Due Date
III.Q.1.e Estimated Cost of the Work	Notice	Cost Estimate	Within 30 days of
III.Q.1.f Estimated Cost of the Work	Increase	Cost Estimate	Within 30 days of
III.Q.1.g Estimated Cost of the Work	Anniversary	Cost Estimate	Within 30 days of
III.Q.2.b Assurances of Financial Responsibility for Completing the Work	Selection and/or Approval	Cost Estimate	Within 30 days of
III.Q.2.b Assurances of Financial Responsibility for Completing the Work	Approval	Financial Assurance Documents	Within 30 days of
III.Q.2.d Assurances of Financial Responsibility for Completing the Work	Close of guarantor's fiscal year	Financial Assurance Documents	Within 90 days of
III.Q.2.d Assurances of Financial Responsibility for Completing the Work	Close of guarantor's fiscal year	Notice of guarantor's financial condition	Within 90 days of
III.Q.2.f Assurances of Financial Responsibility for Completing the Work	Discovery	Notice	Within 10 days of
III.Q.2.f Assurances of Financial Responsibility for Completing the Work	Determination and/or Discovery	Revised or proposed alternative financial assurance	Within 30 days of

Part II Permit Condition	Triggering Event	Submittal	Due Date
III.Q.4.b Increase in Amount of Financial Assurance	Determination	Notice	Within 14 days of
III.Q.4.b Increase in Amount of Financial Assurance	Determination	Financial Assurance Documents	Within 30 days of
III.Q.4.b Increase in Amount of Financial Assurance	Approval	Executed Financial Assurance Documents	Within 30 days of
III.Q.4.c.ii Change in Form of Financial Assurance	Approval	Executed Financial Assurance Documents	Within 30 days of
III.R Incapacity of Owners or Operators, Guarantors or Financial Institutions	Commencement of Proceeding	Notice	Within 10 days of
III.R Incapacity of Owners or Operators, Guarantors or Financial Institutions	Commencement of Proceeding	Executed Financial Assurance Documents	Within 60 days of
III.S Quarterly Progress Reports	End of calendar quarter	Report	Within 30 days of
III.U.1 Dispute Resolution	Disapproval, etc.	Notice of Dispute	Within 10 days
IV.A.1.a Hazardous Waste Imports	Date of Expected Receipt	Notice	At least 4 weeks prior to
VIII.H.3 Closure	Completion of Closure	Closure Certification and Report	Within 60 days of