Return to Index

United States Environmental Protection Agency
Region 10
1200 6th Avenue, Suite 155, 15-H13
Seattle, Washington 98101

Tribal Minor New Source Review Permit
Pursuant to Clean Air Act Title I and 40 CFR 49.158

Permit Number: **R10TNSR03200** Source ID: **16-077-E0001**

Issue Date: **PRE-DRAFT** Effective Date: **PRE-DRAFT**

Permittee: **J.K. Merrill and Sons, Inc.**

Merrill Pit

This Permittee shall comply with all conditions of this permit for operations at the following location:

1850 Tank Farm Road
Pocatello, Idaho 83204
Fort Hall Reservation
Latitude: 42.9265° N, Longitude: 112.5476° W

Pursuant to the provisions of Clean Air Act (CAA) sections 110(a) and 301(d) and the Code of Federal Regulations (CFR) title 40, section 49.158, the U.S. Environmental Protection Agency Region 10 (EPA) is issuing a synthetic minor source permit. This permit places enforceable restrictions on the potential to emit of the Source's existing operations so that the provisions and requirements for major sources under the title V program in 40 CFR part 71 do not apply. This action establishes a synthetic minor source by limiting emissions of nitrogen oxides (NOx).

The Permittee must comply with all conditions of this permit, including emission limitations that apply to the emission units at the source listed in Table 1. Noncompliance with any permit term or condition is a violation of the permit and may constitute a violation of the CAA and is grounds for enforcement action and for permit termination or revocation. This permit does not release the Permittee from any liability for compliance with other applicable federal and tribal environmental laws and regulations, including the CAA.

Pursuant to 40 CFR 49.159(a), this permit will become effective on the date specified above unless review is requested on the permit pursuant to 40 CFR 49.159(d).

_____ _____

Karl Pepple, Acting Manager
Air Permits and Toxics Branch
Air and Radiation Division
U.S. EPA, Region 10

Date

Table of contents:

Table of Contents

Abbreviations, Acronyms and Symbols 3
Part 49 Permit Issuance History 4
Table 1: Source Information and Emission Units 4
Section 1: General Provisions Requirements 4
Section 2: Source Wide Emission Limitations and Standards 7
Section 2.1: Source Wide Monitoring and Testing Requirements 7
Section 2.2: Source Wide Recordkeeping Requirements 8
Section 2.3: Source Wide Notification and Reporting Requirements 8
Section 3: Emission Units 1 and 2 Limitations 11
Section 3.1: Monitoring and Testing Requirements 12
Section 3.2: Recordkeeping Requirements 13
Section 3.3: Notification and Reporting Requirements 13

Abbreviations, Acronyms and Symbols

bhp	brake horsepower
CAA	Clean Air Act [42 U.S.C. § 7401, *et seq*.]
CBI	Confidential Business Information
CDX	Central Data Exchange
CEDRI	Compliance and Emission Data Reporting Interface
CFR	Code of Federal Regulations
CI	Compression Ignition
E	Emissions
EF	Emission Factor
EPA	U. S. Environmental Protection Agency, Region 10
EU	Emission Unit
gal	gallon
FC	Fuel Combusted
hr	hour
HV	Heating Value
ID	Identification Number
kW	kilowatt
lb	pound
MMBtu	Million British Thermal Units
NOx	Nitrogen Oxides
SN	Serial Number
PTE	Potential to Emit
tpy	tons per year

Part 49 Permit Issuance History

Date of Issuance	Permit Number	Description of Permit Action
0x/xx/2022	R10TNSR03200	Initial permit issued

Source/Project Description

J.K. Merrill and Sons, Inc. owns and operates a rock crushing plant located at the Merrill Pit near Pocatello, Idaho. The plant comprises a crusher plant and a wash plant, each powered by a diesel-fired engine. Air emissions result from crushing, screening, and handling materials and combustion of diesel fuel in the two engines. Without restrictions on its PTE, the facility is an existing major source subject to the CAA title V operating permit program because its unrestricted potential NOx emissions are greater than the 100 tpy major source threshold.

This permit limits NOx emissions generated by the activities at the facility listed in Table 1 to less than the major source threshold.

On May 29, 2020, the permittee entered into an Administrative Compliance Order (ACO) with the EPA.[1] Among the terms of this ACO, the permittee agreed to submit an application for a permit that would establish practicably enforceable limits on NOx such that the source would become a minor source and not subject to permitting under title V of the CAA (i.e., PTE less than 100 tpy for NOx). This synthetic minor source permit will limit NOx emissions by establishing legally and practicably enforceable limits on fuel combustion.

The descriptions provided in this section are for informational purposes only.

Table 1: Source Information and Emission Units

Emission Unit (EU) ID	Unit Description	Make/Model/Serial/ Year of Manufacture	Capacity[2]	Control Technology	Fuel/Material
EU 01	Crusher Plant Engine	Caterpillar 3512 SN: 024Z07632 1996	1,818 bhp 1,356 kW 12.7 MMBtu/hr	Oxidation Catalyst	Ultra Low Sulfur Diesel
EU 02	Wash Plant Engine	Caterpillar 3406 SN: 1DZ10421 2005	587 bhp 438 kW 4.1 MMBtu/hr	Oxidation Catalyst	Ultra Low Sulfur Diesel

Section 1: General Provisions Requirements

1. *Definitions*
   The terms used herein shall have the meaning as defined in 40 CFR 49.152, unless otherwise defined in this permit. If a term is not defined, it shall be interpreted in accordance with normal business use.

[1] Administrative Compliance Order on Consent, Docket No. CAA-10-2020-0081, U.S. EPA, Region 10, June 3, 2020.
[2] Conversion factors: kW = bhp * 0.7457 kW/bhp. MMBtu/hr = bhp * 7,000 btu/bhp * $1x10^6$ btu/MMBtu.

2. *Location and Equipment*
   Unless otherwise specified, the terms and conditions of this permit apply to the emission units and control devices identified in Table 1.

3. *Inspection and Entry*
   Upon presentation of proper credentials, the Permittee must allow the EPA Regional Administrator, and/or an authorized representative, to:
   a. Enter upon the premises where the source is located or emissions-related activity is conducted or where records are required to be kept under the conditions of this permit;
   b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
   c. Inspect, during normal business hours or while the source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices or operations regulated or required under the permit;
   d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
   e. Record any inspection by use of written, electronic, magnetic and photographic media.

4. *Severability*
   The provisions of this permit are severable. If any portion of this permit is held to be invalid, the remaining terms and conditions of the permit shall remain valid and in force.

5. *Compliance*
   The Permittee must comply with all conditions of this permit. Noncompliance with any permit term or condition is a violation of the permit and may constitute a violation of the CAA and is grounds for an enforcement action and for the EPA to terminate or revoke the permit. The Permittee shall operate the equipment described in Table 1 in compliance with this permit, the application on which this permit is based, and all other applicable federal and tribal air quality regulations.

6. *Unavailable Defense*
   In an enforcement action it shall not be a defense for the Permittee that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

7. *Property Rights*
   This permit does not convey property rights of any sort, or any exclusive privilege.

8. *Credible Evidence*
   For the purpose of establishing whether the Permittee violated or is in violation of any requirement of this permit, nothing shall preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the Permittee had performed the appropriate performance or compliance test procedure.

9. *Liability*
   This permit does not relieve the Permittee of the responsibility to comply fully with applicable provisions of any EPA-approved implementation plan, federal implementation plan or tribal implementation plan and any other requirements under applicable law.

10. *Information Requests*
    The Permittee shall furnish to the EPA, within a reasonable time, any information that the EPA may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit as specified in Condition 12, or to determine compliance with the permit. For any such information claimed to be confidential, the Permittee must submit a claim of confidentiality in accordance with 40 CFR part 2, subpart B.

11. *Posting of Permit*
    This permit must be posted prominently at the Source.

12. *Revising, Reopening, Revoking and Reissuing, or Terminating for Cause*
    The permit may be revised, reopened, revoked and reissued or terminated for cause. The filing of a request by the Permittee for a permit revision, revocation and re-issuance, or termination, or of a notification of planned changes or anticipated noncompliance, does not stay any condition of this permit.
    a. Cause means with respect to the EPA's ability to terminate coverage under this permit that:
       i. The Permittee is not in compliance with the provisions of this permit;
       ii. The EPA has reason to believe that the Permittee obtained approval of the permit by fraud or misrepresentations; or
       iii. The Permittee failed to disclose a material fact required by the regulations applicable to the permitted source of which the Permittee had or should have had knowledge at the time the Permittee submitted the application;
       iv. The permit contains a material mistake or inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or
       v. The permit must be revised or revoked to assure compliance with applicable requirements.
    b. Except for those permit revisions and reopenings that do not increase the emissions limitations in the permit, such as permit reopenings that correct typographical, calculation and other errors, all other permit revisions and reopenings shall be carried out after the opportunity of public notice and comment and in accordance with one or more of the public participation requirements under 40 CFR 49.157(b)(1)(ii).

13. *Changes in Ownership or Operator*
    In the event of any changes in control or ownership of the Source, this permit shall be binding on all subsequent owners and operators. The Permittee shall notify the succeeding owner or operator of the existence of this permit and its conditions by letter, a copy of which shall be forwarded to the EPA at the address shown in Condition 27. The Permittee shall ensure that the permitted source remains in compliance with the permit until any such transfer of ownership or operator is effective. The Permittee shall ensure the new owner or operator is provided all records required in Section 2.2: Source Wide Recordkeeping Requirements prior to the transfer of ownership or operator. The EPA may change the Permittee name and contact information in this permit to reflect the new owner or operator in accordance with the administrative amendment provisions in 40 CFR 49.159(f).

Section 2: Source Wide Emission Limitations and Standards

14. *Source Operation*
    At all times, including periods of startup, shutdown, shakedown, and malfunction, the Permittee shall, to the extent practicable, maintain and operate the equipment that is subject to this permit in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be on information available to the EPA, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

15. *Manufacturer's Emission-Related Instructions*
    All emission units shall be operated and maintained according to the manufacturer's emission-related written instructions. The Permittee shall change only those emission-related settings that are permitted by the manufacturer.

Section 2.1: Source Wide Monitoring and Testing Requirements

16. *Performance Tests Protocols*
    If performance testing is required, the Permittee shall submit a performance test protocol for all performance tests to the EPA no later than 30 days prior to the test to allow review of the test plan and to arrange for an observer to be present at the test. The performance test shall be conducted in accordance with the submitted protocol and any changes required by the EPA.

17. *Performance Tests*
    a. The Permittee shall conduct performance tests (as described in 40 CFR 60.8) according to a test protocol as follows:
        i. While the permitted source is operating within 10% of maximum operating rate ;
        ii. Using test methods from 40 CFR part 60, appendix A unless alternative methods are approved by the EPA in writing in advance of the test.
        iii. Demonstrating compliance with each limit by averaging the results of at least three test runs of at least one-hour duration each, unless the Permittee can demonstrate to the satisfaction of the EPA that the result of one of the test runs should be discarded. The test results the Permittee submits must contain at least two test runs.
        iv. Simultaneously for CO and NO_X whenever either pollutant is being tested.
    b. For performance test purposes, sampling ports, platforms, and access shall be provided on the emission unit exhaust system in accordance with the requirements of 40 CFR 60.8(e).
    c. The Permittee shall furnish the EPA with a written report of the results of performance tests within 60 days of completion, and in accordance with Condition 27.
    d. In limited circumstances, upon written request and with adequate justification from the Permittee, the EPA may waive a specific performance test and/or allow for testing to be done under different operating conditions. Such justification must demonstrate to the EPA's satisfaction that it would be impractical to conduct the required test at the specified interval or to operate as specified during testing, as applicable. Any waiver or allowance granted by the EPA shall be approved in writing and the Permittee shall adhere to any specifications or requirements concerning such waiver or allowance that the EPA imposes therein.

Section 2.2: Source Wide Recordkeeping Requirements

18. *Record Retention*
The Permittee shall maintain all records required by this permit for at least 5 years from the date of origin, unless otherwise stated. The Permittee shall maintain the application and all materials supporting the application for the duration of time the affected emission units are covered by this permit. All records shall be maintained onsite or be accessible electronically onsite.

19. *Records of Monitoring and Testing*
The Permittee shall maintain records of all required monitoring data and support information for any monitoring sample, measurement, report or application, including records of all performance testing pursuant to Conditions 17 and 32. Support information would include, for example, all calibration and maintenance records, and all original strip-chart records or digital records for continuous monitoring instrumentation. Records shall include the following information, as applicable:
    a. The location, date and time of sampling, performance test, or measurements;
    b. The date(s) analyses were performed;
    c. The test plan or monitoring protocol followed;
    d. Any documentation required to approve an alternate test method;
    e. The company or entity that performed the analyses;
    f. The analytical techniques or methods used;
    g. The results of such analyses; and
    h. The operating conditions existing at the time of sampling or measurement, including the generator power rating.

20. *Records of Malfunction, Maintenance, and Repair*
The Permittee shall maintain records of malfunctions, maintenance, and repairs for all emission units and control equipment. The records shall include the following information, as applicable:
    a. Identification of the components malfunctioning, inspected, or repaired;
    b. The date of the malfunction (including duration), inspection, or repair;
    c. For schedule maintenance, the elapsed time, hours of operation, or other applicable measure since the activity was last performed and when the activity should next be performed;
    d. The results of each inspection or repair;
    e. Any corrective actions taken as a result of a malfunction or inspection; and
    f. The results of any corrective actions taken.

21. *Records of Reports and Notifications*
The Permittee shall maintain records of all reports and notifications required in Section 2.3: Source Wide Notification and Reporting Requirements

Section 2.3: Source Wide Notification and Reporting Requirements

22. *Notification of Change in Ownership or Operator*
If the Source changes ownership or operator, then the new owner or operator must submit a written or electronic notice to the EPA within 90 days after the change in ownership or operator is effective. In the notice, the new owner or operator must provide a written agreement containing a specific date for transfer of ownership or operator, and an effective date on which the new owner or operator

assumes partial and/or full coverage and liability under this permit. The submittal must identify the previous owner and operator, and update the name, street address, mailing address, contact information, and any other information about the Source, if such information would change as a result of the change of ownership or operator.

23. *Notification of Closure*
The Permittee must submit a report of any permanent or indefinite closure to the EPA in writing within 90 days after the cessation of all operations at the permitted source. It is not necessary to submit a report of closure for regular, seasonal closures.

24. *Annual Reports*
The Permittee shall submit an annual report on or before March 15 of each year to the EPA. The annual report shall cover the period from January 1 to December 31 of the previous year and shall include:
   a. An evaluation of the permitted source's compliance status with the requirements in Section 3: Emission Units 01 and 02 Limitations;
   b. Summaries of the required monitoring, testing, and recordkeeping in Section 3.1: Monitoring and Testing Requirements and Section 3.2: Recordkeeping Requirements; and
   c. Summaries of deviation reports submitted pursuant to Condition 25.

25. *Deviation Reports*
The Permittee shall promptly report to the EPA any deviations (as the term is defined in the following paragraph) from permit requirements including deviations attributable to upset conditions. For the purposes of this permit, "promptly" shall be defined to mean to notify the EPA within 15 days after deviation is detected. Deviation reports shall include:
   a. The identity of the affected emission unit where the deviation occurred;
   b. The nature of the deviation;
   c. The length of time of the deviation;
   d. The probable cause of the deviation; and
   e. Any corrective actions or preventive measures taken as a result of the deviation to minimize emissions from the deviation and to prevent future deviations.

Deviation means any situation in which an emission unit fails to meet a permit term or condition. A deviation is not always a violation. A deviation can be determined by observation or through review of data obtained from any testing, monitoring, or recordkeeping established in accordance with the requirements of this permit. For a situation lasting more than 24 hours which constitutes a deviation, each 24-hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:
   1. A situation where emissions exceed an emission limitation or standard;
   2. A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met;
   3. A situation in which any testing, monitoring, recordkeeping or reporting required by this permit is not performed or not performed as required; and
   4. A situation in which observations or data collected demonstrates noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit.

26. *Performance Test Reports*
The Permittee shall submit a test report to the reviewing authority within 60 days after the completion of any required performance test. At a minimum, the test report shall include:
a. A description of the affected emission unit and sampling location(s);
b. The time and date of each test;
c. A summary of test results, reported in units consistent with the applicable standard;
d. A description of the test methods and quality assurance procedures used;
e. A summary of any deviations from the proposed test plan and justification for why the deviation(s) was necessary;
f. The amount and type of fuel burned, raw material consumed, and product produced, as applicable, during each test run;
g. Operating parameters of the affected emission units and control equipment during each test run;
h. Sample calculations of equations used to determine test results in the appropriate units; and
i. The name of the company or entity performing the analysis.

27. *Reporting and Notification Address*
The Permittee shall send all required notifications, reports and test plans to the EPA through the EPA's Central Data Exchange/Compliance and Emission Data Reporting Interface (CDX/CEDRI) at https://cdx.epa.gov. (First-time users will need to register with CDX. If no specific reporting option is available in CEDRI, select "Other Reports." If the system is unavailable, contact EPA Region 10's Enforcement and Compliance Assurance Division at (206) 553-1200.)

Confidential Business Information (CBI) may not be submitted through CDX and must be submitted either by (1) hardcopy to the EPA at one of the two addresses below as follows or (2) other electronic means designated by EPA or the Permittee. For applications to revise this permit, submit the materials to the EPA at the following address:

Tribal NSR Air Quality Permits
U.S. EPA – Region 10, 15-H13
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

For any other documents that contain CBI, submit the materials to the EPA at the following address:

Clean Air Act Compliance Manager
U.S. EPA – Region 10, 20-C04
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

A copy of each document submitted to the EPA that does not contain CBI shall be sent to the Tribal address below:

Air Quality Manager
Shoshone-Bannock Tribe
P.O. Box 306

Fort Hall, ID 83203

28. *Signature Verifying Truth, Accuracy, and Completeness*
All reports and notifications required by this permit shall be signed by a responsible official as to the truth, accuracy and completeness of the information. The certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

Responsible official means one of the following:
1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is directly responsible for the overall operation of the permitted source.
2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively.
3. For a public agency: Either a principal executive officer or ranking elected official, such as a chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

Section 3: Emission Units 01 and 02 Limitations

29. *NOx Emission Limit*
Emissions of NOx from EU 01 and EU 02 shall not exceed 90 tons per rolling consecutive twelve-month period. The Permittee shall determine emissions of NOx from EU 01 and EU 02 for each calendar month when the units operate using the following equation:

$$E_{NOx} = \sum_{n=1}^{2} (FC_n \cdot HV \cdot EF_n \cdot \frac{1}{2000})$$

Where:

E_{NOx} is the emissions of NOx in tons
FC_n is the fuel combusted in engine "n" in gallons using the fuel meter required in Condition 31
HV is the heating value of the fuel combusted in MMBtu/gal. Unless the fuel supplier has provided another value, a value of 0.137 MMBtu/gal shall be used.
EF_n is the NOx emission factor in lb/MMBtu for engine "n." Initially, EF_1 is 3.2 lb/MMBtu and EF_2 is 4.41 lb/MMBtu. After conducting testing pursuant to Condition 32, EF_n is the EF specified in the test report submitted pursuant to Condition 26 unless otherwise directed by EPA upon review of test report.
1/2000 is the conversion between pounds and tons

30. *Fuel Consumption Limitation*
Combined fuel consumption shall not exceed 18,275 gallons in any calendar month when a hot mix asphalt plant subject to an EPA-issued general permit operates at Merrill Pit. This fuel consumption

limit includes any fuel use at any co-located hot mix asphalt operation. This fuel consumption limit does not apply to nonroad mobile engines.

Section 3.1: Monitoring and Testing Requirements

31. *Fuel Meters*
Within 30 days of permit issuance, EU 01 and EU 02 shall be fitted with non-resettable fuel meters, operated, calibrated, and maintained according to the manufacturer's recommendations unless alternative procedures are approved by the EPA in advance.

32. *Source Testing*
    a. The Permittee may conduct performance tests on its own initiative at any time.
    b. The Permittee must conduct an initial performance test on EU 01 and EU 02 if the rolling consecutive 12-month total NOx emissions calculated pursuant to Condition 33 and using the emission factors initially included in Condition 29 ever exceeds 50 tons. The Permittee must conduct this initial performance test no later than 12 months after the end of the month that the rolling consecutive 12-month total NOx emissions calculated pursuant to Condition 33 exceeds 50 tons, or the date of the next CO performance test required for EU 01or EU 02 in Table 3 of 40 CFR part 63, subpart ZZZZ, whichever date comes later.
    c. Once initiated pursuant to either Condition 32.a or 32.b, the performance tests to determine NOx emission factors must be repeated at least every five years. Notwithstanding Condition 32.b, the permittee is not required to conduct more than one initial performance test. The timing of routine performance tests is subject to this Condition 32.c.
    d. The Permittee must conduct all performance tests consistent with Condition 17 and this Condition 32 to determine the NOx emission factors in units of pounds of NOx per million BTU heat input.
    e. Unless otherwise directed by EPA upon review of the test report required by Condition 26, the Permittee must use the NOx emission factors derived from performance tests conducted pursuant to Condition 32.a, 32.b, or 32.c in the equation in Condition 29 to determine compliance with the NOx limit in lieu of the initial emission factors listed therein.
    f. The Permittee must conduct all performance tests conducted pursuant to Condition 32.a, 32.b, or 32c, consistent with the following additional conditions:
        i. Performance tests to determine NOx emission factors shall be performed at +/- 10% of 50%, 75%, and 100% of maximum engine load unless the Permittee can

justify, and the EPA agrees, that another engine load (or loads) is more representative of typical operating conditions.

ii. The Permittee may use test method ASTM D6348-03[3] or ASTM D6522-00[4] to measure NOx emissions during each test run.

iii. To convert measured concentrations to emission factors, the permittee shall use Method 19 of 40 CFR part 60, appendix A

iv. The Permittee shall calculate emission factors for each tested engine load. The Permittee shall use the highest calculated emission factor in the equation in Condition 29 unless the Permittee can demonstrate, and the EPA approves, that another emission factor is more representative of actual operating conditions.

33. Within 10 days after the end of each calendar month, the Permittee shall calculate NOx emissions for the previous month using the equation in Condition 29 and add the NOx emissions from the previous eleven months to determine the rolling consecutive twelve-month total.

Section 3.2: Recordkeeping Requirements

34. *Fuel Records*
The Permittee shall keep records of the types and quantities (in gallons) of fuel combusted in EU 01 and EU 02 and any other collocated engines and generators excluding non-road mobile engines during each calendar month.

Section 3.3: Notification and Reporting Requirements

35. *Notification and Reports*
In the annual report required in Condition 24, the Permittee shall include calculations of monthly and rolling consecutive 12-month total fuel consumption and total NOx emissions in EU 01 and EU 02 for each calendar month when the units operate.

36. *Notification that Testing is Required*
If the requirement for the Permittee to conduct performance testing is triggered pursuant to Condition 32.b, the Permittee shall notify the EPA by the end of the month that the requirement to test was triggered and inform the EPA of the date by which the performance test must be conducted.

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[3] *Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy*, incorporated by reference for use in 40 CFR part 60, subpart IIII in 40 CFR 60.17(h)(182), October 1, 2003.

[4] *Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers*, incorporated by reference for use in 40 CFR part 63, subpart ZZZZ in 40 CFR 63.14(h)(96), October 1, 2005.