

## CHAPTER 62-213 OPERATION PERMITS FOR MAJOR SOURCES OF AIR POLLUTION

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**62-213.100 Purpose and Scope.** The Department of Environmental Protection adopts this chapter to provide a comprehensive operation permit system for permitting major sources of air pollution (Title V sources). Words and phrases used in this chapter, unless clearly indicated otherwise, are defined at Rule 62-210.200, F.A.C.

*Specific Authority 403.061, 403.0872 FS. Law Implemented 403.061, 403.0872 FS. History--New 11-28-93, Formerly 17-213.010, Amended 3-13-96.*

### **62-213.202 Responsible Official.**

(1) Each Title V source must identify a responsible official on each application for Title V permit, permit revision, and permit renewal. For sources with only one responsible official, this is how the Title V source designates the responsible official.

(2) Each Title V source may designate more than one responsible official, provided a primary responsible official is designated as responsible for the certifications of all other designated responsible officials. Any action taken by the primary responsible official shall take precedence over any action taken by any other designated responsible official.

(3) Any facility initially designating more than one responsible official or changing the list of responsible officials must submit a Responsible Official Notification Form (DEP Form No. 62-213.900(3), adopted and incorporated by reference at Rule 62-213.900, F.A.C.) designating all responsible officials for a Title V source, stating which responsible official is the primary responsible official, and providing an effective date for any changes to the list of responsible officials. Each individual listed on the Responsible Official Notification Form must meet the definition of responsible official given at Rule 62-210.200, F.A.C.

(4) A Title V source with only one responsible official shall submit DEP Form No. 62-213.900(3), adopted and incorporated by reference at Rule 62-213.900, F.A.C., for a change in responsible official.

(5) No person shall take any action as a responsible official at a Title V source unless designated a responsible official as required by this rule, except that the existing responsible official of any Title V source which had a change in responsible official during the term of the permit and before the effective date of this rule may continue to act as a responsible official until the first submittal of DEP Form No. 62-213.900(3), adopted and incorporated by reference at Rule 62-213.900, F.A.C., or the next application for Title V permit, permit revision or permit renewal, whichever comes first.

**62-213.205 Annual Emissions Fee.**

Each Title V source permitted to operate in this state must pay between January 15 and March 1 of each year, upon written notice as provided in the Title V permit, an annual emissions fee in an amount determined as set forth in subsection 62-213.205(1), F.A.C.

(1) Emissions Fee Calculation and Payment. Each Title V source must calculate the annual fee, based upon the source's previous year's emissions, by multiplying the applicable annual emissions fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent certification, construction permit or operation permit, times the annual hours of operation allowed by specific condition; provided, however, that:

(a) For emissions occurring prior to calendar year 2008, the emissions fee factor is \$25. For emissions occurring in calendar year 2008 and thereafter, the emissions fee factor is \$30. The emissions fee factor may be increased beyond \$25 only if the Secretary of the Department affirmatively finds that a shortage of revenue for support of the Title V source operation permit program will occur in the absence of a fee factor adjustment. The annual emissions fee factor may never exceed \$35 without legislative approval.

(b) For any Title V source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation may, at a responsible official's option, be based upon actual hours of operation, rather than allowable hours, if the owner or operator documents in a formal log or record the actual hours of operation for the calendar year. For any Title V source that has an emission limit that is dependent upon the type of fuel burned, the annual fee calculation shall be based on the emissions limit applicable during actual hours of operation.

(c) For any Title V source whose allowable emission limitation is specified per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator documents in a formal log or record the actual input or production amount. If the input or production amount is not documented, the maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.

(d) For any new Title V source that does not receive its first operation permit or begin operation under an air construction permit until after the beginning of a calendar year, or for any Title V source that achieves a non-Title V status (i.e., by Federally Enforceable State Operation Permit or permit surrender), the annual fee for the year shall be reduced pro rata to reflect the period during which the source was not allowed to operate as a Title V source.

(e) For any Title V source that emits less of any regulated air pollutant than allowed by specific condition, the annual fee calculation for such pollutant may, at a responsible official's option, be based upon emissions determined as follows:

1. The Department will accept, for fee purposes, emissions determined by means of data from a certified continuous emissions monitor which, for other than an acid rain source, or CAIR source, meets the certification and quality assurance requirements of Appendices B and F of 40 CFR Part 60, or for an acid rain source or CAIR source meets the certification and quality assurance requirements of 40 CFR Part 75, which are adopted and incorporated by reference in Rule 62-204.800, F.A.C. Stack gas volumetric flow rates will be determined using, if available at the source, calibrated flowmeters with recorders that record data on a continuous basis. In the absence of a flowmeter, flow rates will be determined by the average flow rate for the three most recent stack tests that were conducted at 90% to 100% of the maximum allowable operating rate for the unit. If three such stack tests have not been conducted, the average of the latest two tests conducted at the 90% to 100% level will be used. If two or more such tests have not been conducted, the results of the latest test conducted at the 90% to 100% level shall be used. For purposes of this determination, a stack test shall consist of all test runs required under subsection 62-297.310(1), F.A.C. Flow rates as determined in this paragraph shall be used with continuous emission monitors to determine the mass emissions for fee purposes.

2. The Department will accept, for fee purposes, emissions documented by means of an inventory balance for volatile organic compounds (VOC's), provided no credit is given for VOC's which are incinerated as a means of

control or presumed to be bound into a finished product. The owner or operator shall annually document through purchase receipts, records and sales receipts the beginning (January 1) and ending (December 31) VOC inventories, the amount of VOC's purchased during the year, and the amount of VOC's disposed of in the liquid phase during the year. The beginning of the year inventory, plus the amount purchased during the year, minus the amount disposed of in the liquid phase during the year, minus the ending VOC inventory will provide the amount of VOCs subject to the fee.

3. The Department will approve alternate fee calculation methods if a responsible official demonstrates that such method is able to quantify emissions by a scientifically accurate and verifiable procedure. The use of AP-42 factors or individual stack tests, standing alone, are not normally considered scientifically accurate and verifiable procedures for determining annual emissions for fee purposes. All proposals shall be certified by a professional engineer registered in the State of Florida and shall be field-tested at the specific facility, unless a proposing responsible official demonstrates that field-testing is not practicable.

(f) The amount of each regulated air pollutant in excess of 4,000 tons per year allowed to be emitted, in total, by any Title V source will not be included in the calculation of the fee. Any Title V source which does not emit any regulated air pollutant in excess of 4,000 tons per year is allowed a one-time credit not to exceed 25 percent of its first annual emissions fee for the prorated portion of the existing air operation permit application fees remaining upon commencement of its annual emissions fees.

(g) If the Department has not received the fee by February 15 of the year following the calendar year for which the fee is calculated, the Department will send the primary responsible official of the Title V source a written warning of the consequences for failing to pay the fee by March 1. If the fee is not postmarked by March 1 of the year due, the Department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee unpaid plus interest on such amount computed in accordance with Section 220.807, Florida Statutes. If the Department determines that a submitted fee was inaccurately calculated, the Department shall either refund to the permittee any amount overpaid or notify the permittee of any amount underpaid. The Department shall not impose a penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The Department shall waive the collection of underpayment and shall not refund overpayment of the fee, if the amount is less than one percent of the fee due, up to \$50.00. The Department shall make every effort to provide a timely assessment of the adequacy of the submitted fee. Failure to pay timely any required annual emissions fee, penalty, or interest constitutes grounds for permit revocation pursuant to Rule 62-4.100, F.A.C.

(h) Notwithstanding any other provisions of this rule, the annual emissions fee for any Title V source, other than a Title V source authorized to operate under a Title V air general permit, shall not be less than \$250. Furthermore, the annual emissions fee for a Title V source authorized to operate under a Title V air general permit shall be \$50.

(i) Any documentation of actual hours of operation, actual material or heat input, actual production amount, or actual emissions used to calculate the annual emissions fee shall be retained by the owner for a minimum of five years and shall be made available to the Department upon request.

(j) A completed DEP Form 62-213.900(1), "Major Air Pollution Source Annual Emissions Fee Form," must be submitted by a responsible official with the annual emissions fee.

(k) For an Acid Rain Part processed separately from a Title V permit, the Title V permit together with the Acid Rain Part shall be the most recent operation permit for Title V fee purposes. An Acid Rain Part processed separately from a Title V permit is not a separate permit and shall not be used as the most recent operation permit for Title V fee purposes.

(2) Adequacy of Emissions Fees. Annual emissions fees collected by the Department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the Title V source operation permit program, which shall consist of the following elements to the extent that they are reasonably related to the regulation of Title V sources:

(a) Reviewing and acting upon any application for such a permit.

(b) Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.

(c) Emissions monitoring and ambient monitoring only to the extent site-specific ambient monitoring is necessary for the issuance of any Title V permit, as documented in the permit.

(d) Preparing generally applicable regulations or guidance.

(e) Modeling, analyses, and demonstrations.

(f) Preparing inventories and tracking emissions.

(g) Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(h) Conducting any audits required under subsection 62-213.205(3), F.A.C.

(3) Audits. An audit of the Title V source operation permit program and an audit of each local program which accepts funds from the Department as reimbursement in the implementation of the Title V source operation permit program shall be conducted two years after the EPA has given full approval to the program to ascertain whether the annual emissions fees collected by the Department are used solely to support any reasonable direct and indirect costs as listed in subsection 62-213.205(2), F.A.C., above. A program audit must be performed biennially after the first audit.

(4) Permit Fees Waived. No permit application processing fee, renewal fee, modification fee or amendment fee is required for an operation permit for a Title V source.

*Rulemaking Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872 FS. History—New 12-21-92, Amended 11-25-93, Formerly 17-213.200, Amended 11-23-94, 1-1-96, 3-13-96, 6-25-96, 2-11-99, 1-3-01, 4-16-01, 6-2-02, 1-9-08, 3-16-08, 3-11-10.*

#### **62-213.300 Title V Air General Permits.**

(1) Applicability. The following facilities are eligible to operate under the terms of a Title V air general permit pursuant to the procedures and conditions of this rule.

(a) Perchloroethylene Dry Cleaning Facilities. The Title V air general permit for perchloroethylene dry cleaning facilities is no longer effective. The owner or operator of a perchloroethylene dry cleaning facility operating under the authority of this Title V air general permit is automatically authorized to operate under the authority of the air general permit for perchloroethylene dry cleaning facilities at paragraph 62-210.310(5)(f), F.A.C., until the date the authorization to operate under the Title V air general permit would have expired.

(b) Ethylene Oxide Sterilization Facilities. The Title V air general permit for ethylene oxide sterilization facilities is no longer effective. The owner or operator of a ethylene oxide sterilization facility operating under the authority of this Title V air general permit is automatically authorized to operate under the authority of the air general permit for ethylene oxide sterilization facilities at paragraph 62-210.310(5)(g), F.A.C., until the date the authorization to operate under the Title V air general permit would have expired.

(c) Halogenated Solvent Degreasing Facilities. The Title V air general permit for halogenated solvent degreasing facilities is no longer effective. The owner or operator of a halogenated solvent degreasing facility operating under the authority of this Title V air general permit is automatically authorized to operate under the authority of the air general permit for halogenated solvent degreasing facilities at paragraph 62-210.310(5)(h), F.A.C., until the date the authorization to operate under the Title V air general permit would have expired.

(d) Chromium Electroplating and Anodizing Facilities. The Title V air general permit for chromium electroplating and anodizing facilities is no longer effective. The owner or operator of a chromium electroplating and anodizing facility operating under the authority of this Title V air general permit is automatically authorized to operate under the authority of the air general permit for chromium electroplating and anodizing facilities at paragraph 62-210.310(5)(i), F.A.C., until the date the authorization to operate under the Title V air general permit would have expired.

(e) Asbestos Manufacturing and Fabrication Facilities. The Title V air general permit for asbestos manufacturing and fabrication facilities is no longer effective. The owner or operator of a asbestos manufacturing and fabrication facility operating under the authority of this Title V air general permit is automatically authorized to operate under the authority of the air general permit for asbestos manufacturing and fabrication facilities at paragraph 62-210.310(5)(j), F.A.C., until the date the authorization to operate under the Title V air general permit

would have expired.

(f) Secondary Aluminum Sweat Furnaces. The Title V air general permit for secondary aluminum sweat furnaces is no longer effective. The owner or operator of a secondary aluminum sweat furnace operating under the authority of this Title V air general permit is automatically authorized to operate under the authority of the air general permit for secondary aluminum sweat furnaces at paragraph 62-210.310(5)(k), F.A.C., until the date the authorization to operate under the Title V air general permit would have expired.

*Rulemaking Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872, 403.814 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 7-7-97, 11-13-97, 2-24-99, 1-3-01, 4-16-01, 4-14-03, 6-29-11.*

**62-213.400 Permits and Permit Revisions Required.** All Title V sources are subject to the air operation permit requirements of this chapter, except those Title V sources permittable pursuant to Rule 62-213.300, F.A.C., Title V Air General Permits.

(1) No Title V source may operate except in compliance with this chapter.

(2) Except as provided in Rule 62-213.410, F.A.C., no source with a permit issued under the provisions of this chapter shall make any changes in its operation without first applying for and receiving a permit revision if the change meets any of the following:

(a) Constitutes a modification;

(b) Violates any applicable requirement;

(c) Exceeds the allowable emissions of any air pollutant from any unit within the source;

(d) Contravenes any permit term or condition for monitoring, testing, recordkeeping, reporting or of a compliance certification requirement;

(e) Requires a case-by-case determination of an emission limitation or other standard or a source specific determination of ambient impacts, or a visibility or increment analysis under the provisions of Chapter 62-212 or 62-296, F.A.C.;

(f) Violates a permit term or condition which the source has assumed for which there is no corresponding underlying applicable requirement to which the source would otherwise be subject;

(g) Results in the trading of emissions among units within a source except as specifically authorized pursuant to Rule 62-213.415, F.A.C.;

(h) Results in the change of location of any relocatable facility identified as a Title V source pursuant to paragraph (a)-(e), (g) or (h) of the definition of “major source of air pollution” at Rule 62-210.200, F.A.C.

(i) Constitutes a change at an Acid Rain Source under the provisions of 40 CFR 72.81(a)(1), (2), or (3), (b)(1) or (b)(3), hereby incorporated by reference;

(j) Constitutes a change in a repowering plan, nitrogen oxides averaging plan, or nitrogen oxides compliance deadline extension at an Acid Rain Source.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History—New 11-28-93, Amended 4-17-94, Formerly 17-213.400, Amended 11-23-94, 1-3-95, 4-18-95, 3-13-96, 2-11-99, 1-3-01, 6-2-02, 3-16-08.*

**62-213.405 Concurrent Processing of Permit Applications.**

(1) If requested by the applicant, the Department shall concurrently process the applications for air construction permit and Title V permit revision or permit renewal, provided:

(a) The application for air construction permit complies with the requirements of subsections 62-213.420(3) and (4), F.A.C.;

(b) The application for air construction permit is subject to federally enforceable preconstruction review pursuant to Chapter 62-212, F.A.C.; and

(c) A source’s responsible official waives the processing time requirements for the air construction permit to accommodate the processing time frames of the Title V permit, and the Department complies with all requirements of subsection 62-213.430(1), F.A.C., prior to taking final action on the applications for air construction permit and Title V permit revision or permit renewal.

(2) The applicant may use the same application form and set of any required copies (DEP Form No. 62-210.900(1)) for both the air construction and air operation permits.

(3) The Department will create a single public notice for both the air construction and air operation permits.

(4) The Department will issue separate air construction and air operation permits.

(5) The Title V air operation permit must contain a compliance plan in accordance with the provisions of subsection 62-213.440(2), F.A.C., for each emissions unit covered by the air construction permit, reflecting the terms of the construction permit.

(6) If concurrent application processing is not requested, nothing precludes the Department from combining the public notice for air construction and revision or renewal of air operation permits and acting on the air construction permit and air operation permit separately, at applicant request, provided the processing time frames accommodate concurrent notice or the applicant waives the processing time requirements to accommodate concurrent notice.

*Specific Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.061, 403.0872 FS. History—New 6-2-02.*

**62-213.410 Changes Without Permit Revision.** Title V sources having a valid permit issued pursuant to this chapter may make the following changes without permit revision, provided that sources shall maintain source logs or records to verify periods of operation:

(1) Permitted sources may change among those alternative methods of operation allowed by the source's permit as provided by the terms of the permit;

(2) A permitted source may implement operating changes, as defined in Rule 62-210.200, F.A.C., after the source submits any forms required by any applicable requirement and provides the Department and EPA with at least 7 days written notice prior to implementation. The source and the Department shall attach each notice to the relevant permit;

(a) The written notice shall include the date on which the change will occur, and a description of the change within the permitted source, the pollutants emitted and any change in emissions, and any term or condition becoming applicable or no longer applicable as a result of the change;

(b) The permit shield described in Rule 62-213.460, F.A.C., shall not apply to such changes;

(3) Permitted sources may implement changes involving modes of operation only in accordance with Rule 62-213.415, F.A.C.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History—New 11-28-93, Formerly 17-213.410, Amended 11-23-94, 4-16-01, 6-2-02.*

**62-213.412 Immediate Implementation Pending Revision Process.**

(1) Those permitted Title V sources making any change that constitutes a modification pursuant to the definition of modification at Rule 62-210.200, F.A.C., but which would not constitute a modification pursuant to 42 USC 7412(a) or to 40 CFR 52.01, 60.2, or 61.15, adopted and incorporated by reference at Rule 62-204.800, F.A.C., may implement such change prior to final issuance of a Title V permit revision, provided the change:

(a) Does not violate any applicable requirement;

(b) Does not contravene any permit term or condition for monitoring, testing, recordkeeping or reporting, or any compliance certification requirement;

(c) Does not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis under the provisions of Chapter 62-212 or 62-296, F.A.C.;

(d) Does not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and which the source has assumed to avoid an applicable requirement to which the source would otherwise be subject including any federally enforceable emissions cap or federally enforceable alternative emissions limit.

(2) A Title V source may immediately implement such changes after they have been incorporated into the terms and conditions of a new or revised construction permit issued pursuant to Chapter 62-212, F.A.C., and after the source provides to EPA, the Department, each affected state and any approved local air program having geographic

jurisdiction over the source, a copy of the source's application for operation permit revision. The Title V source may conform its application for construction permit to include all information required by Rule 62-213.420, F.A.C., in lieu of submitting separate application forms.

(3) The Department shall process the application for operation permit revision in accordance with the provisions of this chapter, except that the Department shall issue a draft permit revision or a determination to deny the revision within 60 days of receipt of a complete application for operation permit revision or, if the Title V source has submitted a construction permit application conforming to the requirements of Rule 62-213.420, F.A.C., the Department shall issue a draft permit or a determination to deny the revision at the same time the Department issues its determination on issuance or denial of the construction permit application. The Department shall not take final action on the operation permit revision application until all the requirements of paragraphs 62-213.430(1)(a), (c), (d), and (e), F.A.C., have been complied with.

(4) Pending final action on the operation permit revision application, the source shall implement the changes in accordance with the terms and conditions of the source's new or revised construction permit. If any terms and conditions of the new or revised construction permit have not been complied with prior to issuance of the draft operation permit revision, the operation permit shall include a compliance plan in accordance with the provisions of subsection 62-213.440(2), F.A.C.

(5) The permit shield described in Rule 62-213.460, F.A.C., shall not apply to such changes until after the Department takes final action to issue the operation permit revision.

(6) If the Department denies the source's application for operation permit revision, the source shall cease implementation of the proposed changes.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History—New 11-28-93, Amended 4-17-94, Formerly 17-213.412, Amended 11-23-94, 1-1-96, 3-13-96, 2-11-99, 6-2-02.*

**62-213.413 Fast-Track Revisions of Acid Rain Parts.** Those Acid Rain Sources making a change described at subsection 62-214.370(4), F.A.C., may request such change as provided herein:

(1) The designated representative of the Acid Rain Source shall make application for permit revision to the Department using DEP Form No. 62-210.900(1)(a);

(2) Within five (5) business days after submittal of the application to the Department, the designated representative shall provide a copy of the application to EPA, any affected state, any approved local air program having geographical jurisdiction and any person who has requested a copy;

(3) Within five (5) business days after serving the copy of the application upon EPA, the designated representative shall publish notice of the application in accordance with the provisions of subsection 62-103.150(1), F.A.C. The notice shall require that comments be submitted in writing within 30 days of publication and shall identify the designated representative and the Department as parties to receive comment. The notice shall also contain the following statement:

“The Department shall take action on the application for permit revision within 40 days after publication of this notice. Any person desiring actual notice of the proposed agency action may request such notice pursuant to Section 120.60, F.S.”;

(4) The Department shall issue a draft permit revision or an intent to deny within forty (40) days after publication of the notice described at subsection 62-213.413(3), F.A.C. If the Department has received a request for actual notice of the agency action, the Department shall issue a proposed permit revision or denial only after the Department has provided all persons making such request with actual notice containing the information described in subsections 62-103.155(1)-(3), F.A.C., and has provided opportunity for petition for administrative hearing;

(5) If the Department has received no petition for administrative hearing, the Department shall issue a proposed permit revision within 60 days after the publication of the notice described at subsection 62-213.413(3), F.A.C. The Department shall take final action to issue or deny the proposed permit revision immediately after complying with subsection 62-213.430(1), F.A.C.

*Specific Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.031, 403.087, 403.0872, 403.0873 FS. History—New 1-3-95, Amended 7-6-95, 6-2-02.*

**62-213.415 Trading of Emissions Within a Source.**

(1) The Department shall allow trading of emissions increases and decreases among emissions units in a Title V source permitted pursuant to this chapter. This trading of emissions shall be permitted solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements.

(2) No permit revision shall be required provided the permitted source complies with the notice and recordkeeping provisions of this section and provided the permitted source had submitted with its last Title V permit application:

(a) A listing of all emission units which will be subject to trading of emissions;

(b) A description of each mode of operation that will be used at any given time and all of the necessary permit application data required by Rule 62-213.420 and subsection 62-210.900(1), F.A.C., to evaluate the application in each mode of operation;

(c) A plan for quantifying emissions trading increases and decreases of each regulated air pollutant for each unit and for demonstrating the continuous compliance in each mode of operation. The following procedures apply to pollutants which are subject to the federally enforceable emissions cap described in subsection 62-213.415(1), F.A.C.:

1. For a source with sulfur dioxide generated by the fuel, the source shall quantify increases or decreases of sulfur dioxide or nitrogen oxides emissions by the use of continuous emissions monitors which have been installed, performance tested, calibrated, operated and maintained as specified in paragraph 62-213.205(1)(e), F.A.C. The source shall determine stack gas volumetric flow rates using flowmeters with recorders, if available at the source, or the average gas flow rates from the three most recent stack tests conducted in accordance with the requirements of Rule 62-297.310, F.A.C., at an operation rate of 90 to 100 percent of the maximum operating level approved for the unit in its mode of operation. If three such tests have not been conducted, the source shall determine flow rates from the two latest such tests, if available, or by a single such test;

2. For sulfur dioxide generated from non-fuel sources, the Department shall approve alternative methods of determining actual SO<sub>2</sub> emissions on a case-by-case basis, if requested by the permittee, provided all of the sulfur used in the process is quantified and analyzed for sulfur content using methods approved in Chapter 62-297, F.A.C., on an as delivered basis, records are maintained to document the quantity and sulfur content of the sulfur containing material, and the method assumes that all of the sulfur is converted to SO<sub>2</sub> and released to the atmosphere;

3. For pollutants other than sulfur dioxide and nitrogen oxides the Department shall not approve the trading of emissions unless the source demonstrates the capability of quantifying emissions and verifying that emissions do not exceed permitted allowable emissions for each unit involved;

4. The Department shall accept inventory balance, as described in paragraph 62-213.205(1)(e), F.A.C., as a means of quantification of volatile organic compounds if no credit is taken for any incineration that takes place.

(d) Replicable procedures to demonstrate compliance with any trading provisions requested and with applicable requirements for each mode of operation. As a minimum, the source shall maintain source logs or records to verify the periods of operation within each mode of operation.

(3) The source shall provide written notice to the Department and EPA at least thirty days before implementation of each mode of operation. The notice shall identify the mode of operation, and the date upon which the change will occur.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History—New 11-28-93, Amended 4-17-94, Formerly 17-213.415, Amended 11-23-94, 3-13-96, 4-16-01.*

**62-213.420 Permit Applications.**

(1) Duty to Apply. For each Title V source, the owner or operator shall submit a timely and complete permit application in compliance with the requirements of this section and subsections 62-4.050(1) through (3), F.A.C.

(a) Timely Application.

1. A facility that commences operation as a Title V source or that otherwise becomes subject to the permitting requirements of Chapter 62-213, F.A.C., must file an application for an operation permit under this chapter at least

ninety days before expiration of the source's air construction permit, but no later than 180 days after commencing operation as a Title V source, unless a different application due date is provided at Rule 62-204.800, F.A.C., or an earlier date is provided in the air construction permit. A source that applied for an Electrical Power Plant Siting Certification prior to October 26, 1995, but was not issued the certification as of that date, or a source that was issued an Electrical Power Plant Siting Certification prior to October 26, 1995, but did not commence operation by that date, shall file an application for an operation permit under this chapter no later than 180 days after commencing operation.

2. For purposes of permit renewal, a timely application is one that is submitted 180 days before the expiration of a permit that expires before June 1, 2009, and 225 days before the expiration of a permit that expires on or after June 1, 2009.

3. A Title V source which contains an emissions unit that commences operation or is modified shall submit an application for a permit revision, or a supplement to a pending application, at least ninety days prior to expiration of the unit's air construction permit, but no later than 180 days after the emissions unit commences operation or commences operation as modified. Any source that contains an emissions unit that has not commenced operation or which has not demonstrated initial compliance with all applicable requirements by the time that the source submits its application for a Title V permit, permit revision, or permit renewal may include such emissions unit in the application, provided the source submits a compliance schedule and methodology, in accordance with paragraph 62-213.420(3)(1), F.A.C.

4. For purposes of the CAIR Part form (DEP form number 62-210.900(1)(b)), a timely application is one that is submitted as follows.

a. For a CAIR unit covered by a Title V permit prior to May 1, 2008, a certified CAIR Part form shall be submitted to the Department by May 1, 2008. The form shall be submitted as part of a Title V permit revision application.

b. For a CAIR unit not covered by a Title V permit prior to May 1, 2008, a certified CAIR Part form shall be submitted to the Department prior to the unit commencing operation. The form shall be incorporated into the Title V permit upon issuance of an initial, revised, or renewal Title V permit, whichever comes first.

c. A CAIR Part form shall be submitted simultaneously with any Title V permit renewal application for a CAIR source.

(b) Complete Application.

1. Any applicant for a Title V permit, permit revision or permit renewal must submit an application on DEP form number 62-210.900(1), which must include all the information specified by subsection 62-213.420(3), F.A.C., except that an application for permit revision must contain only that information related to the proposed change(s) from the currently effective Title V permit and any other requirements that become applicable at the time of application. The applicant shall include information concerning fugitive emissions and stack emissions in the application. Each application for permit, permit revision or permit renewal shall be certified by a responsible official in accordance with subsection 62-213.420(4), F.A.C.

2. The application shall be deemed complete sixty days after receipt, unless the Department, within sixty days after receipt of a certified application for permit, permit revision or permit renewal, requests additional documentation or information needed to process the application. An applicant making timely and complete application for permit, or for permit renewal, shall continue to operate the source under the authority and provisions of any existing valid permit or Florida Electrical Power Plant Siting Certification, and in accordance with applicable requirements of the Acid Rain Program and CAIR Program, until the conclusion of proceedings associated with its permit application or until the new permit becomes effective, whichever is later, provided the applicant complies with all the provisions of subparagraphs 62-213.420(1)(b)3., F.A.C. Failure of the Department to request additional information within sixty days of receipt of a properly signed application shall not impair the Department's ability to request additional information pursuant to subparagraphs 62-213.420(1)(b)3., F.A.C.

3. Should the Department become aware, during processing of any application that the application contains incorrect information, or should the Department become aware, as a result of comment from an affected State, an approved local air program, EPA, or the public that additional information is needed to evaluate the application, the

Department shall notify the applicant within 30 days. When an applicant becomes aware that an application contains incorrect or incomplete information, the applicant shall submit the corrected or supplementary information to the Department, and the Department's completeness review clock shall be restarted upon the Department's receipt of the information. If the Department notifies an applicant that corrected or supplementary information is necessary to process the permit application, and requests a response, the applicant shall provide the information to the Department within ninety days of the Department request unless the applicant has requested and been granted additional time to submit the information or, the applicant shall, within ninety days, submit a written request that the Department process the application without the information. Failure of an applicant to submit corrected or supplementary information requested by the Department within ninety days, or such additional time as requested and granted, or to demand in writing within ninety days that the application be processed without the information shall render the application incomplete. Nothing in this section shall limit any other remedies available to the Department.

4. All Department requests for additional information shall conform to the requirements of subsections 62-4.055(2), (3), and (4), F.A.C.

5. The Department shall grant requests for additional time to submit supplemental or corrected information as follows:

a. Each source requesting additional time must make a written request prior to the due date for receipt of the information and must specify the number of additional days requested;

b. The Department shall grant up to sixty additional days to any source operating in compliance with the terms and conditions of the source's existing valid permit without the need to show cause;

c. The Department shall grant additional time beyond sixty days or to sources not operating in compliance with existing valid permits only after the source demonstrates good cause. Good cause shall mean any unforeseen situation outside the control of the source such as labor strikes, acts of war, extraordinary or sudden and unexpected acts of nature or accidents beyond the control of the source. If the Department has required, in the request for additional or corrected information, that the source undertake specific testing or investigation, good cause shall also include the requirement to complete any required tests or investigation that cannot be completed within 150 days, so long as the source specifies the expected date of completion in its demonstration of good cause and so long as the estimated time requested is for the work required.

(2) Confidential Information. Whenever an applicant submits information under a claim of confidentiality pursuant to Section 403.111, F.S., the applicant shall also submit a copy of all such information and claim directly to EPA.

(3) Standard Application Form and Required Information. Applications shall be submitted under this chapter on forms provided by the Department and adopted by reference in subsection 62-210.900(1), F.A.C. The information as described on the forms in subsection 62-210.900(1), F.A.C., shall be included for the Title V source and each emissions unit. An application must include information sufficient to determine all applicable requirements for the Title V source and each emissions unit and to evaluate a fee amount pursuant to Rule 62-213.205, F.A.C. The application shall specifically include the following information, as detailed in the application form (DEP form number 62-210.900(1)); provided, however, that the information required by paragraphs (g) through (m), below, shall not be required for any emissions unit which is not subject to any unit-specific applicable requirements, except as needed to determine that no applicable requirements exist:

(a) Identifying information;

(b) Description of source's processes and products;

(c) Information, as set forth in this subsection and in the application form number 62-210.900(1), on the emissions of all regulated pollutants which the applicant knows or has reason to believe are being emitted from a source in amounts as set forth in subparagraphs 62-213.420(3)(c)1. through 6., F.A.C. The applicant shall report pollutants for each emissions unit and for source-wide emissions such as fugitive emissions. When pollutants must be quantified, for those pollutants for which no standard test method or published emissions factor is available to the applicant, the applicant shall estimate the emissions and include the basis for the estimate with the emissions information. For purposes of this subsection, regulated pollutant means any pollutant to which an emissions

limitation applies in accordance with subparagraph 62-213.420(3)(c)2., F.A.C.; any hazardous air pollutant; and any other regulated air pollutant as specified in Rule 62-210.200, F.A.C., except any pollutant that is regulated solely under 42 U.S.C. s.7412(r). Except as provided in Chapter 62-297, F.A.C., for submittal of compliance test data, nothing in this section shall be construed to require testing of actual emissions for determining estimated or potential emissions for a permit application. All applicants shall report regulated pollutants as set forth in subparagraphs 62-213.420(3)(c)1. through 6., F.A.C.

1. Each Title V source shall identify each regulated pollutant which the applicant knows or has reason to believe the facility emits or has the potential to emit in a major amount. Major source thresholds are as follows:

- a. 100 tons per year for carbon monoxide, nitrogen oxides, particulate matter, sulfur dioxide, and volatile organic compounds;
- b. 5 tons per year for lead and lead compounds expressed as lead;
- c. 10 tons per year for any hazardous air pollutant;
- d. 25 tons per year for total hazardous air pollutants; and
- e. 100 tons per year for any other regulated pollutant.

2. Those Title V sources which are subject to a numerical emissions limitation under any applicable requirement, or for which a numerical emissions limitation is included in the source's most recent operation permit, shall report and quantify, for each emissions unit subject to the emissions limitation, all emissions of any pollutant to which the limitation applies. The provisions of this rule, subparagraph 62-213.420(3)(c)2., F.A.C., shall not apply to the reporting of radionuclides emissions or asbestos emissions resulting from asbestos removal.

3. Each Title V source that emits or has the potential to emit any pollutant described in paragraphs (a) and (c) of the definition of regulated air pollutant in Rule 62-210.200, F.A.C., shall identify, for each emissions unit, each such pollutant which the applicant knows or has reason to believe would be emitted in an amount equal to or greater than:

- a. 5.0 tons per year for carbon monoxide, nitrogen oxides, particulate matter, sulfur dioxide, and volatile organic compounds; or
- b. 500 pounds per year for lead and lead compounds expressed as lead.

4. Each Title V source that emits or has the potential to emit any hazardous air pollutant or total hazardous air pollutants in a major amount as set forth in subparagraph 62-213.420(3)(c)1., F.A.C., or in an amount that would be a major amount but for a limitation on emissions being requested for the first time by the applicant, shall identify, for each emissions unit, each such pollutant which the applicant knows or has reason to believe would be emitted in an amount equal to or greater than:

- a. 1,000 pounds per year for each individual hazardous air pollutant; or
- b. 2,500 pound per year for total hazardous air pollutants.

5. Title V sources which are also subject to the Federal Acid Rain Program shall report all emissions of sulfur dioxide and nitrogen oxides from any affected acid rain unit in accordance with this subsection or the reporting requirements of the Federal Acid Rain Program, whichever are more stringent.

6. Each Title V source that emits or has the potential to emit ammonia in an amount greater than 250 tons per year shall identify each emissions unit that emits or has the potential to emit ammonia in an amount equal to or greater than 12.5 tons per year.

- (d) Process and operating information;
- (e) Control equipment information;

(f) If requested by the Department, information concerning operations and methodology for the development of periodic monitoring in accordance with subsection 62-213.440(4), F.A.C. Such request must be made within 60 days of the date the application was submitted, except as required by subparagraph 62-213.420(1)(b)3., F.A.C.;

- (g) Calculations;
- (h) Identification of all applicable requirements and test methods;
- (i) Limitations on source operations affecting emissions;
- (j) Proposed alternate methods of operation;
- (k) Compliance statement;
- (l) Compliance schedule and methodology, if applicable;

(m) Reporting and recordkeeping requirements;

(n) A list of emissions units or activities for which a determination of insignificance is requested pursuant to subsection 62-213.430(6), F.A.C., because of size or production rate and any information needed to demonstrate that the units or activities qualify as insignificant under the provisions of subsection 62-213.430(6), F.A.C.

(4) Certification by Responsible Official. In addition to the professional engineering certification required for applications by subsection 62-4.050(3), F.A.C., any application form, report, compliance statement, compliance plan and compliance schedule submitted pursuant to this chapter shall contain a certification signed by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. Any responsible official who fails to submit any required information or who has submitted incorrect information shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary information or corrected information.

(5) Acid Rain Part. For those facilities subject to the Federal Acid Rain Program, any applicant that wishes separate processing of the Acid Rain Part of a Title V permit shall request this by application. In such case, the Department shall process separate permit parts for the Acid Rain Part and for the remaining Title V requirements, provided that the expiration dates of both permit parts coincide for the duration of operation of the facility. The Department shall adjust the expiration date of the permit parts to assure that the dates coincide, but in no case shall either permit part duration exceed five years, per the provisions of paragraph 62-213.440(1)(a), F.A.C. There shall be only one Acid Rain Part for each facility. Each such permit part shall be processed as a Title V permit for purposes and requirements of this chapter.

(6) CAIR Part Form. For a source subject to the CAIR Program, there shall be included in the Title V permit application a certified CAIR Part form (DEP form number 62-210.900(1)(b)) that contains requirements concerning all CAIR units at the CAIR source for which the application is submitted, in the format prescribed by DEP form number 62-210.900(1)(b)).

*Rulemaking Authority 403.061, 403.087 FS. Law Implemented 403.061, 403.0872 FS. History—New 11-28-93, Amended 4-17-94, Formerly 17-213.420, Amended 11-23-94, 4-2-95, 10-11-95, 3-13-96, 3-20-96, 6-25-96, 10-7-96, 11-13-97, 2-11-99, 7-15-99, 1-3-01, 4-16-01, 6-2-02, 3-16-08, 3-11-10.*

#### **62-213.430 Permit Issuance, Renewal, and Revision.**

(1) Action on Application. The Department shall issue a draft permit or a determination that the requested permit be denied within 90 days after receipt of the latest of: the application; the last item of information requested pursuant to paragraph 62-213.420(1)(b), F.A.C.; or, a written request to process the application without the requested information. If written comments received during the 30-day comment period result in a substantial change in this draft permit, the Department shall issue a revised draft permit within 45 days after the end of the 30-day public comment period, unless a different time period is agreed to between the applicant and the Department. A substantial change in a draft permit has the same meaning as “substantially modified” under subparagraph 62-110.106(7)(a)4., F.A.C. The Department shall issue a permit, permit revision or renewal only after all of the following conditions have been met:

(a) The applicant has submitted a complete application, properly certified by a responsible official as required by subsection 62-213.420(4), F.A.C., and either all corrected and supplemental information requested or a written request to process the application without such information pursuant to subparagraphs 62-213.420(1)(b)3., F.A.C.;

(b) The Department and the applicant have complied with the requirements for notice and public participation described in Rules 62-103.150 and 62-210.350, F.A.C.;

(c) The Department has complied with the requirements for notifying and responding to affected states and approved local air programs pursuant to subsections 62-213.450(2) and (3), F.A.C.;

(d) The Department has provided EPA with a copy of the draft permit, proposed permit and any notices required under subsections 62-213.450(1) and (2), F.A.C., and has not received written EPA objection to issuance of the permit within the time period specified in subsection 62-213.450(4), F.A.C. If the Department receives timely EPA objection, the Department shall not take final action until the Department receives written notice that the objection is resolved or withdrawn;

(e) The Department has provided a statement to EPA setting forth the basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions.

(2) Permit Denial. If the Department proposes to deny the permit application, the Department shall provide the applicant an explanation of the denial in accordance with subsection 62-4.070(6), F.A.C.

(3) Permit Renewal and Expiration. Permits being renewed are subject to the same requirements that apply to permit issuance at the time of application for renewal. Permit renewal applications shall contain that information identified in subsections 62-210.900(1), 62-213.420(3), 62-213.420(6), and 62-213.420(7), F.A.C. Unless a Title V source submits a timely and complete application for permit renewal in accordance with the requirements of this rule, the existing permit shall expire and the source's right to operate shall terminate. No Title V permit will be issued for a new term except through the renewal process.

(4) Permit Revision Procedures. Permit revisions shall meet all requirements of this chapter, including those for content of applications, public participation, review by approved local air programs and affected States, and review by EPA, as they apply to permit issuance and permit renewal, except that permit revisions for those activities implemented pursuant to Rule 62-213.412, F.A.C., need not meet the requirements of paragraph 62-213.430(1)(b), F.A.C. The Department shall require permit revision in accordance with the provisions of Rule 62-4.080, F.A.C., and 40 C.F.R. 70.7(f), whenever any source becomes subject to any condition listed at 40 C.F.R. 70.7(f)(1), hereby adopted and incorporated by reference.

(5) EPA Recommended Actions. Within 90 days after receipt of notification from EPA that cause exists to modify, suspend, or revoke a permit, the Department shall investigate and determine whether cause exists pursuant to 40 C.F.R. 70.7(f)(1), hereby adopted and incorporated by reference, and shall forward the determination to EPA. If cause exists, the Department shall proceed according to the requirements of Rule 62-4.080 or 62-4.100, F.A.C., and 40 C.F.R. 70.7(f) to modify, suspend, or revoke the permit.

(6) Insignificant Emissions Units or Pollutant-Emitting Activities.

(a) All requests for determination of insignificant emissions units or activities made pursuant to paragraph 62-213.420(3)(n), F.A.C., shall be processed in conjunction with the permit, permit renewal or permit revision application submitted pursuant to this chapter. Insignificant emissions units or activities shall be approved by the Department consistent with the provisions of paragraph 62-4.040(1)(b), F.A.C. Emissions units or activities which are added to a Title V source after issuance of a permit under this chapter shall be incorporated into the permit at its next renewal, provided such emissions units or activities have been exempted from the requirement to obtain an air construction permit and also qualify as insignificant pursuant to this rule.

(b) An emissions unit or activity shall be considered insignificant if all of the following criteria are met:

1. Such unit or activity would be subject to no unit-specific applicable requirement.
2. Such unit or activity, in combination with other units and activities proposed as insignificant, would not cause the facility to exceed any major source threshold(s) as defined in subparagraph 62-213.420(3)(c)1., F.A.C., unless it is acknowledged in the permit application that such units or activities would cause the facility to exceed such threshold(s).
3. Such unit or activity would neither emit nor have the potential to emit:
  - a. 500 pounds per year or more of lead and lead compounds expressed as lead;
  - b. 1,000 pounds per year or more of any hazardous air pollutant;
  - c. 2,500 pounds per year or more of total hazardous air pollutants; or
  - d. 5.0 tons per year or more of any other regulated pollutant.

*Specific Authority 403.061, 403.087 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872 FS. History—New 11-28-93, Formerly 17-213.430, Amended 11-23-94, 3-20-96, 11-13-97, 2-11-99, 1-3-01, 4-16-01, 6-2-02, 3-16-08.*

#### **62-213.440 Permit Content.**

(1) Standard Permit Requirements. Each permit issued under this chapter shall incorporate all applicable requirements for the Title V source and for each method of operation proposed by the applicant and approved by the Department. Each such permit shall include all emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements, with citation to the

Department's rule authority for each term or condition, and identification of any difference in form from the applicable requirement upon which the term or condition is based. However, when there are multiple, redundant, or conflicting applicable requirements, these provisions can be reduced to a single streamlined term or condition that is the most stringent of the multiple applicable requirements. In addition, the Department shall label permit terms or conditions "not federally enforceable" consistent with 40 CFR 70.6(b)(2), adopted and incorporated by reference at Rule 62-204.800, F.A.C. Emissions units or pollutant-emitting activities within a Title V source determined to be insignificant pursuant to subsection 62-213.430(6), F.A.C., shall be identified. Whenever any condition or requirement of a Title V permit is added, changed, or deleted during the term of the permit, any such previous condition shall be documented with the permit for the duration of the term and any such new or changed condition shall include a condition effective date.

(a) Permit Duration. Permits for sources subject to the Federal Acid Rain Program shall be issued for terms of five years, provided that the initial Acid Rain Part may be issued for a term less than five years where necessary to coordinate the term of such part with the term of a Title V permit to be issued to the source. Operation permits for Title V sources may not be extended as provided in subsection 62-4.080(3), F.A.C., if such extension will result in a permit term greater than five years.

(b) Monitoring and Related Recordkeeping and Reporting Requirements.

1. Each permit shall specify the following requirements with respect to monitoring:

a. Emissions monitoring and analysis procedures or test methods specified by applicable requirements including 40 CFR 64, Compliance Assurance Monitoring, adopted and incorporated by reference at subsection 62-204.800, F.A.C.;

b. Periodic monitoring sufficient to yield reliable data from the relevant time period and that are representative of the source's compliance with the permit, as required by 40 CFR 70.6(a)(3)(i)(B), adopted and incorporated by reference at Rule 62-204.800, F.A.C. Periodic monitoring shall assure use of recordkeeping terms, test methods, units, averaging periods, or other statistical conventions consistent with the applicable requirement, as specified in subsection 62-213.440(4), F.A.C.; and

c. Requirements concerning the use, maintenance, and installation of monitoring equipment or methods.

2. The permit shall incorporate all applicable recordkeeping requirements including:

a. Records of monitoring information that specify the date, place, and time of sampling or measurement and the operating conditions at the time of sampling or measurement, the date(s) analyses were performed, the company or entity that performed the analyses, the analytical techniques or methods used, and the results of such analyses;

b. Retention of records of all monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

3. Each permit shall incorporate reporting requirements as follows:

a. Submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports;

b. Reporting, in accordance with requirements of subsection 62-210.700(6) and Rule 62-4.130, F.A.C., of deviations from permit requirements, including those attributable to upset conditions as defined in the permit. Reports shall include the probable cause of such deviations, and any corrective actions or preventive measures taken.

c. All reports shall be accompanied by a certification by a responsible official, pursuant to subsection 62-213.420(4), F.A.C.

(c) Emission Allowances. The Acid Rain Part of a Title V permit shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the Federal Acid Rain Program. The CAIR Part of a Title V permit shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the CAIR Program. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

1. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Federal Acid Rain Program or the CAIR Program, provided that such increases do not require a permit revision pursuant to Rule 62-213.400, F.A.C. Each CAIR Part incorporates every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> or CAIR NO<sub>x</sub> ozone season allowance to or from the compliance account of the CAIR source covered by the permit, upon recording by the Administrator.

2. No limit shall be placed on the number of allowances held by the source under the Federal Acid Rain Program or the CAIR Program.

3. Allowances shall be accounted for under the Federal Acid Rain Program or the CAIR Program.

4. Each CAIR Part incorporates the definitions of terms under 40 CFR 96.102, 96.202, and 96.302, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(d) In addition to the requirements stated above, each Title V permit shall include all of the following:

1. A statement that if any portion of the final permit is invalidated, the remainder of the permit shall remain in effect;

2. Identification of fugitive emissions and source-wide emissions in the same manner as stack emissions, regardless of whether or not the Title V source is specifically listed in paragraph (b) of the definition of major source of air pollution at Rule 62-210.200, F.A.C.

3. A statement that it shall not be a defense for a permittee in an enforcement action that maintaining compliance with any permit condition would necessitate halting of or reduction of the source activity;

4. A statement that any Title V source shall comply with all the terms and conditions of the existing permit until the Department has taken final action on any permit renewal or any requested permit revision, except as provided at subsection 62-213.412(2), F.A.C.

5. A statement that a situation arising from sudden and unforeseeable events beyond the control of the source which causes an exceedance of a technology-based emissions limitation because of unavoidable increases in emissions attributable to the situation and which requires immediate corrective action to restore normal operation, shall be an affirmative defense to an enforcement action in accordance with the provisions and requirements of 40 CFR 70.6(g)(2) and (3), hereby adopted and incorporated by reference;

6. A statement that any permittee may claim confidentiality of any data or other information by complying with subsection 62-213.420(2), F.A.C.

(2) Compliance Requirements. For each applicable requirement for which one or more units within a source is not in compliance at the time of application for any permit, permit renewal or permit revision, and for which that unit has not come into compliance at the date of issuance of the draft permit, the draft permit shall contain:

(a) A provision that the source shall meet measurable and enforceable milestones on no less than a semiannual basis until compliance is achieved and demonstrated to the Department. Each source shall notify the Department in writing, within 15 days after the date specified for completion of each milestone, to include the achievement of compliance, of progress achieved, requirements met, requirements not met, corrective measures adopted and an explanation of any measures not met by the completion date for the milestone or for compliance. All reports shall be accompanied by a certification, signed by a responsible official, in accordance with subsection 62-213.420(4), F.A.C.

(b) A provision requiring the source to be in compliance by the date specified in the permit.

(3) Statement of Compliance.

(a) For each applicable requirement, the permit shall contain:

1. A provision for assessing or monitoring compliance for each unit within the source;

2. A requirement that the source submit a Statement of Compliance with all terms and conditions of the permit that includes all the provisions of 40 CFR 70.6(c)(5)(iii), incorporated by reference at Rule 62-204.800, F.A.C. Such statements shall be accompanied by certification in accordance with subsection 62-213.420(4), F.A.C., for Title V requirements, with Rule 62-214.350, F.A.C., for Acid Rain requirements, and with Rule 62-296.470, F.A.C., for CAIR Program requirements. Such statement shall be submitted (postmarked) to the Department and EPA:

a. Annually, within 60 days after the end of each calendar year during which the Title V permit was effective, or more frequently if specified by subsection 62-213.440(2), F.A.C., or by any other applicable requirement; and

b. Within 60 days after submittal of a written agreement for transfer of responsibility as required pursuant to 40 CFR 70.7(d)(1)(iv), adopted and incorporated by reference at Rule 62-204.800, F.A.C., or within 60 days after permanent shutdown of a facility permitted under this chapter; provided that, in either such case, the reporting period shall be the portion of the calendar year the permit was effective up to the date of transfer of responsibility or permanent facility shutdown, as applicable;

3. In lieu of requiring a responsible official to individually identify all applicable requirements and specify times of compliance with, noncompliance with, and deviation from each, a provision that a responsible official may use DEP Form No. 62-213.900(2), adopted and incorporated by reference at Rule 62-213.900, F.A.C., as such statement of compliance so long as the responsible official specifically identifies all reportable deviations from and all instances of non-compliance with any applicable requirements and includes all information required by the federal regulation relating to each reportable deviation and instance of non-compliance.

(b) For purposes of the Statement of Compliance required at paragraph 62-213.440(3)(a), F.A.C., a responsible official may treat compliance with all other applicable requirements as a surrogate for compliance with subsection 62-296.320(2), F.A.C., Objectionable Odor Prohibited.

(4) Periodic Monitoring.

(a) Periodic monitoring sufficient to satisfy the requirements of sub-subparagraph 62-213.440(1)(b)1.b., F.A.C., shall assure the use of recordkeeping terms, test methods, units, averaging periods, or other statistical conventions which yield reliable data and are consistent with the applicable requirement, representative of the emissions unit's actual performance, and sufficient to indicate whether the unit remains in compliance. All periodic monitoring data must be retained in accordance with sub-subparagraph 62-213.440(1)(b)2.b., F.A.C. When existing reporting, recordkeeping and testing requirements yield reliable data that are both representative of the unit's actual performance and sufficient to indicate whether the unit remains in compliance with an applicable requirement, additional periodic monitoring shall not be required for that applicable requirement.

(b) Monitoring performed pursuant to any of the following satisfies periodic monitoring for that applicable requirement:

1. Emission limitations or standards proposed and promulgated by the U.S. Environmental Protection Agency after November 15, 1990, pursuant to section 111 or 112 of the Clean Air Act. The emission limitations or standards include:

a. 40 CFR 60 (New Source Performance Standards and Emission Guidelines for Existing Sources);

b. 40 CFR 61 (National Emission Standards for Hazardous Air Pollutants); and

c. 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants);

2. Acid Rain Program requirements pursuant to sections 404, 405, 406, 407(a), 407(b), or 410 of the Clean Air Act. The requirements include continuous monitoring system requirements established pursuant to 40 CFR 75;

3. Emission limits or standards for which monitoring requirements are established pursuant to 40 CFR 64 (Compliance Assurance Monitoring);

4. Emission limitations or standards for which a Title V permit specifies a continuous compliance determination method, as defined in 40 CFR 64.1, adopted and incorporated by reference at Rule 62-204.800, F.A.C., unless such compliance method includes an assumed control device emission reduction factor that could be affected by the actual operation and maintenance of the control device;

5. CAIR Program requirements for which monitoring requirements are established pursuant to 40 CFR Part 75, adopted and incorporated by reference at Rule 62-204.800, F.A.C.; and

*Rulemaking Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872 FS. History—New 11-28-93, Amended 4-17-94, Formerly 17-213.440, Amended 11-23-94, 4-18-95, 3-13-96, 3-20-96, 11-13-97, 4-7-98, 2-11-99, 7-15-99, 1-3-01, 4-16-01, 6-2-02, 3-16-08, 3-11-10, 6-29-11.*

#### **62-213.450 Permit Review by EPA and Affected States.**

(1) Transmission of Information to EPA. Unless waived by EPA, the Department shall provide to EPA a copy of each permit application, including any application for permit revision or permit renewal, each draft permit, each proposed permit, and each final permit. Unless a different time frame is agreed to between the applicant and the

Department, the Department shall issue and forward the proposed permit to EPA for its 45-day review within 30 days after the conclusion of the comment period on the last draft permit; or, if the draft permit is the subject of an administrative hearing under Sections 120.569 and 120.57, F.S. The Department shall issue and forward the proposed permit to EPA no later than 30 days after the date the final order is required to be filed under Section 120.57(1)(k), F.S. The Department shall also provide notice to the applicant of the date that the Department forwards the proposed permit to EPA, within 10 days of forwarding the proposed permit.

(2) Review by Affected States and Approved Local Air Programs. At the time that the Department provides the notice to the public under Chapters 62-103 and 62-210, F.A.C., the Department shall give notice of each draft permit to any affected state and any approved local air program having geographical jurisdiction of the source. The Department shall also provide the approved local air program and affected state a copy of each proposed and final permit at the time the information is forwarded to EPA.

(3) The Department shall notify, in writing, EPA and any affected state of any refusal by the Department to accept all recommendations for the draft permit that the affected state submitted during the public or affected state review period. The notice shall include the Department's reasons for not accepting any such recommendation.

(4) EPA Objection. The Department shall not issue any permit, permit revision or permit renewal if EPA objects to issuance, in writing, within 45 days of receipt of the proposed permit.

*Specific Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.087, 403.0872 FS. History—New 11-28-93, Formerly 17-213.450, Amended 2-11-99, 1-3-01.*

#### **62-213.460 Permit Shield.**

Except as provided in this chapter, compliance with the terms and conditions of a permit issued pursuant to this chapter shall, as of the effective date of the permit, be deemed compliance with any applicable requirements in effect, provided that the source included such applicable requirements in the permit application. Nothing in this section or in any permit shall alter or affect the ability of EPA or the Department to deal with an emergency, the liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance, or the requirements of the Federal Acid Rain Program or the CAIR Program.

*Rulemaking Authority 403.061, 403.0872 FS. Law Implemented 403.087, 403.0872 FS. History—New 11-28-93, Formerly 17-213.460, Amended 11-23-94, 1-3-01, 3-16-08, 3-11-10.*

#### **62-213.900 Forms and Instructions.**

The forms used by the Department in the Title V source operation program are adopted and incorporated by reference in this section. The forms are listed by rule number, which is also the form number, and with the subject, title, and effective date. Copies of forms may be obtained by writing to the Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Major Air Pollution Source Annual Emissions Fee Form (DEP Form No. 62-213.900(1), Effective 10-12-08) required in Rule 62-213.205, F.A.C.

(2) Statement of Compliance Form (DEP Form No. 62-213.900(2), Effective 8-1-11) required in Rule 62-213.440, F.A.C. (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00273>).

(3) Responsible Official Notification Form (DEP Form No. 62-213.900(3), Effective 8-1-11) required in Rule 62-213.202, F.A.C. (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00274>).

*Rulemaking Authority 403.061 FS. Law Implemented 403.0872, 403.814 FS. History—New 12-21-92, Amended 11-25-93, Formerly 17-213.900, Amended 11-23-94, 1-1-96, 3-13-96, 6-25-96, 2-11-99, 2-24-99, 1-3-01, 6-2-02, 4-14-03, 10-12-08, 6-29-11.*