

*West Virginia Department of Environmental Protection
Division of Air Quality*

Randy C. Huffman
Cabinet Secretary

Permit to Operate



Pursuant to
Title V
of the Clean Air Act

Issued to:
**Marfork Coal Company
Marfork Preparation Plant
R30-08100078-2011**

John A. Benedict
Director

*Issued: KEYBOARD (Date of Issuance) • Effective: KEYBOARD (Equals issue date plus two weeks)
Expiration: KEYBOARD (Five Years After Issuance Date) • Renewal Application Due: KEYBOARD (6
Months Prior to Expiration)*

Permit Number: **R30-08100078-2011**
Permittee: **Marfork Coal Company**
Facility Name: **Marfork Preparation Plant**
Permittee Mailing Address: **P.O. Box 457, Whitesville, WV 25209**

This permit is issued in accordance with the West Virginia Air Pollution Control Act (West Virginia Code §§ 22-5-1 et seq.) and 45CSR30 — Requirements for Operating Permits. The permittee identified at the above-referenced facility is authorized to operate the stationary sources of air pollutants identified herein in accordance with all terms and conditions of this permit.

Facility Location: Pettus, Raleigh County, West Virginia
Telephone Number: (304) 854-3521
Type of Business Entity: Corporation
Facility Description: Coal Preparation Plant
SIC Codes: 1221
UTM Coordinates: 453.70 km Easting • 4199.70 km Northing • Zone 17

Permit Writer: Bobbie Scroggie

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

Issuance of this Title V Operating Permit does not supersede or invalidate any existing permits under 45CSR13, 14 or 19, although all applicable requirements from such permits governing the facility's operation and compliance have been incorporated into the Title V Operating Permit.

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1.0 Emission Units and Active R13, R14, and R19 Permits

1.1. Emission Units

Emission Unit ID	Emission Point ID	Emission Unit Description	Year Installed	Design Capacity	Control Device
RAW COAL LINE					
T8	B4	Raw Truck Dump Bin	1994	100 Ton	PE/WS
T12	RCB6	Truck Dump Bin #4 Conveyor	1994	2,400 TPH	PE
T15A	RCOS4	Raw Coal Stockpile #4	1994	45,000 sq ft/ 150,000 Ton	MC/Stacking Tubes
T7	B3	Raw Coal Truck Dump Bin #3	1994	100 Ton	PE/WS
T11	RCB5	Raw Coal Stockpile #4	1994	2,400 TPH	PE
T15B	RCOS3	Raw Coal Stockpile #3	1994	45,000 sq ft/ 150,000 Ton	MC/Stacking Tubes
T14	RCB2	Birch Powell Ton Mile Belt	1994	1,500 TPH	PE
T15C	RCOS2	Raw Coal Stockpile #2	1994	45,000 sq ft/ 150,000 Ton	MC/Stacking Tubes
T13	RCB1	Brushy Eagle Mine Belt	1994	6000 TPH	PE
T15D	RCOS1	Raw Coal Stockpile #2	1994	45,000 sq ft/ 150,000 Ton	MC/Stacking Tubes
T16	RCB7	Raw Coal Reclaim Conveyor	1994	2,400 TPH	PE/FE
T17/T18	S-001	Single Deck Screen	1995	2,500 TPH	PE/WS
PP1	RCB8	Plant Feed Conveyor	1994	2,400 TPH	PE
MF-1	MF-1	Run of Mine Belt	2004	2,000 TPH	PE
MF-2	MF-2	Run of Mine Belt	2004	2,000 TPH	PE
TB-1	TB-1	Run of Mine Belt	2004	2,000 TPH	PE
HC-1	HC-1	Run of Mine Belt	2004	2,000 TPH	PE
LG-6	LG-6	Run of Mine Belt	2004	2,000 TPH	PE
LG-5	LG-5	Run of Mine Belt	2004	2,000 TPH	PE
LG-4	LG-4	Run of Mine Belt	2004	2,000 TPH	PE
LG-3	LG-3	Run of Mine Belt	2004	2,000 TPH	PE
LG-2	LG-2	Run of Mine Belt	2004	2,000 TPH	PE
LG-1	LG-1	Run of Mine Belt	2004	2,000 TPH	PE
MFOS1	MFOS1	New Raw Coal Stockpile	2004	21,780 sq ft/ 25,000 Tons	MC

Emission Unit ID	Emission Point ID	Emission Unit Description	Year Installed	Design Capacity	Control Device
REFUSE COAL LINE					
T22	CR2	Roll Crusher	1994	500 TPH	FE
PP4	PP	Prep Plant	1994	1,200 TPH	FE
T23	RB1	Refuse Belt #1	1994	1,200 TPH	PE
T24	RB2	Refuse Belt #2	1994	1,200 TPH	PE
T58	B9	Limestone Sand Bin #1	1994	50 Ton	PE
T27	RB3	Refuse Belt #3	1994	1,200 TPH	PE
T28	RB4	Refuse Belt #4	1997	1,200 TPH	PE
T29	RB5	Refuse Belt #5	1997	1,200 TPH	PE
T30	RB6	Refuse Belt #6	1997	1,200 TPH	PE
T31	RB7	Refuse Belt #7	1997	1,200 TPH	PE
T32	RB8	Refuse Belt #8	1997	1,200 TPH	PE
T33	RB9	Refuse Belt #9	1997	1,200 TPH	PE
T35	B6	Refuse Bin #2	1997	500 Ton	FE
T36	RB10	Refuse Belt #10	1997	1,200 TPH	PE
T37	RB11	Refuse Belt #11	1997	1,200 TPH	MC
T38	RB12	Refuse Belt #12	1997	1,200 TPH	MC
T39	RB13	Refuse Belt #13	1997	1,200 TPH	MC
N/A	RMOS1	Refuse Stockpile	1994	71,000 sq ft/ 100,000 Ton	MC
CLEAN COAL					
PP2	PP	Prep Plant	1994	1,200 TPH	FE
T42	CCB2	Conveyor from Plant to CCOS2	1996	1,200 TPH	PE
T49	CCOS2	Clean Coal (Midds) Stockpile #2	1994	45,000 sq ft/ 75,000 Ton	MC/Stacking Tubes
PP3	PP	Prep Plant	1994	1,200 TPH	FE
T40	CCB1	Conveyor from Plant to CCB3	1994	1,200 TPH	PE
T41/T43/T44 /T45	CCB3	Conveyor from Plant to CCOS3, COS4, or CCB4	1994	1,200 TPH	PE
T49	CCOS1	Clean Coal or Synfuel Stockpile	1994	45,000 sq ft/ 50,000 Ton	MC/Stacking Tubes
	CCOS3	Clean Coal Stockpile #3			

Emission Unit ID	Emission Point ID	Emission Unit Description	Year Installed	Design Capacity	Control Device
T49	CCOS4	Clean Coal Stockpile #4	1994	45,000 sq ft/ 50,000 Ton	MC/Stacking Tubes
T46/T47	CCB4	Conveyor to CCOS5 or CCB5	1994	1,200 TPH	PE
T49	CCOS5	Clean Coal Stockpile #5	1994	45,000 sq ft/ 50,000 Ton	MC/Stacking Tubes
T48	CCB5	Conveyor to CCOS6	1994	1,200 TPH	PE
T49	CCOS6	Clean Coal Stockpile #6	1994	45,000 sq ft/ 50,000 Ton	MC/Stacking Tubes
T50	CCB6	Clean Coal Conveyor to Train Loadout	1994	4,500 TPH	FE/PE
T51	B8	Bin #1 Train Loadout	1994	150 Ton	FE/WS/TC
N/A	LSOS1	Limestone Sand Pile	1994	300 sq ft/ 400 Ton	MC
T26	B5	Refuse Bin #1	1994	300 Ton	FE
T21	RB4A	Refuse Belt #4A	2001	600 TPH	MC
T61	RCB9	Conveyor #9	2002	1,200 TPH	PE
T62	RC1	Crusher	2002	1,200 TPH	FE/PE
T63	RCB10	Conveyor #10	2002	1,200 TPH	PE

HAULROAD SUMMARY

T4/T3	PVHR1	Raw Coal Trucks	N/A	N/A	RWMW
T56	PVHR2	Limestone Trucks	N/A	N/A	RWMW
T59	PVHR3	Direct Ship Trucks	N/A	N/A	RWMW
T4/T3	UPHR1	Raw Coal Trucks	N/A	N/A	RWMW
T57/T2	UPHR2	End-Loader/Dozer Traffic	N/A	N/A	RWMW
T26	UPHR3	Refuse Trucking from B5	N/A	N/A	RWMW

Transfer points (TP) have the same type of fugitive dust control system as the associated conveyors unless otherwise noted. Fugitive Dust Control System/Control Device abbreviations: FE = Full Enclosure, PE = Partial Enclosure, ST = Stacking Tube, MC = Moisture Content, TC = Telescoping Chute, MD = Minimized Drop, UC = Underground reclaim feeder, EM = Enclosure and evacuation to mechanical collector, WS = Water Spray, RWMW = Water Truck with Manufactured pressurized sprays, ES = Enclosure and evacuation to a scrubber, WT = Water Truck.

1.2. Active R13, R14, and R19 Permits

The underlying authority for any conditions from R13, R14, and/or R19 permits contained in this operating permit is cited using the original permit number (e.g. R13-1234). The current applicable version of such permit(s) is listed below.

Permit Number	Date of Issuance
R13-1967C	March 14, 2005

2.0. General Conditions

2.1. Definitions

- 2.1.1. All references to the "West Virginia Air Pollution Control Act" or the "Air Pollution Control Act" mean those provisions contained in W.Va. Code §§ 22-5-1 to 22-5-18.
- 2.1.2. The "Clean Air Act" means those provisions contained in 42 U.S.C. §§ 7401 to 7671q, and regulations promulgated thereunder.
- 2.1.3. "Secretary" means the Secretary of the Department of Environmental Protection or such other person to whom the Secretary has delegated authority or duties pursuant to W.Va. Code §§ 22-1-6 or 22-1-8 (45CSR§30-2.12.). The Director of the Division of Air Quality is the Secretary's designated representative for the purposes of this permit.
- 2.1.4. Unless otherwise specified in a permit condition or underlying rule or regulation, all references to a "rolling yearly total" shall mean the sum of the monthly data, values or parameters being measured, monitored, or recorded, at any given time for the previous twelve (12) consecutive calendar months

2.2. Acronyms

CAAA	Clean Air Act Amendments	NESHAPS	National Emissions Standards for Hazardous Air Pollutants
CBI	Confidential Business Information	NO_x	Nitrogen Oxides
CEM	Continuous Emission Monitor	NSPS	New Source Performance Standards
CES	Certified Emission Statement	PM	Particulate Matter
C.F.R. or CFR	Code of Federal Regulations	PM₁₀	Particulate Matter less than 10µm in diameter
CO	Carbon Monoxide	pph	Pounds per Hour
C.S.R. or CSR	Codes of State Rules	ppm	Parts per Million
DAQ	Division of Air Quality	PSD	Prevention of Significant Deterioration
DEP	Department of Environmental Protection	psi	Pounds per Square Inch
FOIA	Freedom of Information Act	SIC	Standard Industrial Classification
HAP	Hazardous Air Pollutant	SIP	State Implementation Plan
HON	Hazardous Organic NESHAP	SO₂	Sulfur Dioxide
HP	Horsepower	TAP	Toxic Air Pollutant
lbs/hr	Pounds per Hour	TPY	Tons per Year
LDAR	Leak Detection and Repair	TRS	Total Reduced Sulfur
m	Thousand	TSP	Total Suspended Particulate
MACT	Maximum Achievable Control Technology	USEPA	United States Environmental Protection Agency
mm	Million	UTM	Universal Transverse Mercator
mmBtu/hr	Million British Thermal Units per Hour	VEE	Visual Emissions Evaluation
mmft³/hr	Million Cubic Feet Burned per Hour	VOC	Volatile Organic Compounds
NA or N/A	Not Applicable		
NAAQS	National Ambient Air Quality Standards		

2.3. Permit Expiration and Renewal

- 2.3.1. Permit duration. This permit is issued for a fixed term of five (5) years and shall expire on the date specified on the cover of this permit, except as provided in 45CSR§30-6.3.b. and 45CSR§30-6.3.c.
[45CSR§30-5.1.b.]
- 2.3.2. A permit renewal application is timely if it is submitted at least six (6) months prior to the date of permit expiration.
[45CSR§30-4.1.a.3.]
- 2.3.3. Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with 45CSR§30-6.2. and 45CSR§30-4.1.a.3.
[45CSR§30-6.3.b.]
- 2.3.4. If the Secretary fails to take final action to deny or approve a timely and complete permit application before the end of the term of the previous permit, the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.
[45CSR§30-6.3.c.]

2.4. Permit Actions

- 2.4.1. This permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
[45CSR§30-5.1.f.3.]

2.5. Reopening for Cause

- 2.5.1. This permit shall be reopened and revised under any of the following circumstances:
- a. Additional applicable requirements under the Clean Air Act or the Secretary's legislative rules become applicable to a major source with a remaining permit term of three (3) or more years. Such a reopening shall be completed not later than eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to 45CSR§30-6.6.a.1.A. or B.
 - b. Additional requirements (including excess emissions requirements) become applicable to an affected source under Title IV of the Clean Air Act (Acid Deposition Control) or other legislative rules of the Secretary. Upon approval by U.S. EPA, excess emissions offset plans shall be incorporated into the permit.
 - c. The Secretary or U.S. EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
 - d. The Secretary or U.S. EPA determines that the permit must be revised or revoked and reissued to assure compliance with the applicable requirements.
[45CSR§30-6.6.a.]

2.6. Administrative Permit Amendments

- 2.6.1. The permittee may request an administrative permit amendment as defined in and according to the procedures specified in 45CSR§30-6.4.
[45CSR§30-6.4.]

2.7. Minor Permit Modifications

- 2.7.1. The permittee may request a minor permit modification as defined in and according to the procedures specified in 45CSR§30-6.5.a.
[45CSR§30-6.5.a.]

2.8. Significant Permit Modification

- 2.8.1. The permittee may request a significant permit modification, in accordance with 45CSR§30-6.5.b., for permit modifications that do not qualify for minor permit modifications or as administrative amendments.
[45CSR§30-6.5.b.]

2.9. Emissions Trading

- 2.9.1. No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit and that are in accordance with all applicable requirements.
[45CSR§30-5.1.h.]

2.10. Off-Permit Changes

- 2.10.1. Except as provided below, a facility may make any change in its operations or emissions that is not addressed nor prohibited in its permit and which is not considered to be construction nor modification under any rule promulgated by the Secretary without obtaining an amendment or modification of its permit. Such changes shall be subject to the following requirements and restrictions:
- a. The change must meet all applicable requirements and may not violate any existing permit term or condition.
 - b. The permittee must provide a written notice of the change to the Secretary and to U.S. EPA within two (2) business days following the date of the change. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change.
 - c. The change shall not qualify for the permit shield.
 - d. The permittee shall keep records describing all changes made at the source that result in emissions of regulated air pollutants, but not otherwise regulated under the permit, and the emissions resulting from those changes.
 - e. No permittee may make any change subject to any requirement under Title IV of the Clean Air Act (Acid Deposition Control) pursuant to the provisions of 45CSR§30-5.9.

- f. No permittee may make any changes which would require preconstruction review under any provision of Title I of the Clean Air Act (including 45CSR14 and 45CSR19) pursuant to the provisions of 45CSR§30-5.9.

[45CSR§30-5.9]

2.11. Operational Flexibility

- 2.11.1. The permittee may make changes within the facility as provided by § 502(b)(10) of the Clean Air Act. Such operational flexibility shall be provided in the permit in conformance with the permit application and applicable requirements. No such changes shall be a modification under any rule or any provision of Title I of the Clean Air Act (including 45CSR14 and 45CSR19) promulgated by the Secretary in accordance with Title I of the Clean Air Act and the change shall not result in a level of emissions exceeding the emissions allowable under the permit.

[45CSR§30-5.8]

- 2.11.2. Before making a change under 45CSR§30-5.8., the permittee shall provide advance written notice to the Secretary and to U.S. EPA, describing the change to be made, the date on which the change will occur, any changes in emissions, and any permit terms and conditions that are affected. The permittee shall thereafter maintain a copy of the notice with the permit, and the Secretary shall place a copy with the permit in the public file. The written notice shall be provided to the Secretary and U.S. EPA at least seven (7) days prior to the date that the change is to be made, except that this period may be shortened or eliminated as necessary for a change that must be implemented more quickly to address unanticipated conditions posing a significant health, safety, or environmental hazard. If less than seven (7) days notice is provided because of a need to respond more quickly to such unanticipated conditions, the permittee shall provide notice to the Secretary and U.S. EPA as soon as possible after learning of the need to make the change.

[45CSR§30-5.8.a.]

- 2.11.3. The permit shield shall not apply to changes made under 45CSR§30-5.8., except those provided for in 45CSR§30-5.8.d. However, the protection of the permit shield will continue to apply to operations and emissions that are not affected by the change, provided that the permittee complies with the terms and conditions of the permit applicable to such operations and emissions. The permit shield may be reinstated for emissions and operations affected by the change:

- a. If subsequent changes cause the facility's operations and emissions to revert to those authorized in the permit and the permittee resumes compliance with the terms and conditions of the permit, or
- b. If the permittee obtains final approval of a significant modification to the permit to incorporate the change in the permit.

[45CSR§30-5.8.c.]

- 2.11.4. "Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

[45CSR§30-2.39]

2.12. Reasonably Anticipated Operating Scenarios

- 2.12.1. The following are terms and conditions for reasonably anticipated operating scenarios identified in this permit.

- a. Contemporaneously with making a change from one operating scenario to another, the permittee shall record in a log at the permitted facility a record of the scenario under which it is operating and to document the change in reports submitted pursuant to the terms of this permit and 45CSR30.
 - b. The permit shield shall extend to all terms and conditions under each such operating scenario; and
 - c. The terms and conditions of each such alternative scenario shall meet all applicable requirements and the requirements of 45CSR30.
- [45CSR§30-5.1.i.]

2.13. Duty to Comply

- 2.13.1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the West Virginia Code and the Clean Air Act and is grounds for enforcement action by the Secretary or USEPA; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
- [45CSR§30-5.1.f.1.]

2.14. Inspection and Entry

- 2.14.1. The permittee shall allow any authorized representative of the Secretary, upon the presentation of credentials and other documents as may be required by law, to perform the following:
 - a. At all reasonable times (including all times in which the facility is in operation) enter upon the permittee's premises where a source is located or emissions related activity is conducted, or where records must be kept under the conditions of this permit;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - c. Inspect at reasonable times (including all times in which the facility is in operation) any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
 - d. Sample or monitor at reasonable times substances or parameters to determine compliance with the permit or applicable requirements or ascertain the amounts and types of air pollutants discharged.
- [45CSR§30-5.3.b.]

2.15. Schedule of Compliance

- 2.15.1. For sources subject to a compliance schedule, certified progress reports shall be submitted consistent with the applicable schedule of compliance set forth in this permit and 45CSR§30-4.3.h., but at least every six (6) months, and no greater than once a month, and shall include the following:
 - a. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

- b. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measure adopted.

[45CSR§30-5.3.d.]

2.16. Need to Halt or Reduce Activity not a Defense

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

[45CSR§30-5.1.f.2.]

2.17. Emergency

- 2.17.1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

[45CSR§30-5.7.a.]

- 2.17.2. Effect of any emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of 45CSR§30-5.7.c. are met.

[45CSR§30-5.7.b.]

- 2.17.3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An emergency occurred and that the permittee can identify the cause(s) of the emergency;
- b. The permitted facility was at the time being properly operated;
- c. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and
- d. Subject to the requirements of 45CSR§30-5.1.c.3.C.1, the permittee submitted notice of the emergency to the Secretary within one (1) working day of the time when emission limitations were exceeded due to the emergency and made a request for variance, and as applicable rules provide. This notice, report, and variance request fulfills the requirement of 45CSR§30-5.1.c.3.B. This notice must contain a detailed description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

[45CSR§30-5.7.c.]

- 2.17.4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

[45CSR§30-5.7.d.]

- 2.17.5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.
[45CSR§30-5.7.e.]

2.18. Federally-Enforceable Requirements

- 2.18.1. All terms and conditions in this permit, including any provisions designed to limit a source's potential to emit and excepting those provisions that are specifically designated in the permit as "State-enforceable only", are enforceable by the Secretary, USEPA, and citizens under the Clean Air Act.
[45CSR§30-5.2.a.]
- 2.18.2. Those provisions specifically designated in the permit as "State-enforceable only" shall become "Federally-enforceable" requirements upon SIP approval by the USEPA.

2.19. Duty to Provide Information

- 2.19.1. The permittee shall furnish to the Secretary within a reasonable time any information the Secretary may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Secretary copies of records required to be kept by the permittee. For information claimed to be confidential, the permittee shall furnish such records to the Secretary along with a claim of confidentiality in accordance with 45CSR31. If confidential information is to be sent to USEPA, the permittee shall directly provide such information to USEPA along with a claim of confidentiality in accordance with 40 C.F.R. Part 2.
[45CSR§30-5.1.f.5.]

2.20. Duty to Supplement and Correct Information

- 2.20.1. Upon becoming aware of a failure to submit any relevant facts or a submittal of incorrect information in any permit application, the permittee shall promptly submit to the Secretary such supplemental facts or corrected information.
[45CSR§30-4.2.]

2.21. Permit Shield

- 2.21.1. Compliance with the conditions of this permit shall be deemed compliance with any applicable requirements as of the date of permit issuance provided that such applicable requirements are included and are specifically identified in this permit or the Secretary has determined that other requirements specifically identified are not applicable to the source and this permit includes such a determination or a concise summary thereof.
[45CSR§30-5.6.a.]
- 2.21.2. Nothing in this permit shall alter or affect the following:
- a. 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
 - b. The applicable requirements of the Code of West Virginia and Title IV of the Clean Air Act (Acid Deposition Control), consistent with § 408 (a) of the Clean Air Act.

- c. The authority of the Administrator of U.S. EPA to require information under § 114 of the Clean Air Act or to issue emergency orders under § 303 of the Clean Air Act.

[45CSR§30-5.6.c.]

2.22. Credible Evidence

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

[45CSR§30-5.3.e.3.B. and 45CSR38]

2.23. Severability

- 2.23.1. The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit to any circumstance is held invalid by a court of competent jurisdiction, the remaining permit terms and conditions or their application to other circumstances shall remain in full force and effect.

[45CSR§30-5.1.e.]

2.24. Property Rights

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

[45CSR§30-5.1.f.4]

2.25. Acid Deposition Control

- 2.25.1. Emissions shall not exceed any allowances that the source lawfully holds under Title IV of the Clean Air Act (Acid Deposition Control) or rules of the Secretary promulgated thereunder.

- a. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid deposition control program, provided that such increases do not require a permit revision under any other applicable requirement.

- b. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

- c. Any such allowance shall be accounted for according to the procedures established in rules promulgated under Title IV of the Clean Air Act.

[45CSR§30-5.1.d.]

- 2.25.2. Where applicable requirements of the Clean Air Act are more stringent than any applicable requirement of regulations promulgated under Title IV of the Clean Air Act (Acid Deposition Control), both provisions shall be incorporated into the permit and shall be enforceable by the Secretary and U. S. EPA.

[45CSR§30-5.1.a.2.]

3.0. Facility-Wide Requirements

3.1. Limitations and Standards

- 3.1.1. **Open burning.** The open burning of refuse by any person is prohibited except as noted in 45CSR§6-3.1.
[45CSR§6-3.1.]
- 3.1.2. **Open burning exemptions.** The exemptions listed in 45CSR§6-3.1 are subject to the following stipulation: Upon notification by the Secretary, no person shall cause or allow any form of open burning during existing or predicted periods of atmospheric stagnation. Notification shall be made by such means as the Secretary may deem necessary and feasible.
[45CSR§6-3.2.]
- 3.1.3. **Asbestos.** The permittee is responsible for thoroughly inspecting the facility, or part of the facility, prior to commencement of demolition or renovation for the presence of asbestos and complying with 40 C.F.R. § 61.145, 40 C.F.R. § 61.148, and 40 C.F.R. § 61.150. The permittee must notify the Secretary at least ten (10) working days prior to the commencement of any asbestos removal on the forms prescribed by the Secretary if the permittee is subject to the notification requirements of 40 C.F.R. § 61.145(b)(3)(i). The USEPA, the Division of Waste Management and the Bureau for Public Health - Environmental Health require a copy of this notice to be sent to them.
[40 C.F.R. 61 and 45CSR34]
- 3.1.4. **Odor.** No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor at any location occupied by the public.
[45CSR§4-3.1 State-Enforceable only.]
- 3.1.5. **Standby plan for reducing emissions.** When requested by the Secretary, the permittee shall prepare standby plans for reducing the emissions of air pollutants in accordance with the objectives set forth in Tables I, II, and III of 45CSR11.
[45CSR§11-5.2]
- 3.1.6. **Emission inventory.** The permittee is responsible for submitting, on an annual basis, an emission inventory in accordance with the submittal requirements of the Division of Air Quality.
[W.Va. Code § 22-5-4(a)(14)]
- 3.1.7. **Ozone-depleting substances.** For those facilities performing maintenance, service, repair or disposal of appliances, the permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 C.F.R. Part 82, Subpart F, except as provided for Motor Vehicle Air Conditioners (MVACs) in Subpart B:
- a. Persons opening appliances for maintenance, service, repair, or disposal must comply with the prohibitions and required practices pursuant to 40 C.F.R. §§ 82.154 and 82.156.
 - b. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to 40 C.F.R. § 82.158.
 - c. Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to 40 C.F.R. § 82.161.
[40 C.F.R. 82, Subpart F]

- 3.1.8. **Risk Management Plan.** Should this stationary source, as defined in 40 C.F.R. § 68.3, become subject to Part 68, then the owner or operator shall submit a risk management plan (RMP) by the date specified in 40 C.F.R. § 68.10 and shall certify compliance with the requirements of Part 68 as part of the annual compliance certification as required by 40 C.F.R. Part 70 or 71.
[40 C.F.R. 68]
- 3.1.9. No person shall cause, suffer, allow or permit emission of particulate matter into the open air from any fugitive dust control system which is twenty percent (20%) opacity or greater.
[45CSR§5-3.4., 45CSR13, R13-1967, B.1., B.2.]
- 3.1.10. No person shall cause, suffer, allow or permit a coal preparation plant or handling operation to operate that is not equipped with a fugitive dust control system. This system shall be operated and maintained in such a manner as to minimize the emission of particulate matter into the open air.
[45CSR§5-6.1., 45CSR13, R13-1967, B.1., B.2.]
- 3.1.11. The owner or operator of a coal preparation plant or handling operation shall maintain dust control of the premises and owned, leased or controlled access roads by paving, or other suitable measures. Good operating practices shall be observed in relation to stockpiling, car loading, breaking, screening and general maintenance to minimize dust generation and atmospheric entrainment.
[45CSR§5-6.2., 45CSR13, R13-1967, B.1., B.2.]
- 3.1.12. On and after the date on which the performance test is conducted or required to be completed under §60.8, whichever date comes first, an owner or operator shall not cause to be discharged into the atmosphere from any coal processing and conveying equipment, coal storage system, or coal transfer and loading system processing coal constructed, reconstructed, or modified on or before April 28, 2008, gases which exhibit 20 percent opacity or greater.
[45CSR16, 40 C.F.R § 60.254(a), 45CSR13, R13-1967, B.1., B.3.]
- 3.1.13. At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
[45CSR16, 40 C.F.R § 60.11 (d), 45CSR13, R13-1967, B.1., B.3.]
- 3.1.14. In order to prevent and control air pollution from coal refuse disposal areas, the operation of coal refuse disposal areas shall be conducted in accordance with the standards established by 45CSR§5-7.
[45CSR§5-7.1., Refuse Storage Piles]
- 3.1.15. Coal refuse is not to be deposited on any coal refuse disposal area unless the coal refuse is deposited in such a manner as to minimize the possibility of ignition of the coal refuse.
[45CSR§5-7.2., Refuse Storage Piles]
- 3.1.16. Coal refuse disposal areas shall not be so located with respect to mine openings, tipples or other mine buildings, unprotected coal outcrops or steam lines, that these external factors will contribute to the ignition of the coal refuse on such coal refuse disposal areas.
[45CSR§5-7.3., Refuse Storage Piles]

- 3.1.17. Vegetation and combustible materials shall not be left on the ground at the site where a coal refuse pile is to be established, unless it is rendered inert before coal refuse is deposited on such site.
[45CSR§5-7.4., Refuse Storage Piles]
- 3.1.18. Coal refuse shall not be dumped or deposited on a coal refuse pile known to be burning, except for the purpose of controlling the fire or where the additional coal refuse will not tend to ignite or where such dumping will not result in statutory air pollution.
[45CSR§5-7.5., Refuse Storage Piles]
- 3.1.19. Materials with low ignition points used in the production or preparation of coal, including, but not limited to, wood, brattice cloth, waste paper, rags, oil and grease, shall not be deposited on any coal refuse disposal area or in such proximity as will reasonably contribute to the ignition of a coal refuse disposal area.
[45CSR§5-7.6., Refuse Storage Piles]
- 3.1.20. Garbage, trash, household refuse and like materials shall not be deposited on or near any coal refuse disposal area.
[45CSR§5-7.7., Refuse Storage Piles]
- 3.1.21. The deliberate ignition of a coal refuse disposal area or the ignition of any materials on such an area by any person or persons is prohibited.
[45CSR§5-7.8., Refuse Storage Piles]
- 3.1.22. With respect to all burning coal refuse disposal areas, the person responsible for the coal refuse disposal areas or the land on which the coal refuse disposal areas are located shall use due diligence to control air pollution from the coal refuse disposal areas. Consistent with the declaration of policy and purpose set forth in W. Va. Code § 22-5-1, the Director shall determine what constitutes due diligence with respect to each such burning coal refuse disposal area. When a study of any burning coal refuse disposal area by the Director establishes that air pollution exists or may be created, the person responsible for the coal refuse disposal area or the land on which the coal refuse disposal area is located shall submit to the Director a report setting forth satisfactory methods and procedures to eliminate, prevent or reduce the air pollution. The report shall be submitted within such time as the Director shall specify. The report for the elimination, prevention or reduction of air pollution shall contain sufficient information, including, completion dates, to establish that the corrective measures can be executed with due diligence. If approved by the Director, the corrective measures and completion dates shall be embodied in a consent order issued pursuant to W. Va. Code §§ 22-5-1 et seq. If the report is not submitted as requested or if the Director determines that the methods and procedures set forth in the report are not adequate to reasonably control the air pollution he or she shall issue an order requiring the elimination, prevention or reduction of the air pollution.
[45CSR§5-8.3., Refuse Storage Piles]
- 3.1.23. The Marsh Fork Mine Belt addition shall not transfer more than 12,442,000 tons per year of raw coal to raw coal stockpiles RCOS2, RCOS3, and RCOS4. Compliance with the yearly throughput limit shall be determined using a rolling yearly total.
[45CSR13, R13-1967, A.1. (MF-1, MF-2, TB-1, HC-1, LG-1 through LG-6)]
- 3.1.24. The amount of raw coal processed at the permitted facility shall not exceed 2,400 TPH and 20,220,000 TPY, with the exception that the raw coal reclaim conveyor (RCB7) shall not process in exceed of 2,500 TPH and 20,220,000 TPY. Compliance with the yearly throughput limit shall be determined using a rolling yearly total.
[45CSR13, R13-1967, A.2.]

- 3.1.25. The amount of clean coal shipped from the facility shall not exceed 10,500,000 TPY. Compliance with the yearly throughput limit shall be determined using a rolling yearly total.
[45CSR13, R13-1967, A.3.]
- 3.1.26. The amount of raw coal processed through the direct ship circuit shall not exceed 1,200 TPH and 1,000,000 TPY. Compliance with the yearly throughput limit shall be determined using a rolling yearly total.
[45CSR13, R13-1967, A.4.]
- 3.1.27. The amount of material processed through refuse reclaim conveyor RB4A shall not exceed 600 TPH and 1,300,000 TPY. Compliance with the yearly throughput limit shall be determined using a rolling yearly total.
[45CSR13, R13-1967, A.5. (RB4A)]
- 3.1.28. Synthetic fuel may be stored in the clean coal stockpiles. However, the amount of synthetic fuel shipped by railcar shall not exceed 1,941,120 TPY. Compliance with the yearly throughput limit shall be determined using a rolling yearly total.
[45CSR13, R13-1967, A.6.]
- 3.1.29. The fugitive particulate dust control systems as stated in Permit Applications R13-1967C, R13-1967B, R13-1967A, R13-1967, R13-1711 and their supplements, shall be installed, operated and maintained in such a manner so as to minimize the generation and atmospheric entrainment of fugitive particulate emissions. Such measures shall include but not be limited to:
- a. The permittee shall maintain a three-sided roofed enclosure at all truck dumps.
 - b. The permittee shall maintain and operate, as frequently as necessary, water sprays on all truck dumps.
 - c. The permittee shall maintain and operate a telescopic chute to minimize drop height in loading of railcars.
 - d. The permittee shall maintain a full enclosure at all crushers. The raw coal single deck-scalping screen (S-001) shall be equipped with a partial enclosure and water sprays.
 - e. The permittee shall maintain stacking tubes to minimize the drop height to each raw and clean coal stockpile.
 - f. The permittee shall maintain underpile reclaim feeders for removing coal from all stockpiles.
- [45CSR13, R13-1967, A.7.]**
- 3.1.30. The permittee shall maintain a water truck on site and in good operating condition, and shall utilize same to apply water, or a mixture of water and an environmentally acceptable dust control additive, hereinafter referred to as solution, as often as is necessary in order to minimize fugitive particulate emissions that may be generated from haulroads and other work areas where mobile equipment is used. The spraybar shall be equipped with commercially available spray nozzles, of sufficient size and number, so as to provide adequate coverage to the area being treated. The pump delivering the water, or solution, shall be of sufficient size and capacity so as to be capable of delivering to the spray nozzle(s) an adequate quantity of water, or solution, and at a sufficient pressure.
[45CSR13, R13-1967, A.8.]

3.1.31. The permitted facility shall be constructed and operated in accordance with information filed in Permit Applications R13-1967C, R13-1967B, R13-1967A, R13-1967, and R13-1711, and any amendments thereto. The Secretary may suspend or revoke a permit if the plans and specifications upon which the approval was based are not adhered to.

[45CSR13, R13-1967, C.3.]

3.1.32. When emissions on an annual basis of one or more of the greenhouse gases listed below are greater than the *de minimis* amounts listed below, all greenhouse gases emitted above the *de minimis* amounts shall be reported to the Secretary under 45CSR§42-4. (see Section 3.5.10):

Greenhouse Gas Compound	tons/year
carbon dioxide	10,000
methane	476
nitrous oxide	32.6
hydrofluorocarbons	0.855
perfluorocarbons	1.09
sulfur hexafluoride	0.42

[45CSR§42-3.1., State-Enforceable only]

3.2. Monitoring Requirements

3.2.1. The permittee shall conduct monitoring/recordkeeping/reporting as follows [Not required for stockpiles and haulroads: Raw Coal - RCOS1-RCOS4, Limestone/Sand LSOS1, Refuse - RMOS1, and Clean Coal (CCOS1 - CCOS6); Vehicular traffic on Paved haulroads - (PVHR1, PVHR2, and PVHR3), Unpaved haulroads - (UPHR1, UPHR2, and UPHR3)]:

- a. Visible emissions evaluation shall be conducted for each affected source at least once every consecutive 12-month period in accordance with 40 C.F.R. 60 Appendix A, Method 9. This annual evaluation shall consist of a minimum of 24 consecutive observations for each emission unit.
- b. Each affected facility with a visible emissions limit contained in this permit shall be observed visually at least each calendar week during periods of normal facility operation for a sufficient time interval determined by conducting 40 C.F.R. 60 Appendix A Method 22-like visible emission checks. At a minimum, the observer must be trained and knowledgeable regarding the effects of background contrast, ambient lighting, observer position relative to lighting, wind, and the presence of uncombined water (condensing water vapor) on the visibility of emissions. This training may be obtained from written materials found in the References 1 and 2 from 40 C.F.R. Part 60, Appendix A, Method 22 or from the lecture portion of the 40 C.F.R. Part 60, Appendix A, Method 9 certification course.

If visible emissions from any of the affected facility are observed during these weekly observations, or at any other time, that appear to exceed of the allowable visible emission requirement for the affected facility, visible emissions evaluations in accordance with 40 C.F.R. 60 Appendix A, Method 9 shall be conducted as soon as practicable, but no later than one (1) month from the time of the observation. A Method 9 evaluation shall not be if the visible emissions condition is corrected in a timely manner; the affective facility is operating at normal operating conditions; and, the cause and corrective measures taken are recorded.

- c. If the visible emissions evaluation indicates visible emissions in excess of the allowable visible emissions requirement for a given affected facility, a visible emissions evaluation shall be performed for that unit at least once every consecutive 14-day period in accordance with 40 C.F.R. 60 Appendix A, Method 9. If subsequent visible emissions evaluations indicate visible emissions less than the allowable visible emissions requirement for the affected facility for 3 consecutive evaluation periods, the emission unit may comply with the visible emissions testing requirements of condition 3.2.1.b. in lieu of those established in this condition.
- d. A record of each visible emissions observation shall be maintained, including any data required by 40 C.F.R. 60 Appendix A, Method 22 or Method 9, whichever is appropriate. The record shall include, at a minimum, the date, time, name of the emission unit, the applicable visible emissions requirement, the results of the observation, and the name of the observer. Records shall be maintained on site stating any maintenance or corrective actions taken as a result of the weekly inspections, and the times the fugitive dust control system(s) are inoperable and any corrective actions taken.

[45CSR§30-5.1.c.]

- 3.2.2. The permittee shall inspect all fugitive dust control systems monthly to ensure that they are operated and maintained in conformance with their designs. The permittee shall maintain records of all scheduled and non-scheduled maintenance. Records shall be maintained on site stating any maintenance or corrective actions taken as a result of the monthly inspections, and the times the fugitive dust control system(s) are inoperable and any corrective actions taken.

[45CSR§30-5.1.c.]

- 3.2.3. The owner or operator must determine compliance with the applicable opacity standards as specified in paragraphs 1. through 3. of this section.

1. Method 9 of appendix A-4 of this part and the procedures in 40 C.F.R. §60.11 must be used to determine opacity, with the exceptions specified in paragraphs 1.i. and ii.
 - i. The duration of the Method 9 of appendix A-4 of this part performance test shall be 1 hour (ten 6-minute averages).
 - ii. If, during the initial 30 minutes of the observation of a Method 9 of appendix A-4 of this part performance test, all of the 6-minute average opacity readings are less than or equal to half the applicable opacity limit, then the observation period may be reduced from 1 hour to 30 minutes.
2. To determine opacity for fugitive coal dust emissions sources, the additional requirements specified in paragraphs 2.i. through iii. must be used.
 - i. The minimum distance between the observer and the emission source shall be 5.0 meters (16 feet), and the sun shall be oriented in the 140-degree sector of the back.
 - ii. The observer shall select a position that minimizes interference from other fugitive coal dust emissions sources and make observations such that the line of vision is approximately perpendicular to the plume and wind direction.
 - iii. The observer shall make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Water vapor is not considered a visible emission.

3. A visible emissions observer may conduct visible emission observations for up to three fugitive, stack, or vent emission points within a 15-second interval if the following conditions specified in paragraphs 3.i. through iii. of this section are met.
 - i. No more than three emissions points may be read concurrently.
 - ii. All three emissions points must be within a 70 degree viewing sector or angle in front of the observer such that the proper sun position can be maintained for all three points.
 - iii. If an opacity reading for any one of the three emissions points is within 5 percent opacity from the applicable standard (excluding readings of zero opacity), then the observer must stop taking readings for the other two points and continue reading just that single point.

[45CSR16, 40 C.F.R § 60.257(a), 45CSR13, R13-1967, B.1.]

3.3. Testing Requirements

- 3.3.1. **Stack testing.** As per provisions set forth in this permit or as otherwise required by the Secretary, in accordance with the West Virginia Code, underlying regulations, permits and orders, the permittee shall conduct test(s) to determine compliance with the emission limitations set forth in this permit and/or established or set forth in underlying documents. The Secretary, or his duly authorized representative, may at his option witness or conduct such test(s). Should the Secretary exercise his option to conduct such test(s), the operator shall provide all necessary sampling connections and sampling ports to be located in such manner as the Secretary may require, power for test equipment and the required safety equipment, such as scaffolding, railings and ladders, to comply with generally accepted good safety practices. Such tests shall be conducted in accordance with the methods and procedures set forth in this permit or as otherwise approved or specified by the Secretary in accordance with the following:
 - a. The Secretary may on a source-specific basis approve or specify additional testing or alternative testing to the test methods specified in the permit for demonstrating compliance with 40 C.F.R. Parts 60, 61, and 63, if applicable, in accordance with the Secretary's delegated authority and any established equivalency determination methods which are applicable.
 - b. The Secretary may on a source-specific basis approve or specify additional testing or alternative testing to the test methods specified in the permit for demonstrating compliance with applicable requirements which do not involve federal delegation. In specifying or approving such alternative testing to the test methods, the Secretary, to the extent possible, shall utilize the same equivalency criteria as would be used in approving such changes under Section 3.3.1.a. of this permit.
 - c. All periodic tests to determine mass emission limits from or air pollutant concentrations in discharge stacks and such other tests as specified in this permit shall be conducted in accordance with an approved test protocol. Unless previously approved, such protocols shall be submitted to the Secretary in writing at least thirty (30) days prior to any testing and shall contain the information set forth by the Secretary. In addition, the permittee shall notify the Secretary at least fifteen (15) days prior to any testing so the Secretary may have the opportunity to observe such tests. This notification shall include the actual date and time during which the test will be conducted and, if appropriate, verification that the tests will fully conform to a referenced protocol previously approved by the Secretary.

[WV Code § 22-5-4(a)(15) and 45CSR13]

- 3.3.2. An owner or operator of each affected facility that commenced construction, reconstruction, or modification on or before April 28, 2008, must conduct all performance tests required by 40 C.F.R. §60.8 to demonstrate compliance with the applicable emission standards using the methods identified in Section 3.2.3.
[45CSR16, 40 C.F.R § 60.255, 45CSR13, R13-1967, B.1., B.3.]

3.4. Recordkeeping Requirements

- 3.4.1. **Monitoring information.** The permittee shall keep records of monitoring information that include the following:
- a. The date, place as defined in this permit and time of sampling or measurements;
 - b. The date(s) analyses were performed;
 - c. The company or entity that performed the analyses;
 - d. The analytical techniques or methods used;
 - e. The results of the analyses; and
 - f. The operating conditions existing at the time of sampling or measurement.
[45CSR§30-5.1.c.2.A.]
- 3.4.2. **Retention of records.** The permittee shall retain records of all required monitoring data and support information for a period of at least five (5) years from the date of monitoring sample, measurement, report, application, or record creation date. 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. Where appropriate, records may be maintained in computerized form in lieu of the above records.
[45CSR§30-5.1.c.2.B.]
- 3.4.3. **Odors.** For the purposes of 45CSR4, the permittee shall maintain a record of all odor complaints received, any investigation performed in response to such a complaint, and any responsive action(s) taken.
[45CSR§30-5.1.c. State-Enforceable only.]
- 3.4.4. For the purpose of determining compliance with the maximum throughput limits set forth in Sections 3.1.23 through 3.1.28, the permittee shall maintain on site certified daily and monthly records of the following:
- a. The amount of raw coal input to the facility, which shall include records of throughput on Marsh Fork Mine belt LG-5.
 - b. The amount of clean coal shipped from the facility.
 - c. The amount of raw coal input to the direct ship circuit.
 - d. The amount of refuse material processed through refuse reclaim conveyor RB4A
 - e. The amount of synthetic fuel stored in the clean coal stockpiles.

- f. Total water usage for dust suppression :
 - i. At fixed spray systems, and
 - ii. By water truck.

Example data tracking forms are given as Attachments A, B, and C. Records shall be certified by a “responsible official” and maintained on site for a period of not less than five (5) years and shall be made available to the Director or his or her duly authorized representative upon request.

[45CSR13, R13-1967, B.6.]

- 3.4.5. The permittee shall maintain daily records indicating the use of any dust suppressants or any other suitable dust control measures applied at the facility. These records shall be maintained on site.
[45CSR§30-5.1.c.]
- 3.4.6. The permittee shall maintain daily records of the coal throughput and the hours of operation. Compliance with the hourly throughput limit shall be demonstrated by dividing the daily throughput by daily hours of operation. The monthly throughput shall be determined by adding all of the daily throughputs for each day of the month. By the fifteenth day of each calendar month, the permittee shall calculate the hourly averaged throughput of the previous calendar month, as well as the monthly throughput. Compliance with all yearly throughput limits shall be determined using a rolling yearly total. A rolling yearly total shall mean the sum of raw coal throughput at any given time for the previous twelve-(12) months. These records shall be maintained on site.
[45CSR§30-5.1.c.]
- 3.4.7. Compliance with all annual throughput limits shall be determined using a twelve month rolling total. A twelve month rolling total shall mean the sum of the amount of coal received, processed, or shipped at any given time for the previous twelve-(12) consecutive calendar months.
[45CSR13, R13-1967, A.9.]

3.5. Reporting Requirements

- 3.5.1. **Responsible official.** Any application form, report, or compliance certification required by this permit to be submitted to the DAQ and/or USEPA shall contain a certification by the responsible official that states that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.
[45CSR§30-4.4. and 5.1.c.3.D.]
- 3.5.2. A permittee may request confidential treatment for the submission of reporting required under 45CSR§30-5.1.c.3. pursuant to the limitations and procedures of W.Va. Code § 22-5-10 and 45CSR31.
[45CSR§30-5.1.c.3.E.]
- 3.5.3. Except for the electronic submittal of the annual certification to the USEPA as required in 3.5.5 below, all notices, requests, demands, submissions and other communications required or permitted to be made to the Secretary of DEP and/or USEPA shall be made in writing and shall be deemed to have been duly given when delivered by hand, mailed first class, or by private carrier with postage prepaid to the address(es) set forth below or to such other person or address as the Secretary of the Department of Environmental Protection may designate:

If to the DAQ:

Director
WVDEP
Division of Air Quality
601 57th Street SE
Charleston, WV 25304
Phone: 304/926-0475
FAX: 304/926-0478

If to the US EPA:

Associate Director
Office of Enforcement and Permits Review
(3AP12)
U. S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

- 3.5.4. **Certified emissions statement.** The permittee shall submit a certified emissions statement and pay fees on an annual basis in accordance with the submittal requirements of the Division of Air Quality. [45CSR§30-8.]
- 3.5.5. **Compliance certification.** The permittee shall certify compliance with the conditions of this permit on the forms provided by the DAQ. In addition to the annual compliance certification, the permittee may be required to submit certifications more frequently under an applicable requirement of this permit. The annual certification shall be submitted to the DAQ and USEPA on or before March 15 of each year, and shall certify compliance for the period ending December 31. The annual certification to the USEPA shall be submitted in electronic format only. It shall be submitted by e-mail to the following address: R3_APD_Permits@epa.gov. The permittee shall maintain a copy of the certification on site for five (5) years from submittal of the certification. [45CSR§30-5.3.e.]
- 3.5.6. **Semi-annual monitoring reports.** The permittee shall submit reports of any required monitoring on or before September 15 for the reporting period January 1 to June 30 and on or before March 15 for the reporting period July 1 to December 31. All instances of deviation from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with 45CSR§30-4.4. [45CSR§30-5.1.c.3.A.]
- 3.5.7. **Emergencies.** For reporting emergency situations, refer to Section 2.17 of this permit.
- 3.5.8. **Deviations.**
- a. In addition to monitoring reports required by this permit, the permittee shall promptly submit supplemental reports and notices in accordance with the following:
1. Any deviation resulting from an emergency or upset condition, as defined in 45CSR§30-5.7., shall be reported by telephone or telefax within one (1) working day of the date on which the permittee becomes aware of the deviation, if the permittee desires to assert the affirmative defense in accordance with 45CSR§30-5.7. A written report of such deviation, which shall include the probable cause of such deviations, and any corrective actions or preventative measures taken, shall be submitted and certified by a responsible official within ten (10) days of the deviation.
 2. Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported to the Secretary immediately by telephone or telefax. A written report of such deviation, which shall include the probable cause of such deviation, and any corrective actions or preventative measures taken, shall be submitted by the responsible official within ten (10) days of the deviation.

3. Deviations for which more frequent reporting is required under this permit shall be reported on the more frequent basis.
 4. All reports of deviations shall identify the probable cause of the deviation and any corrective actions or preventative measures taken.
[45CSR§30-5.1.c.3.C.]
 - b. The permittee shall, in the reporting of deviations from permit requirements, including those attributable to upset conditions as defined in this permit, report the probable cause of such deviations and any corrective actions or preventive measures taken in accordance with any rules of the Secretary.
[45CSR§30-5.1.c.3.B.]
- 3.5.9. **New applicable requirements.** If any applicable requirement is promulgated during the term of this permit, the permittee will meet such requirements on a timely basis, or in accordance with a more detailed schedule if required by the applicable requirement.
[45CSR§30-4.3.h.1.B.]
- 3.5.10. **Greenhouse Gas Reporting Requirements.** When applicable, as determined in permit section 3.1., greenhouse gas emissions shall be reported pursuant to 45CSR§42-4. as follows:
- a. In accordance with a reporting cycle provided by the Secretary, affected sources shall report to the Secretary the quantity of all greenhouse gases emitted above de minimis amounts in the years specified by the Secretary.
 - b. Affected sources shall only be required to report annual quantities of anthropogenic non-mobile source greenhouse gases emitted at the stationary source, and shall not be required to report biogenic emissions of greenhouse gases.
 - c. Reports of greenhouse gas emissions submitted to the Secretary under 45CSR§42-4. shall be signed by a responsible official and shall include the following certification statement: "I, the undersigned, hereby certify that the data transmitted to the West Virginia Department of Environmental Protection is true, accurate, and complete, based upon information and belief formed after reasonable inquiry."
[45CSR§§42-4.1, 4.2. and 4.5., State-Enforceable only.]
- 3.5.11. Any owner or operator subject to the provisions of this part shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner or operator of a source, electronic notification, as follows:
1. A notification of the date construction (or reconstruction as defined under §60.15) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.
 2. A notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.
[45CSR16, 40 C.F.R § 60.7(a)(1) and (3), 45CSR13, R13-1967, B.1., B.3.]

3.6. Compliance Plan

- 3.6.1. None.

3.7. Permit Shield

- 3.7.1. The permittee is hereby granted a permit shield in accordance with 45CSR§30-5.6. The permit shield applies provided the permittee operates in accordance with the information contained within this permit.
- 3.7.2. The following requirements specifically identified are not applicable to the source based on the determinations set forth below. The permit shield shall apply to the following requirements provided the conditions of the determinations are met.
 - a. **40 C.F.R. Part 64** The facility does not have a pollutant specific emissions unit with a control device to meet an applicable standard or limit. Therefore, the facility is not subject to the Compliance Assurance Monitoring (CAM) rule.

Attachment A

**Certified Daily, Monthly, & 12 Month Rolling Totals of Raw & Clean Coal, & Synthetic Fuel Throughputs ⁽¹⁾
Marfork Coal Company, Plant ID No. 03-54-081-00078, Permit No. R13-1967B**

	Month	Year				
Day	Raw Coal Throughput ⁽²⁾ (Tons)	Clean Coal Shipped ⁽²⁾ (Tons)	Raw Coal Processed Through Direct Ship Circuit ⁽²⁾ (Tons)	Material Processed Through Refuse Reclaim Conveyor RB4A	Synthetic Fuel Shipped by Railcar ⁽²⁾ (Tons)	Initials ⁽³⁾
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
Monthly Total						
12 Month Rolling Total						

- (1) The Certification of Data Accuracy statement on the reverse side of this form must be completed and signed by a responsible official within fifteen (15) days after the end of the calendar month. This record shall be maintained on site for a period of five (5) years from the date of certification. It shall be made available, upon request, to the Director or his/her authorized representative.
- (2) Maximum permitted raw coal, clean coal, direct ship circuit coal, refuse material and synthetic fuel throughput limits are 21,000,000 TPY, 10,500,000 TPY, 1,000,000 TPY, 1,300,000 TPY, and 1,941,120 TPY, respectively.
- (3) At the conclusion of filling in the required information each entry must be initialed by the individual entering the information.

Attachment B

Certified Daily & Monthly Water Usage by the Pressurized Water Spray System ⁽¹⁾
Marfork Coal Company, Plant ID No. 03-54-081-00078, Permit No. R13-1967B

Month _____ Year _____

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

- (1) The Certification of Data Accuracy statement on the reverse side of this form must be completed and signed by a responsible official within fifteen (15) days after the end of the calendar month. This record shall be maintained on site for a period of five (5) years from the date of certification. It shall be made available, upon request, to the Director or his/her authorized representative.
- (2) Use the comment section to explain why the water spray system was not in use or was used sparingly..
- (3) At the conclusion of filling in the required information each entry must be initialed by the individual entering the information.

Attachment C

Certified Daily & Monthly Water Usage by the Pressurized Water Truck ⁽¹⁾
Marfork Coal Company, Plant ID No. 03-54-081-00078, Permit No. R13-1967B

Month _____ Year _____

Day	Water Truck Used? (Y/N)	No. of Truck Loads of Water Used ⁽²⁾	Comments ⁽³⁾	Initials ⁽⁴⁾
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				

- (1) The Certification of Data Accuracy statement on the reverse side of this form must be completed and signed by a responsible official within fifteen (15) days after the end of the calendar month. This record shall be maintained on site for a period of five (5) years from the date of certification. It shall be made available, upon request, to the Director or his/her authorized representative.
- (2) Use the comment section to explain why the water spray system was not in use or was used sparingly.
- (3) At the conclusion of filling in the required information each entry must be initialed by the individual entering the information.

CERTIFICATION OF DATA ACCURACY

I, the undersigned, hereby certify that all information contained in the attached _____, representing the period beginning _____ and ending _____, and any supporting documents appended hereto, is true and correct to the best of my knowledge and that all reasonable efforts have been made to provide the most comprehensive information possible.

Name (Type or Print): _____

Signature¹: _____

Title: _____

Date: _____

Telephone No.: _____

Fax No.: _____

1

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

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