

**1.3 Compliance with Standards and Maintenance Requirements**

- (a) Compliance with standards or regulations as referred to in the references of Section 1.1, other than opacity standards, shall be determined by performance test established by Section 1.2, unless otherwise specified in the applicable standard or regulation. Nothing in this paragraph (a) of this section shall preclude the use of other methods and procedures for the purposes set forth in paragraph (g) of this section.
- (b) Compliance with opacity standards shall be determined by conducting observations in accordance with Method 9 in appendix A of this text, any alternative or equivalent method that is approved by the Director pursuant to Section 1.2, or as provided in paragraph (e)(5) of this section. For purposes of determining initial compliance, the minimum total time of observation shall be 3 hours (30 6-minute averages for the performance test or other set of observations (meaning those fugitive-type emission sources subject only to an opacity standard). Nothing in paragraph (b) of this section shall preclude the use of other methods and procedures for the purposes set forth in paragraph (g) of this section.
- (c) The opacity standards as referred to in the references of Section 1.1 shall apply at all times except during periods of startup, shutdown, malfunction, and as otherwise provided in the applicable regulations.
- (d) 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 Director which may include, but is not limited to, monitoring results, observations of opacity or other characteristic of emissions, review of operating and maintenance procedure or records, and inspection or surveillance of the source.
- (e) (1) For the purpose of demonstrating initial compliance (if such demonstration is required, e.g. NSPS standards, special permit conditions, enforcement matters), opacity observations shall be conducted concurrently with the initial performance test required in Section 1.2 unless one of the following conditions apply. If no performance test under Section 1.2 is required, then opacity observations shall be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated but no later than 180 days after initial startup of the facility. If visibility or other conditions prevent the opacity observations from being conducted concurrently with the initial performance test required under Section 1.2, the source owner or operator shall reschedule the opacity observations as soon after the initial performance test as possible, but not later than 30 days thereafter, and shall advise the Director of the rescheduled date. The rescheduled opacity observations shall be conducted (to the extent possible) under the same operating conditions that existed during the initial performance test conducted under Section 1.2. The visible emissions observer shall determine whether visibility or other conditions prevent the opacity observations from being made concurrently with the initial performance test in accordance with procedures contained in Method 9 of Appendix A of this text. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The owner or

operator of an affected facility shall make available, upon request by the Director, such records as may be necessary to determine the conditions under which the visual observations were made and shall provide evidence indicating proof of current visible observer emission certification. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of this text, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been altered in any way.

- (2) The owner or operator of an affected facility to which an opacity standard in this part applies shall conduct opacity observations in accordance with paragraph (b) of this section, shall record the opacity of emissions, and shall report to the Director the opacity results along with the results of the initial performance test required under Section 1.2, and any continuous opacity monitor data produced during the initial performance test. The inability of an owner or operator to secure a visible emissions observer shall not be considered a reason for not conducting the opacity observations concurrent with the initial performance test.
- (3) [Reserved]
- (4) An owner or operator of an affected facility using a continuous opacity monitor (transmissometer) shall record the monitoring data produced during the initial performance test required by Section 1.2 and shall furnish the Director a written report of the monitoring results along with Method 9 and Section 1.2 performance test results.
- (5) An owner or operator of an affected facility subject to an opacity standard may submit, for compliance purposes, continuous opacity monitoring system (COMS) data results produced during any performance test required under Section 1.2 in lieu of Method 9 observation data. If an owner or operator elects to submit COMS data for compliance with the opacity standard, he shall notify the Director of that decision, in writing, at least 30 days before any performance test required under Section 1.2 is conducted. For the purpose of determining compliance with the opacity standard during a performance test required under Section 1.2 using COMS data, the minimum total time of COMS data collection shall be averages of all 6-minute continuous periods within the duration of the mass emission performance test. Results of the COMS opacity determinations shall be submitted along with the results of the performance test required under Section 1.2. The owner or operator of an affected facility using a COMS for compliance purposes is responsible for demonstrating that the COMS meets the requirements specified in Section 1.4(c), that the COMS has been properly maintained and operated, and that the resulting data have not been altered in any way. If COMS data results are submitted for compliance with the opacity standard for a period of time during which Method 9 data indicates non compliance, the Method 9 data will be used to determine compliance with the opacity standard.
- (6) Upon receipt from an owner or operator of the written reports of the results of

the performance tests required by Section 1.2, the opacity observation results and observer certification required by paragraph (e)(1) of this section, and the continuous opacity monitoring results, if applicable, the Director will make a finding concerning compliance with opacity and other applicable standards. If, to the Director's satisfaction an affected facility is in compliance with all applicable standards for which performance tests are conducted in accordance with Section 1.2 of this text but during the time such performance tests are being conducted fails to meet any applicable opacity standard, the owner may petition the Director within 10 days to make appropriate adjustment to the opacity standard for the affected facility.

- (7) The Director may grant such a petition upon a demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by the Director; and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.
- (8) The Director will establish an opacity standard for the affected facility meeting the above requirements at a level at which the source will be able, as indicated by the performance and opacity tests, to meet the opacity standard at all times during which the source is meeting the mass of concentration emission standard.
- (f) Special provisions set forth under an applicable source category of this text shall supersede any conflicting provisions of this section, provided that no such special provisions shall be deemed to exclude the use of monitoring methods pursuant to paragraph (g) of this section for purpose of certifying compliance or the use of any credible evidence for the purpose of establishing whether a person has violated or is in violation of a standard or regulation.
- (g) Notwithstanding any other provisions of any applicable rule or regulation or requirement of this text, for the purpose of submission of compliance certifications or establishing whether or not a person has violated or is in violation of any emissions limitation or standard, nothing in these Procedures For Testing and Monitoring Sources of Air Pollutants or any Emission Limitation or Standard to which it pertains, shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.