

SECTION I – GENERAL PERMIT CONDITIONS

A. GENERAL

The Permittee shall operate the facility in compliance with the provisions of the Oklahoma Hazardous Waste Management Act (OHWMA), 27A O.S. §§ 2-7-101 *et seq.*, as amended, the Oklahoma Administrative Code (OAC) Title 252 Chapter 205 (Hazardous Waste Management), the Federal Resource Conservation and Recovery Act (RCRA), the Hazardous and Solid Waste Amendments of 1984 (HSWA), and the approved Permit application as further modified through Permit conditions set herein.

B. BASIS OF PERMIT

This Permit is granted based on the information submitted and the design criteria presented in the application. Any inaccuracies found in this information could provide cause for the termination or modification of this Permit, and for enforcement action. The Permittee is to inform the Land Protection Division of the Oklahoma Department of Environmental Quality (DEQ) of any deviation from or changes to the design or operation of the facility which could affect the Permittee's ability to comply with the applicable regulations or Permit conditions.

This Permit shall be reviewed by DEQ five (5) years after the date of Permit issuance and shall be modified as necessary, as provided in Title 40 of the Code of Federal Regulations (40 CFR) 270.41 and OHWMA Section 2-7-127(B). Except as provided in Permit Condition I.F.4 (40 CFR 270.51), the term of this Permit shall not be extended by modification beyond the expiration date appearing on the face of this Permit. [40 CFR 270.50(b)]

C. INCORPORATION BY REFERENCE

All the referenced federal regulations (40 CFR Parts 124, 260 through 266, 268, 270, 273 and 279) as specified in the Permit are, unless otherwise stated, incorporated in their entirety by OAC 252:205-3-2.

D. DEFINITIONS

For purposes of this Permit and the special conditions pursuant to the 1984 Hazardous and Solid Waste Amendments to RCRA, terms used herein shall have the same meaning as those in 40 CFR Parts 124, 260, 261, 264, 266, 268 and 270; and OAC 252:205-3-2 through OAC 252:205-3-6; unless this Permit specifically provides otherwise. Where terms are not defined in the OAC, RCRA regulations or this Permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

“Action Levels” means health and environmental-based levels of constituent concentrations determined by DEQ to be indicators for protection of human health and the environment. Oklahoma drinking water maximum contaminant levels (MCLs), or an alternate limit established by DEQ per 40 CFR 264.94(b), will be considered Action Levels for groundwater and surface water. The calculation of action levels is specified in the RFI guidance.

“Area of Concern” (AOC) means any discernable unit or area which, in the opinion of DEQ, may have received solid or hazardous waste or waste containing hazardous constituents at any time. DEQ may require investigation of the unit as if it were a solid waste management unit (SWMU). If shown to be a SWMU by the investigation, the AOC must be reported by the Permittee as a newly identified SWMU. If the AOC is shown not to be a SWMU by the investigation, DEQ may determine that no further action is necessary and notify the Permittee in writing.

“CMS” means Corrective Measures Study.

“DEQ” means the Oklahoma Department of Environmental Quality.

“Director” means the Executive Director of DEQ, or his/her designee or authorized representative.

“Division Director” means the Director of the Land Protection Division of DEQ, or his/her designee or authorized representative.

“EPA” means the United States Environmental Protection Agency.

“Facility” means all contiguous property under the control of the owner or operator seeking a Permit under Subtitle C of RCRA.

“HSWA” means the 1984 Hazardous and Solid Waste Amendments to RCRA.

“Hazardous Constituent” means any constituent identified in Appendix VII of 40 CFR Part 261, or any constituent identified in Appendix IX of 40 CFR Part 264.

“Hazardous Waste” means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. The term hazardous waste includes hazardous constituent.

“Land Protection Division” (LPD) means the Land Protection Division of DEQ.

“Permit” means this Permit, all Permit Attachments, and all provisions and documents that are incorporated herein.

“Permittee” means Tulsa Cement, LLC dba Central Plains Cement Company, Tulsa, Oklahoma, EPA ID# OKD064558703.

“RCRA” means the Resource Conservation and Recovery Act of 1980, as amended by HSWA in 1984.

“RFA” means RCRA Facility Assessment.

“RFI” means RCRA Facility Investigation.

“Regional Administrator” means the Regional Administrator of EPA Region VI, or his/her designee or authorized representative.

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

“Solid Waste Management” means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

“Solid Waste Management Unit” (SWMU) means any discernible unit at which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such units include any area at a facility at which solid wastes have been routinely and systematically released. The definition includes regulated units (i.e., landfills, surface impoundments, waste piles and land treatment units) but does not include passive leakage or one-time spills from production areas and units in which wastes have not been managed (e.g., product storage areas).

If, subsequent to the issuance of this Permit, regulations are promulgated which redefine any of the above terms, DEQ may, at its discretion, apply the new definition to this Permit by modifying the Permit in accordance with 40 CFR Section 270.41.

E. EFFECT OF PERMIT

The Permittee is allowed to manage hazardous waste in accordance with the conditions of this Permit. Any storage, treatment or disposal of hazardous waste not authorized by this Permit is prohibited, unless exempted from Permit requirements or approved by DEQ under a separate Administrative Order.

Subject to 40 CFR 270.4, compliance with this Permit generally constitutes compliance, for purposes of enforcement, with Subtitle C of RCRA.

Issuance of this Permit does not convey any property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local laws or regulations. [40 CFR 270.4, 270.30(g)]

Compliance with the terms of this permit does not constitute a defense to any order issued or any action brought under OHWMA; Sections 3008(a), 3008(h), 3013, or 7003 of RCRA; Sections 104, 106(a) or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 *et seq.*, commonly known as CERCLA), or any other law providing for protection of public health or the environment from an imminent or substantial endangerment.

F. PERMIT ACTIONS

1. Permit Modification, Revocation and Reissuance, and Termination

This Permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR 270.41, 270.42, and 270.43. The filing of a request for a Permit modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any Permit Condition. [40 CFR 270.4(a), 270.30(f)]

2. Permit Renewal

This Permit may be renewed as specified in 40 CFR 270.30(b) and Permit Condition I.H.2. Review of any application for a Permit renewal shall consider improvements in the state of control and measurement technology, as well as changes in applicable regulations. [40 CFR 270.30(b) HSWA Sec. 212, and 27A O.S. 2-7-127(B).]

3. Permit Review

This Permit may be reviewed by DEQ five (5) years after the date of permit issuance and may be modified as necessary, as provided in 40 CFR 270.41. As noted in Permit Condition I.F, the term of this Permit shall not be extended by modification beyond the expiration date appearing on the face of this permit. [40 CFR 270.50(d)].

4. Permit Expiration

Pursuant to 40 CFR 270.50, this Permit shall be effective for a fixed term not to exceed ten (10) years. This Permit and all conditions herein will remain in effect beyond the Permit's expiration date, if the Permittee has submitted a timely, complete application (*see* 40 CFR 270.10, 270.13 through 270.29) and, through no fault of the Permittee, DEQ has not issued a new Permit, as set forth in 40 CFR 270.51. Permits continued under this section remain fully effective and enforceable. When the Permittee is not in compliance with the conditions of the expiring or expired Permit, DEQ may choose to do any one or more of the following:

- a. Initiate enforcement action based upon the Permit which has been continued;
- b. Issue a notice of intent to deny the new Permit under 40 CFR 124.6 (If the Permit is denied, the owner or operator would then be required to cease the activities authorized by the continued Permit or be subject to enforcement action for operating without a Permit);
- c. Issue a new Permit under Part 124 with appropriate conditions; or

d. Take other actions authorized by these regulations.

5. Permit Enforcement

When the Permittee is not in compliance with the conditions of the Continued Permit, DEQ may do any or all of the following:

- a. Pursuant to 27A O.S. § 2-7-126, §2-7-127, §2-7-129, §2-7-130, §2-7-131 and/or §2-7-134, issue an order with penalties; require corrective action; temporarily suspend the Continued Permit; revoke the Continued Permit and/or cause proceedings to be instituted in the district court for civil or criminal penalties, and;
- b. Issue a final denial of the new permit. If the permit is denied, the owner or operator shall cease the activities authorized by the Continued Permit or be subject to enforcement action for operating without a permit; or
- c. Take other actions authorized by 27A O.S. §§ 2-1-101 *et seq.*, OAC 252:205-1-1 *et seq.* or other applicable laws or regulations.

6. Transfer of Permits

This permit is not transferrable to any person, except after notice to DEQ. DEQ may require modification or revocation and reissuance of the Permit pursuant to 40 CFR 270.40. Before transferring ownership or operation of the facility during its operating life, the Permittee shall notify the new owner or operator in writing of the requirements of 40 CFR Parts 264 and 270 and this Permit. [40 CFR 270.30(1)(3), 264.12(c)]

G. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby. [40 CFR 124.16(a)]

H. DUTIES AND REQUIREMENTS

1. Duty to Comply

The Permittee shall comply with all conditions of this Permit, except to the extent and for the duration that noncompliance is authorized by an emergency Permit. Any Permit noncompliance, other than noncompliance authorized by an emergency Permit, constitutes a violation of OHWMA and RCRA and is grounds for enforcement action, Permit termination, revocation and reissuance, modification, or denial of a Permit renewal application. [40 CFR 270.30(a)]

2. Duty to Reapply

If the Permittee wishes to continue an activity allowed by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for a new Permit at least 180 days prior to Permit expiration. [40 CFR 270.10(h) and 270.30(b)]

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit. [40 CFR 270.30(c)]

4. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment. [40 CFR 270.30(d)]

5. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Permit. [40 CFR 270.30(e)]

6. Duty to Provide Information

The Permittee shall furnish to DEQ, within a reasonable time, any relevant information which DEQ may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to DEQ, upon request, copies of records required to be kept by this Permit. [40 CFR 270.30(h)]

7. Inspection and Entry

Pursuant to 40 CFR 270.30(i), the Permittee shall allow DEQ, or an authorized representative, upon the presentation of credentials and other documents, as may be required by law, to:

- a. Enter at reasonable times upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of 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 any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- d. Sample or monitor, at reasonable times, for the purposes of assuring Permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

8. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed must be the appropriate method from Appendix I of 40 CFR Part 261 or an equivalent method approved by DEQ. Laboratory methods must be those specified in Test Methods for Evaluating Solid Waste: Physical/Chemical Methods SW-846, Standard Methods of Wastewater Analysis, or an equivalent approved method. [40 CFR 270.30(j)(1)]
- b. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, the certification required by 40 CFR 264.73(b)(9), and records of all data used to complete the application for this Permit for a period of at least 3 years from the date of the sample, measurement, report, record, certification, or application. These periods may be extended by request of DEQ at any time and are automatically extended during the course of any unresolved enforcement action regarding this facility. [40 CFR 270.30(j)(2) and 40 CFR 264.74(b)]
- c. Pursuant to 40 CFR 270.30(j)(3), records of monitoring information shall specify:

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

9. Reporting Planned Changes

The Permittee shall give notice to DEQ, as soon as possible, of any planned physical alterations or additions to the permitted facility. [40 CFR 270.30(1)(1)]

10. Reporting Anticipated Noncompliance

The Permittee shall give advance notice to DEQ of any planned changes in the permitted facility or activity which may result in noncompliance with Permit requirements. [40 CFR 270.30(1)(2)]

11. Incident Reporting [OAC 252:205-13-1 and 40 CFR 270.30(1)(6)]

- a. Upon release of materials that are or become hazardous waste whether by spillage, leakage, or discharge to soils or to air or to surface or ground waters (outside the limits of a discharge permit), or by other means, and which could threaten human health or the environment, the owner or operator shall immediately notify the DEQ and take all necessary action to contain, remediate, and mitigate hazards from the release. [OAC 252:205-13-1(a)]
- b. The description of the occurrence and its cause shall include:
 - i) Name, address, and telephone number of the owner or operator;
 - ii) Name, address, and telephone number of the facility;
 - iii) Date, time, and type of incident;
 - iv) Name and quantity of materials involved;
 - v) The extent of injuries, if any;
 - vi) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
 - vii) Estimated quantity and disposition of recovered material that resulted from the incident. [40 CFR 270.30(1)(6)(ii)]
- c. A written submission shall also be provided within five (5) days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period(s) of noncompliance (including exact dates and times); whether the noncompliance has

been corrected; and, if not, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. DEQ may waive the five-day written notice requirement in favor of a written report within 15 days. [40 CFR 270.30(1)(6)(iii)]

12. Other Noncompliance

The Permittee shall report all other instances of noncompliance not otherwise required to be reported above at the time monitoring reports are submitted. The reports shall contain the information listed in Permit Condition I.H.11. [40 CFR 270.30(1)(10)]

13. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts in the Permit application or submitted incorrect information in a Permit application or in any report to DEQ, the Permittee shall promptly submit such facts or information. [40 CFR 270.30(1)(11)]

I. SIGNATORY REQUIREMENT

All applications, reports, or information submitted to or requested by DEQ, its designee, or authorized representative, shall be signed and certified in accordance with 40 CFR 270.11 and 270.30(k).

J. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO DEQ

All reports, notifications, or other submissions which are required by this Permit to be sent or given to DEQ should be sent by certified mail or given to:

Chief Engineer
Land Protection Division
Oklahoma Department of Environmental Quality
707 North Robinson P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677
Phone Number (405) 702-5100

K. CONFIDENTIAL INFORMATION

In accordance with 40 CFR 270.12 and OAC 252:205-1-4, the Permittee may claim confidential any information required to be submitted by this Permit. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of the submission, EPA and DEQ may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information)), and the Oklahoma Open Records Act, 51 O.S. §24A.5. Claims of confidentiality for the name and address of any Permit applicant or permittee will be denied.

L. DOCUMENTS TO BE MAINTAINED AT THE FACILITY

The Permittee shall maintain at the facility, until closure is completed and certified by an independent, registered professional engineer, the following documents and all amendments, revisions, and modifications to these documents:

1. Waste Analysis Plan, as required by 40 CFR 264.13 and this Permit (Permit Attachment 1).
2. Inspection Plan, as required by 40 CFR 264.15(b)(2) and this Permit (Permit Attachment 2).
3. Contingency Plan, as required by 40 CFR 264.53(a) and this Permit (Permit Attachment 3).
4. Personnel training documents and records, as required by 40 CFR 264.16(d) and this Permit (Permit Attachment 4).
5. Operating Record, as required by 40 CFR 264.73 and this Permit.
6. Closure Plan, as required by 40 CFR 264.112(a) and this Permit (Permit Attachment 5).
7. Annually-adjusted cost estimate for facility closure, as required by 40 CFR 264.142(d) and this Permit (Permit Attachment 5).
8. Manifesting, reporting and recordkeeping, as required by 40 CFR 264.70 and this Permit.
9. Procedures, structures, and equipment for prevention of hazards, as required by 40 CFR 270.14(b)(8) and (9) and this Permit.