THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

Navajo Nation Environmental Protection Agency –Air Quality Control/Operating Permit Program
Post Office Box 529, Fort Defiance, AZ 86504 • Bldg. #2837 Route 112
Telephone (928) 729-4096, Fax (928) 729-4313, Email [HYPERLINK "mailto:airquality@navajo-nsn.gov"]
www.navajonationepa.org/airquality.html

TITLE V PERMIT TO OPERATE

PERMIT #:	FACILITY NAME:	LOCATION:	COUNTY:	STATE:
NN OP 19-003	EL PASO NATURAL GAS COMPANY-NAVAJO COMPRESSOR STATION	CORNFIELDS	APACHE	AZ

ISSUE DATE:	EXPIRATION DATE:	AFS PLANT ID:	PERMITTING AUTHORITY:
XX/XX/2019	XX/XX/2024	04-017-N0610	NNEPA

ACTION/STATUS: PART 71 OPERATING PERMIT

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Abbreviations and Acronyms

AR	Acid Rain
ARP	Acid Rain Program
CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CFR	Code of Federal Regulations
EIP	Economic Incentives Program
EU	Emission Unit
EPNG	El Paso Natural Gas
gal	gallon
HAP	Hazardous Air Pollutant
hp	horsepower
hr	hour
Id. No.	Identification Number
kg	kilogram
lb	pound
MACT	Maximum Achievable Control Technology
Mg	megagram
MMBtu	million British Thermal Units
mo	month
MVAC	Motor Vehicle Air Conditioner
NESHAP	National Emission Standards for Hazardous Air Pollutants
NNEPA	Navajo Nation Environmental Protection Agency
NNOPR	Navajo Nation Operating Permit Regulations
NNR	Navajo Nation Regulations
NOx	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
PM	Particulate Matter
PM-10	Particulate Matter less than 10 microns in diameter
ppm	parts per million
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
psia	pounds per square inch absolute
RMP	Risk Management Plan
scf	standard cubic foot
SNAP	Significant New Alternatives Program
SO_2	Sulfur Dioxide
tpy	tons per year
TSP	Total Suspended Particulate
US EPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

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I. Source Identification

- Parent Company Name: Kinder Morgan Inc,
- Parent Company Address: 1001 Louisiana St.
  Houston, Texas 77002
- Plant Operator: El Paso Natural Gas Company, L.L.C (EPNG)
- Plant Operator Address: 2 North Nevada Avenue
  Colorado Springs, CO 80903
- Plant Name: Navajo Compressor Station
- Plant Location: Section 24, Township 25-N, Range 24-E
  31 miles north of Chambers, Arizona
- County: Apache, Arizona
- EPA Region: IX
- Reservation: Navajo Nation
- Company Contact: Richard Duarte Phone: (505) 831-7763
- Responsible Official: Joseph E. McLaughlin, VP Phone: (713) 369-8763
- EPA Contact: Lisa Beckham Phone: (415) 972-3811
- Tribal Contact: Tennille Denetdeel Phone: (928) 729-4248
- SIC Code: 4922
- AFS Plant Id. No. 04-017-N0613
- Description of Process: The facility is a natural gas compressor station that performs gas inlet separation and natural gas compression.
- Significant Emission Units:

Unit ID	Unit Description	Maximum Capacity	Commenced Construction/ Installation Date	Associated Control Equipment
C-01	Natural gas-fired turbine, Simple cycle, Solar Taurus T6500- SLN with NOx, CO & O_2 CEMS	45.3 MMBtu/hr 5304 hp	April 1992	Dry Low NOx Combustor
C-02	Natural gas-fired turbine, regenerative cycle, GE Frame 3 (Model J)	95.7 MMBtu/hr 12913 hp	January 1993	N/A
D-01	Natural gas-fired turbine, regenerative cycle, GE Frame 3 (Model F)	78.9 MMBtu/hr 10784 hp	January 1993	N/A
D-02	Natural gas-fired turbine, regenerative cycle, GE Frame 3 (Model F)	78.9 MMBtu/hr 10784 hp	January 1993	N/A
AUX C-01*	Natural gas-fired turbine (auxiliary power), Simple cycle, Solar Saturn 20	16.03 MMBtu/hr 1160 hp	January 1993	N/A
AUX D-01**	Natural gas-fired turbine (auxiliary power), Simple cycle, Solar Saturn 20	16.03 MMBtu/hr 1160 hp	January 1993	N/A

*The original build date is June 29, 1971. ** The original build date is January 28, 1972. Horsepower capacities are based on site elevation at 60°F for turbine units C-01, C-02, D-01 and D-02.

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II. Requirements for Specific Units

II.A. PSD Permit Requirements [PSD Permit AZP 90-2]

Emission Limits

1. The permittee shall not discharge or cause the discharge into the atmosphere NOx (as NO_2) in excess of the more stringent of 6.26 lb/hr or 42 ppmvd of NOx at 15% O_2 (3-hour rolling average, at ISO conditions) from the stack venting gas turbine C-01. [PSD permit AZP 90-2 Condition IX.D] [40 CFR § 60.332(a)]

2. The permittee shall not discharge or cause the discharge into the atmosphere of CO in excess of the more stringent of 5.084 lb/hr or 50 ppmvd at 15% O_2 (3-hour rolling average) from the stack venting gas turbine C-01. [PSD permit AZP 90-2 Condition IX.D]

3. The permittee shall not discharge or cause the discharge into the atmosphere any gases with opacity in excess of 10% (six-minute rolling average) from the stack venting gas turbine C-01. [PSD permit AZP 90-2 Condition IX.D]

Work Practice and Operational Requirements

4. The permittee shall continuously operate a Dry Low-NOx Combustor for control of NOx emissions from gas turbine C-01. [PSD permit AZP 90-2 Condition IX.B]

Monitoring and Testing Requirements

5. Annually, and at such other times as specified by US EPA Region IX, the permittee shall conduct performance test for NOx and CO emissions from gas turbine C-01 and furnish to US EPA Region IX and NNEPA a written report of the results of such test. The test for NOx and CO shall be conducted at the maximum operating capacity of the facility being tested. Upon written request from the permittee, US EPA Region IX and NNEPA may approve conducting performance tests at a lower specified production rate. Also, after initial performance test and upon written request from the permittee, US EPA Region IX and NNEPA may approve the deletion of a specific annual test for the combustion units. [PSD permit AZP 90-2 Condition IX.C.1.a and b]

6. Performance tests for the emissions of NOx and CO from gas turbine C-01 shall be conducted and the results reported in accordance with the test methods set forth in 40 CFR §§ 60, 60.8, and Appendix A. These performance tests shall be conducted using US EPA Methods 1-4, 7E, and 19. [PSD permit AZP 90-2 Condition IX.C.2]

7. US EPA Region IX and NNEPA shall be notified in writing at least 30 days prior to such tests to allow time for the development of an approvable performance test plan and to arrange for an observer to be present at the test. Such prior approval

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will minimize the possibility of the rejection of these test results by US EPA Region IX and NNEPA for procedural deficiencies. In lieu of the above mentioned test methods, equivalent methods may be used with prior written approval from US EPA Region IX and NNEPA. [PSD permit AZP 90-2 Condition IX.C.2]

8. For performance test purposes, sampling ports, platforms, and access shall be provided by the permittee on the combustion exhaust system in accordance with 40 CFR § 60.8(e). [PSD permit AZP 90-2 Condition IX.C.3]

9. The permittee shall install, maintain, and operate the following continuous monitoring systems in the stack venting gas turbine (unit C-01) [PSD permit AZP 90-2 Condition IX.E.1.a and b]

   a. Continuous monitoring systems to measure stack gas NOx, CO, and O_2. The systems shall meet US EPA monitoring performance specifications (40 CFR § 60, Appendix B, Performance Specifications 2, 3, and 4).

   b. A continuous monitoring system to measure or calculate stack gas volumetric flow rates. The system shall meet US EPA monitoring performance specifications (40 CFR § 60, Appendix B, and Performance Specification 6).

10. Upon submittal of a minimum of one (1) year of simultaneous onsite CEMS and alternative continuous monitoring data prior to the retrofit of the Dry Low-NOx Combustor, and one (1) year minimum of simultaneous onsite CEMS and alternative continuous monitoring data after the retrofit of the Dry Low-NOx Combustor, the permittee shall have the opportunity to demonstrate that, at this site, the alternative continuous monitoring system is equivalent to the CEMS required above. After the above demonstration has been made to the satisfaction of US EPA Region IX and NNEPA, and upon written approval from US EPA Region IX and NNEPA, the permittee may replace the CEMS with the alternative continuous monitoring system. [PSD permit AZP 90-2 Condition IX.E.2]

11. The permittee shall maintain a quality assurance project plan for the certification and operation of CEMS. Such a plan shall conform to the quality assurance procedure set forth in 40 CFR Part 60 Appendix F, "Quality Assurance Procedures". [PSD permit AZP 90-2 Conditions IX.E.6]

Recordkeeping Requirements

12. The permittee shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements, all continuous monitoring system performance evaluations, all continuous monitoring system or monitoring device calibration checks, adjustments and maintenance performed on these systems or devices, and all other information required by 40 CFR § 60 recorded in a permanent form suitable for inspection. The file shall be

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retained for at least five years following the date of such measurements, maintenance, reports and records. [PSD permit AZP 90-2 Condition IX.E.7] [40 CFR § 60.7(f)]

Reporting Requirements

13. The permittee shall submit a written report of all excess emissions to NNEPA and US EPA Region IX for every calendar quarter. The report shall include the following [PSD permit AZP 90-2 Condition IX.E.3]

    a. The magnitude of excess emissions computed in accordance with 40 CFR § 60.13(h), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions.

    b. Specific identification of each period of excess emissions that occurs during start-ups, shutdowns, and malfunctions of any compressors. The nature and cause of any malfunction (if known) and the corrective action taken or preventative measures adopted shall also be reported.

    c. The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

    d. When no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information shall be stated in the report.

    e. Excess emissions shall be defined as the following:

        I. Any three-hour period during which the average emissions of NOx and/or CO, as measured by the continuous monitoring system or by a performance test, exceed the maximum emission limits set forth for each of the pollutants in Conditions II.A.1 and 2 above.

        II. Any six minute period during which the average opacity as detected in accordance to 40 CFR § 60.11 exceeds the maximum emission limit set forth in condition II.A.3 above.

    f. Excess emissions indicated by the CEM system shall be considered violations of the applicable emission limits for the purposes of this permit.

Facilities Operation

14. All equipment, facilities, and systems installed or used to achieve compliance with the terms and conditions of the PSD Permit shall at all times be maintained

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in good working order and be operated as intended so as to minimize air pollutant emissions. [PSD permit AZP 90-2 Condition III]

Malfunction

15. NNEPA and US EPA Region IX shall be notified by telephone within 48 hours following any failure of air pollution control equipment, process equipment, or of a process to operate in a normal manner which results in an increase in emissions above any allowable emissions limit stated in Condition II.A of this permit. In addition, NNEPA and US EPA Region IX shall be notified in writing within fifteen (15) days of any such failure. This notification shall include a description of the malfunctioning equipment or abnormal operation, the date of the initial failure, the period of time over which emissions were increased due to the failure, the cause of the failure, the estimated resultant emissions in excess of those allowed under Condition II.A of this permit, and the methods utilized to restore normal operations. Compliance with this malfunction notification provision shall not excuse or otherwise constitute a defense to any violations of this permit or of any law or regulations which such malfunction may cause. [PSD permit AZP 90-2 Condition IV]

Transfer of Ownership

16. In the event of any changes in control or ownership of the facilities to be constructed, the PSD Permit shall be binding on all subsequent owners and operators. The applicant shall notify the succeeding owner and operator of the existence of the PSD Permit and its conditions by letter, a copy of which shall be forwarded to the Regional Administrator, the State and local air pollution control agency, and NNEPA. [PSD permit AZP 90-2 Condition VI]

Other Applicable Regulations

17. The permittee shall construct and operate this facility in compliance with all other applicable provisions of 40 CFR §§ 52, 60 and 61 and all other applicable federal, state and local air quality regulations. [PSD permit AZP 90-2 Condition VIII]

II.B. NSPS General Provisions

The following requirements apply to gas turbines C-01, C-02, D-01, D-02, AUX C-01 and AUX D-01 in accordance with 40 CFR Part 60, Subpart A ("General Provisions"):

1. All requests, reports, applications, submittals, and other communications to the Executive Director (NNEPA) pursuant to 40 CFR Part 60 shall be submitted in duplicate to the US EPA Region IX office at the following address [40 CFR § 60.4(a)]:

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Manager, Air & Tri-Section ENF-2-1
US EPA Region IX
Enforcement Division
75 Hawthorne Street
San Francisco, CA 94105-3901

2. The permittee shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative. [40 CFR § 60.7(b)]

3. The availability to the public of information provided to, or otherwise obtained by, the US EPA Administrator under this permit shall be governed by 40 CFR Part 2. (Information submitted voluntarily to the US EPA Administrator for the purposes of 40 CFR §§ 60.5 and 60.6 is governed by 40 CFR §§ 2.201 through 2.213 and not by 40 CFR § 2.301). [40 CFR § 60.9]

4. Compliance with standards in 40 CFR Part 60, other than opacity standards, shall be determined in accordance with performance tests established by 40 CFR § 60.8, unless otherwise specified in the applicable standard. Compliance with the fuel sulfur standard listed in Condition II.C.1 of this permit shall be determined in accordance with performance tests established by 40 CFR § 60.8 or with Condition II.C.2 of this permit. [40 CFR § 60.11(a)]

5. At all times, including periods of startup, shutdown, and malfunction, the permittee shall, to the extent practicable, maintain and operate EPNG Navajo, including associated air pollution control equipment, as efficiently as possible 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. [40 CFR § 60.11(d)]

6. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in 40 CFR § 60, nothing shall preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a source would have been in compliance with the applicable requirements if the appropriate performance or compliance test or procedure had been performed. [40 CFR § 60.11(g)]

7. The permittee shall not build, erect, install, or use any article, machine, equipment, or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or

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with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere. [40 CFR § 60.12]

8. With respect to applicable NSPS provisions under 40 CFR Part 60, the permittee shall comply with the general notification and reporting requirements found in 40 CFR § 60.19. [40 CFR § 60.19]

9. The permittee shall provide to NNEPA and US EPA Region IX written notification or, if acceptable to NNEPA, US EPA Region IX, and the permittee, electronic notification of any reconstruction of EPNG Navajo or any physical or operational change to EPNG Navajo which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under this permit or in 40 CFR § 60.14(e). [40 CFR § 60.7(a)]

II.C. NSPS for Stationary Gas Turbines

The following requirements apply to gas turbines C-01, C-02, D-01, D-02, AUX C-01 and AUX D-01 in accordance with 40 CFR Part 60, Subpart GG ("Standards of Performance for Stationary Gas Turbines").

1. The permittee shall not burn any gaseous fuel in the gas turbines C-01, C-02, D-01, D-02, AUX C-01 and AUX D-01 which contains a maximum total sulfur content exceeding 20.0 grains/100 scf. [40 CFR § 60.331(u)]

2. The permittee has elected not to monitor the total fuel sulfur content of the gaseous fuel combusted in the turbine by combusting only the natural gas which meets the definition of natural gas in 40 CFR § 60.331(u). The permittee is required to demonstrate the gas quality characteristics in a current, valid purchase contract, tariff sheet or transportation contract for the gaseous fuel, specifying that the maximum total sulfur content of the fuel is 20.0 grains/100 scf or less. [40 CFR § 60.334(h)(3)]

3. To demonstrate compliance under 40 CFR § 60.334(h)(3), the permittee will provide a copy of the gas quality section of its current tariff from the Federal Energy Regulatory Commission (FERC) and certify at least once every six months that the fuel being fired in gas turbines C-01, C-02, D-01, D-02, AUX C-01 and AUX D-01 satisfies the definition of "natural gas" in 40 CFR § 60.331(u). [40 CFR § 60.334(h)(3)]

4. Each CEMS must be installed and certified according to performance specifications 2 and 3 (for diluent) of 40 CFR § 60 Appendix B, except the 7-day calibration drift is based on unit operating days, not calendar days. Appendix F, Procedure 1 is not required. The relative accuracy test audit (RATA) of the NOx and diluent monitors may be performed either:

   a. On a ppm basis (for NOx) and a percent O_2 basis for oxygen; or

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b. On a ppm basis at 15 percent O_2; or

c. On a ppm basis (for NOx) and a percent CO_2 basis (for a CO_2 monitor that uses the procedures in Method 20 to correct the NOx data to 15 percent O_2).

[40 CFR §§ 60.334(b)(1) and 60.334(c)]

5. The CEMS on the gas turbine C-01 must be in compliance with the recording requirements specified in 40 CFR § 60.13(e)(2), and with the CEMS data collection requirements of 40 CFR §§ 60.334(b)(2) and 60.334(c).

6. For purposes of identifying excess emissions, CEMS data must be reduced to hourly averages as specified in 40 CFR § 60.13(h).

   a. For each unit operating hour in which a valid hourly average, as described in Condition II.C.5 of this permit, is obtained for both NOx and diluent, the data acquisition and handling system must calculate and record the hourly NOx emissions in the units of the applicable NOx emission standard under 40 CFR § 60.332(a), i.e., percent NOx by volume, dry basis, corrected to 15 percent O_2 and ISO standard conditions (if required as given in 40 CFR § 60.335(b)(1)). For any hour in which the hourly average O_2 concentration exceeds 19.0 percent O_2, a diluent cap value of 19.0 percent O_2 may be used in emission calculations.

   b. A worst case ISO correction factor may be calculated and applied using historical ambient data. For the purpose of this calculation, substitute the maximum humidity of the ambient air (H_o), minimum ambient temperature (T_a), and minimum combustor inlet absolute pressure (P_o) into the ISO correction equation. [40 CFR §§ 60.334(b)(3) and 60.334(c)]

Monitoring and Testing Requirements

7. For performance tests conducted as required by this permit, sampling traverse points are to be selected following Method 20 or Method 1 (non-particulate procedures) and sampled for equal time intervals. The sampling shall be performed with a traversing single-hole probe or, if feasible, with a stationary multi-hole probe that samples each of the points sequentially. Alternatively, a multi-hole probe designed and documented to sample equal volumes from each hole may be used to sample simultaneously at the required points. [40 CFR § 60.335(a)(4)]

8. The permittee shall determine compliance with the applicable nitrogen oxides emission limitation in Condition II.A.1 and 2 and 40 CFR § 60.332 and shall meet the performance test requirements of 40 CFR § 60.8 as follows: [40 CFR § 60.335(b)(1)]

a. The nitrogen oxides emission rate (NOx) shall be computed for each run using the following equation:

$$NOx = (NOx_o)(Pr/Po)^{0.5}\ e^{19(Ho - 0.00633)}\ (288\ deg.K/T_a)^{1.53}$$

where:

NOx = emission rate of NOx at 15 percent O2 and ISO standard ambient conditions, volume percent
NOx_o = observed NOx concentration, ppm by volume
Pr = reference combustor inlet absolute pressure at 101.3 kilopascals ambient pressure, mm Hg
Po = observed combustor inlet absolute pressure at test, mm Hg
Ho = observed humidity of ambient air, g H_2O/g air
e = transcendental constant, 2.718
Ta = ambient temperature, deg.K

8.

9. The 3-run performance test required by this permit must be performed within ±5 percent at 30, 35, 75, and 90-to-100 percent of peak load or at four evenly-spaced load points in the normal operating range of the gas turbine, including the minimum point in the operating range and 90-to-100 percent peak load, or at the highest achievable load point if 90-to-100 percent of peak load cannot by physically achieved in practice. [40 CFR § 60.335(b)(2)].

10. The permittee shall perform a visible emissions inspection on gas turbine C-01 after every 400 hours of cumulative operation of this unit using any fuel other than natural gas. If any visible emissions are observed during such an inspection, then the permittee shall conduct an opacity test on unit C-01 using EPA Method 9 within 3 working days of the observation. [40 CFR § 71.6(a)(3)(i)]

II.D. Compliance Schedule [40 CFR §§ 71.5(c)(8)(iii), 71.6(c)(3)]

1. For applicable requirements with which the EPNG Navajo is in compliance, EPNG Navajo will continue to comply with such requirements.

2. For applicable requirements that will become effective during the permit term, the source shall meet such requirements on a timely basis.

3. For purposes of this permit, "applicable requirement" means all of the following as they apply to emissions units in a Part 71 source (including requirements that have been promulgated or approved by US EPA through rulemaking at the time of issuance but have future compliance dates) [40 CFR § 71.2] :

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a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by US EPA through a rulemaking under Title I of the Clean Air Act ("CAA") that implements the relevant requirements of the CAA, including any revisions to that plan promulgated in 40 CFR Part 52;

b. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including Parts C or D, of the CAA;

c. Any standard or other requirement under Section 111 of the CAA, including Section 111(d);

d. Any standard or other requirement under section 112 of the CAA, including any requirement concerning accident prevention under Section 112(r)(7) of the CAA;

e. Any standard or other requirement of the acid rain program under Title IV of the CAA or 40 CFR Parts 72 through 78;

f. Any requirements established pursuant to Section 114(a)(3) or 504(b) of the CAA;

g. Any standard or other requirement under Section 126(a)(1) and (c) of the CAA;

h. Any standard or other requirement governing solid waste incineration under Section 129 of the CAA;

i. Any standard or other requirement for consumer and commercial products under Section 183(e) of the CAA;

j. Any standard or other requirement for tank vessels under Section 183(f) of the CAA;

k. Any standard or other requirement of the program to control air pollution from outer continental shelf sources under Section 328 of the CAA;

l. Any standard or other requirement of the regulations promulgated at 40 CFR Part 82 to protect stratospheric ozone under Title VI of the CAA, unless the EPA Administrator has determined that such requirements need not be contained in a Title V permit; and

m. Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the CAA, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the CAA.

II.E. Operational Flexibility [40 CFR § 71.6(a)(13)(i)][NNOPR § 404(A)][The NNOPR provision is enforceable by NNEPA only.]

1. The permittee is allowed to make a limited class of changes under Section 502(b)(10) of the Clean Air Act within EPNG Navajo that contravene the specific terms of this permit without applying for a permit revision, provided the changes do not exceed the emissions allowable under this permit (whether expressed therein as a rate of emissions or in terms of total emissions) and are not Title I modifications. This class of changes does not include:

    a. Changes that would violate applicable requirements; or

    b. Changes that would contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. [40 CFR § 71.2] [NNOPR § 102(54)]

2. The permittee is required to send a notice to NNEPA and US EPA Region IX at least 7 days in advance of any change made under this provision. The notice must describe the change, when it will occur and any change in emissions, and identify any permit terms or conditions made inapplicable as a result of the change. The permittee shall attach each notice to its copy of this permit.

3. Any permit shield provided in this permit does not apply to changes made under this provision.

III. Facility-Wide or Generic Permit Requirements [40 CFR § 71.6(a)(1)]

Conditions in this section of the permit apply to all emissions units located at the facility.

III.A. Testing Requirements [40 CFR § 71.6(a)(3)]

In addition to the unit specific testing requirements derived from the applicable requirements for each individual unit contained in Section II of this permit, the permittee shall comply with the following generally applicable testing requirements as necessary to ensure that the required tests are sufficient for compliance purposes:

1. Submit to NNEPA and US EPA Region IX a source test plan 30 days prior to any required testing. The source test plan shall include and address the following elements:

    1.0 Purpose of the test
    2.0 Source Description and Mode of Operation during Test
    3.0 Scope of Work Planned for Test
    4.0 Schedule/Dates

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5.0 Process Data to be Collected During Test
6.0 Sampling and Analysis Procedures
6.1 Sampling Locations
6.2 Test Methods
6.3 Analysis Procedures and Laboratory Identification
7.0 Quality Assurance Plan
7.1 Calibration Procedures and Frequency
7.2 Sample Recovery and Field Documentation
7.3 Chain of Custody Procedures
7.4 QA/QC Project Flow Chart
8.0 Data Processing and Reporting
8.1 Description of Data Handling and QC Procedures
8.2 Report Content

2. Unless otherwise specified by an applicable requirement or permit condition in Section II, all source tests shall be performed at maximum operating rates (90% to 110%) of device design capacity.

3. Only regular operating staff may adjust the processes or emission control device parameters during a compliance source test. The permittee must keep a record of adjustments made to any operating parameters within two (2) hours of the start of a test, along with the reason for these adjustments, and this record must be submitted to NNEPA and US EPA Region IX office along with the test results. NNEPA and US EPA Region IX reserves the right to determine whether any operating adjustments made during a source test, that are a result of consultation during the tests with source testing personnel, equipment vendors, or consultants should render the source test invalid.

4. During each test run and for two (2) hours prior to the test and two (2) hours after the completion of the test, the permittee shall record the following information:

   a. Fuel characteristics and/or amount of product processed (if applicable).

   b. Visible emissions.

   c. All parametric data which is required to be monitored in Section II for the emission unit being tested.

   d. Other source specific data identified in Section II such as minimum test length (e.g., one hour, 8 hours, 24 hours, etc.), minimum sample volume, other operating conditions to be monitored, correction of O_2, etc.

5. Each source test shall consist of at least three (3) valid test runs and the emissions results shall be reported as the arithmetic average of all valid test runs and in the terms of the emission limit. There must be at least 3 valid test runs, unless otherwise specified.

6. Source test reports shall be submitted to NNEPA and US EPA Region IX within 60 days of completing any required source test.

III.B. Recordkeeping Requirements [40 CFR §§ 40 CFR 60.7(f), 71.6(a)(3)(ii)][40 CFR § 60.7(f)][NNOPR § 302(F)][The NNOPR provision is enforceable by NNEPA only.]

In addition to the unit specific recordkeeping requirements derived from the applicable requirements for each individual unit and contained in Condition II, the permittee shall comply with the following generally applicable recordkeeping requirements:

1. The permittee shall keep records of required monitoring information that include the following:

   a. The date, place, 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 such analyses; and

   f. The operating conditions as existing at the time of sampling or measurement.

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

3. The permittee shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least five years following the date of such measurements, maintenance, reports and records.

III.C. Reporting Requirements [40 CFR § 71.6 (a)(3)(iii)][NNOPR § 302(G)][The NNOPR provision is enforceable by NNEPA only.]

The permittee shall comply with the following generally applicable reporting requirements.

1. The permittee shall submit to NNEPA and US EPA Region IX reports of any monitoring required under 40 CFR §§ 71.6(a)(3)(i)(A), (B), or (C) each six-month reporting period from January 1 to June 30 and from July 1 to December 31. All reports shall be submitted to NNEPA and US EPA Region IX and shall be postmarked by the 30th day following the end of the reporting period. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Section IV.E.

   a. A monitoring report under this section must include the following:

      i. The company name and address.

      ii. The beginning and ending dates of the reporting period.

      iii. The emissions unit or activity being monitored.

      iv. The emissions limitation or standard, including operational requirements and limitations (such as parameter ranges), specified in the permit for which compliance is being monitored.

      v. All instances of deviations from permit requirements, including those attributable to upset conditions as defined in the permit and including excursions or exceedances as defined under 40 CFR § 64, and the date on which each deviation occurred.

      vi. If the permit requires continuous monitoring of an emissions limit or parameter range, the report must include the total operating time of the emissions unit during the reporting period, the total duration of excess emissions or parameter exceedances during the reporting period, and the total downtime of the continuous monitoring system during the reporting period.

      vii. If the permit requires periodic monitoring, visual observations, work practice checks, or similar monitoring, the report shall include the total time when such monitoring was not performed during the reporting period and at the source's discretion either the total duration of deviations indicated by such monitoring or the actual records of deviations.

      viii. All other monitoring results, data, or analyses required to be reported by the applicable requirement.

      ix. The name, title, and signature of the responsible official who is certifying to the truth, accuracy, and completeness of the report.

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b. Any report required by an applicable requirement, as defined in Condition II.D.3. that provides the same information described in Condition III.C.1.a.i through ix above shall satisfy the requirement under Condition III.C.1.

c. "Deviation," means any situation in which an emissions unit fails to meet a permit term or condition. A deviation is not always a violation. A deviation can be determined by observation or through review of data obtained from any testing, monitoring, or record keeping established in accordance with 40 CFR §§ 71.6(a)(3)(i) and (a)(3)(ii). For a situation lasting more than 24 hours, each 24-hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:

i. A situation when emissions exceed an emission limitation or standard;

ii. A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met.

iii. A situation in which observations or data collected demonstrate noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit.

iv. A situation in which an exceedance or an excursion, as defined in the compliance assurance plan at 40 CFR § 64, occurs.

2. The permittee shall promptly report to NNEPA and US EPA Region IX deviations from permit requirements or start-up, shut-down, or malfunction plan requirements, including those attributable to upset conditions as defined in this permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. Where the underlying applicable requirement contains a definition of "prompt" or otherwise specifies a time frame for reporting deviations, that definition or time frame shall govern. Where the underlying applicable requirement does not define prompt or provide a timeframe for reporting deviations, reports of deviations shall be submitted based on the following schedule:

a. For emissions of a HAP or a toxic air pollutant (as identified in the applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made within 24 hours of the occurrence.

b. For emissions of any regulated pollutant excluding a hazardous air pollutant or a toxic air pollutant that continue for more than two hours in excess of permit requirements, the report must be made within 48 hours.

c. For all other deviations from permit requirements, the report shall be submitted with the semi-annual monitoring report required in Condition III.C.1 of this permit.

3. If any of the conditions in Condition III.C.2.a or b of this permit are met, the source must notify NNEPA and US EPA Region IX by telephone, facsimile or electronic mail sent to [HYPERLINK "mailto:airquality@navajo-nsn.gov"] and [HYPERLINK "mailto:aeo_r9@epa.gov"]., based on the timetable listed. A written notice, certified consistent with Condition III.C.4, must be submitted within 10 working days of the occurrence. All deviations reported under this paragraph must also be identified in the 6-month report required under Condition III.C.1.

4. Any application form, report, or compliance certification required to be submitted by this permit shall contain certification by a responsible official of truth, accuracy, and completeness. All certifications shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

III.D. Stratospheric Ozone and Climate Protection [40 CFR § 82]

1. The permittee shall comply with the standards for labeling of products using ozone-depleting substances pursuant to 40 CFR § 82, Subpart E:

   a. All containers in which a Class I or Class II substance is stored or transported, all products containing a Class I substance, and all products directly manufactured with a Class I substance must bear the required warning statement if it is being introduced into interstate commerce pursuant to 40 CFR § 82.106.

   b. The placement of the required warning statement must comply with 40 CFR § 82.108.

   c. The form of the label bearing the required warning statement must comply with 40 CFR § 82.110.

   d. No person may modify, remove, or interfere with the required warning statement except as described in 40 CFR § 82.112.

2. The permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 CFR Part 82, Subpart F, except as provided for motor vehicle air conditioners (MVACs), MCAV-like appliances and/or small appliances:

   a. Persons opening appliances for maintenance, service, repair, or disposal must comply with required practices under 40 CFR § 82.156.

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b. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with standards for recycling and recovery equipment under 40 CFR § 82.158.

c. Persons performing maintenance, service, repair, or disposal of appliances must be certified through an approved technician certification program pursuant to 40 CFR § 82.161.

d. Persons disposing of small appliances, MVACs, and MVAC-like appliances (as defined at 40 CFR § 82.152) must comply with recordkeeping requirements pursuant to 40 CFR § 82.166.

e. Persons owning commercial or industrial process refrigeration equipment must comply with leak repair requirements under 40 CFR § 82.156.

f. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances pursuant to 40 CFR § 82.166(k).

3. If the permittee manufactures, transforms, destroys, imports, or exports a Class I or Class II controlled substance, the permittee is subject to all requirements in 40 CFR Part 82, Subpart A.

4. If the permittee performs a service on a motor (fleet) vehicle that involves ozone-depleting refrigerant (or a regulated substitute substance) in the MVAC, the permittee is subject to all requirements in 40 CFR Part 82, Subpart B.

   The term "motor vehicle," as used in Subpart B, does not include a vehicle in which final assembly of the vehicle has not been completed. The term "MVAC," as used in Subpart B, does not include the air-tight sealed refrigeration systems used for refrigerated cargo or the systems used on passenger buses using HCFC-22 refrigerant.

5. The permittee shall be allowed to switch from any ozone-depleting substance to any acceptable substitute that is listed pursuant to 40 CFR Part 82, Subpart G.

III.E. Asbestos from Demolition and Renovation [40 CFR § 61, Subpart M]

The permittee shall comply with the requirements of 40 CFR §§ 61.140 through 61.157 for all demolition and renovation projects.

IV. Title V Administrative Requirements

IV.A. Fee Payment [NNOPR Subpart VI][The NNOPR provision is enforceable by NNEPA only]

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1. The permittee shall pay an annual permit fee in accordance with the procedures outlined below. [NNOPR §§ 603(A) and (B)]

   a. The permittee shall pay the annual permit fee by September 1 of each year.

   b. The fee payment shall be in United States currency and shall be paid by money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the order of the Navajo Nation Environmental Protection Agency.

   c. The permittee shall send the fee payment and a completed fee filing form to:

      Navajo Nation Air Quality Control Program
      Operating Permit Program
      P.O. Box 529
      Fort Defiance, AZ 86504

2. The permittee shall submit a fee calculation worksheet form with the annual permit fee by September 1 of each year. Calculations of actual or estimated emissions and calculation of the fees owed shall be computed on the fee calculation worksheets provided by the US EPA. Fee payment of the full amount must accompany each fee calculation worksheet. [NNOPR § 603(A)].

3. The fee calculation worksheet shall be certified as to truth, accuracy, and completeness by a responsible official consistent with 40 CFR § 71.5(d).

4. Basis for calculating the annual fee:

   The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all fee pollutants emitted from the source by the applicable emissions fee (in dollars/ton) in effect at the time of calculation. Emissions of any regulated air pollutant that already are included in the fee calculation under a category of regulated pollutant, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM10, shall be counted only once in determining the source's actual emissions. [NNOPR § 602(A) and (B)(1)]

   a. "Actual emissions" means the amount of emissions calculated using the actual rate of emissions in TPY of any fee pollutant emitted from a Part 71 source over the preceding calendar year and each emissions unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Actual emissions shall not include emissions of any one fee pollutant in excess of 4,000 TPY, or any emissions that come from insignificant activities. [NNOPR §§ 602(B)(1), 102(5)]

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b. Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data.

c. If actual emissions cannot be determined using the compliance methods in the permit, the permittee shall use other federally recognized procedures.

d. The term "fee pollutant" is defined in NNOPR § 102(24).

e. The term "regulated air pollutant" is defined in NNOPR § 102(50), except that for purposes of this permit the term does not include any pollutant that is regulated solely pursuant to 4 N.N.C. § 1121 nor does it include any hazardous air pollutant designated by the Director of NNEPA pursuant to 4 N.N.C. § 1126(B).

f. The permittee should note that the applicable fee is revised each year to account for inflation, and it is available from NNEPA starting on March 1 of each year.

g. The total annual fee due shall be the greater of the applicable minimum fee and the sum of subtotal annual fees for all fee pollutants emitted from the source. [NNOPR § 602(B)(2)]

5. The permittee shall retain, in accordance with the provisions of 40 CFR § 71.6(a)(3)(ii), all fee calculation worksheets and other emissions-related data used to determine fee payment for five years following submittal of fee payment. Emission-related data include emissions-related forms provided by NNEPA and used by the permittee for fee calculation purposes, emissions-related spreadsheets, records of emissions monitoring data, and related support information.

6. Failure of the permittee to pay fees in a timely manner shall subject the permittee to assessment of penalties and interest in accordance with NNOPR § 603(C).

7. When notified by NNEPA of underpayment of fees, the permittee shall remit full payment within 30 days of receipt of notification.

8. A permittee who thinks an NNEPA assessed fee is in error and wishes to challenge such fee shall provide a written explanation of the alleged error to NNEPA along with full payment of the NNEPA assessed fee. NNEPA shall, within 90 days of receipt of the correspondence, review the data to determine whether the assessed fee was in error. If an error was made, the overpayment shall be credited to the account of the permittee.

IV.B. Blanket Compliance Statement [CAA §§ 113(a) and (e)(1), 40 CFR §§ 52.12, 52.33, 60.11(g), 71.6(a)(6)]

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1. The permittee must comply with all conditions of this Part 71 permit. Any permit noncompliance, including, but not limited to, violation of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to Part 71 constitutes a violation of the federal CAA and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. 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. [40 CFR §§ 71.6(a)(6)]

2. Determinations of deviations, continuous or intermittent compliance status, or violations of this permit, are not limited to the applicable testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered in such determinations. [CAA §§ 113(a) and (e)(1), 40 CFR §§ 51.212, 52.12, 52.33, 60.11(g)]

IV.C. Compliance Certifications [40 CFR § 71.6(c)(5)][NNOPR § 302(I)(3)][The NNOPR provision is enforceable by NNEPA only.]

1. The permittee shall submit to NNEPA and US EPA Region IX a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 and covering the previous calendar year. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit and 40 CFR § 71.5(d) [40 CFR § 71.6(c)(5)]

2. The permittee shall submit to NNEPA a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by July 30 of each year and covering the previous six months. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit. This condition is enforceable by NNEPA only. [NNOPR § 302(I)(3)]

3. The certification shall include the following:

   a. Identification of each permit term or condition that is the basis of the certification.

   b. Identification of the method(s) or other means used for determining the compliance status of each term and condition during the certification period.

   c. The compliance status of each term and condition of the permit for the period covered by the certification based on the method or means designated above. The certification shall identify each deviation and take it into account in the compliance certification.

d. A statement whether compliance with each permit term was continuous or intermittent.

e. If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with CAA § 113(c)(2), which prohibits knowingly making a false certification or omitting material information.

IV.D. Duty to Provide and Supplement Information [40 CFR §§ 71.6(a)(6)(v), 71.5(b)][NNOPR § 301(E)][The NNOPR provision is enforceable by NNEPA only.]

The permittee shall furnish to NNEPA, within a reasonable time, any information that NNEPA 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 NNEPA copies of records that are required to be kept pursuant to the terms of the permit, including information claimed to be confidential. (Confidential information may be provided to US EPA Region IX only, pursuant to 40 CFR § 71.6(a)(6)(v), at the permittee's discretion.) Information claimed to be confidential should be accompanied by a claim of confidentiality according to the provisions of 40 CFR Part 2, Subpart B. The permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall promptly submit to NNEPA such supplementary facts or corrected information. The permittee shall also provide additional information to NNEPA as necessary to address any requirements that become applicable to the facility after this permit is issued.

IV.E. Submissions [40 CFR §§ 71.5(d), 71.6][NNOPR § 702][The NNOPR provision is enforceable by NNEPA only.]

Any document required to be submitted with this permit shall be certified by a responsible official as to truth, accuracy, and completeness. Such certifications shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. All documents required to be submitted, including reports, test data, monitoring data, notifications, compliance certifications, fee calculation worksheets, and applications for renewals and permit modifications shall be submitted to NNEPA and US EPA Region IX, as applicable, at the respective addresses below:

Navajo Nation Air Quality Control Program
Operating Permit Program
P.O. Box 529
Fort Defiance, AZ 86504

For Permit Renewal and Modification Applications:

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Permits Office Chief, Air-3
US EPA Region IX
Air Division
75 Hawthorne Street
San Francisco, CA 94105-3901

For All Other Submissions:

Manager, Air & Tri-Section ENF-2-1
US EPA Region IX
Enforcement Division
75 Hawthorne Street
San Francisco, CA 94105-3901

IV.F. Severability Clause [40 CFR § 71.6(a)(5)][NNOPR § 302(A)(5)][The NNOPR provision is enforceable by NNEPA only.]

The provisions of this permit are severable. In the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.

IV.G. Permit Actions [40 CFR § 71.6(a)(6)(iii)][NNOPR § 406][The NNOPR provision is enforceable by NNEPA only.]

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.

IV.H. Administrative Permit Amendments [40 CFR § 71.7(d)][NNOPR § 405(C)][The NNOPR provision is enforceable by NNEPA only.]

The permittee may request the use of administrative permit amendment procedures for a permit revision that:

1. Corrects typographical errors.

2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source.

3. Requires more frequent monitoring or reporting by the permittee.

4. Allows for a change in ownership or operational control of a source where NNEPA determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to NNEPA.

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5. Incorporates into the permit the requirements from preconstruction review permits authorized under a US EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of 40 CFR §§ 71.7, 71.8 and 71.10 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in 40 CFR § 71.6.

6. Incorporates any other type of change which NNEPA has determined to be similar to those listed above in Conditions IV.H.1 through 5.

IV.I. Minor Permit Modifications [40 CFR § 71.7(e)(1)][NNOPR § 405(D)][The NNOPR provision is enforceable by NNEPA only.]

1. The permittee may request the use of minor permit modification procedures only for those modifications that:

   a. Do not violate any applicable requirement.

   b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit.

   c. Do not require or change a case-by-case determination of an emissions limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.

   d. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

      i. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of CAA Title I; and

      ii. An alternative emissions limit approved pursuant to regulations promulgated under CAA § 112(i)(5).

   e. Are not modifications under any provision of CAA Title I.

   f. Are not required to be processed as a significant modification.

2. Notwithstanding the list of changes eligible for minor permit modification procedures in Condition IV.I.1 above, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent

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that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by US EPA.

3. An application requesting the use of minor permit modification procedures shall meet the requirements of 40 CFR § 71.5(c) and shall include the following:

   a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

   b. The source's suggested draft permit;

   c. Certification by a responsible official, consistent with 40 CFR § 71.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

   d. Completed forms for NNEPA to use to notify affected States and the Administrator as required under 40 CFR § 71.8.

4. The permittee may make the change proposed in its minor permit modification application immediately after it files such application. After the permittee makes the change allowed by the preceding sentence, and until NNEPA takes any of the actions authorized by 40 CFR §§ 71.7(e)(1)(iv)(A) through (C), the permittee must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify. If the permittee fails to comply with its proposed permit terms and conditions during this time period, however, the existing permit terms and conditions it seeks to modify may be enforced against it.

5. The permit shield under 40 CFR § 71.6(f) may not extend to minor permit modifications.

IV.J. Significant Permit Modifications [40 CFR §§ 71.5(a)(2), 71.7(e)(3)][NNOPR §§ 301(C), 405(E)][The NNOPR provisions are enforceable by NNEPA only.]

1. The permittee must request the use of significant permit modification procedures for those modifications that:

   a. Do not qualify as minor permit modifications or as administrative amendments.

   b. Are significant changes in existing monitoring permit terms or conditions.

   c. Are relaxations of reporting or recordkeeping permit terms or conditions.

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2. Nothing herein shall be construed to preclude the permittee from making changes consistent with Part 71 that would render existing permit compliance terms and conditions irrelevant.

3. The permittee must meet all requirements of Part 71 for applications for significant permit modifications. Specifically, for the application to be determined complete, the permittee must supply all information that is required by 40 CFR § 71.5(c) for permit issuance and renewal, but only that information that is related to the proposed change.

IV.K. Reopening for Cause [40 CFR § 71.7(f)][NNOPR § 406][The NNOPR provision is enforceable by NNEPA only.]

1. NNEPA or US EPA shall reopen and revise the permit prior to expiration under any of the following circumstances:

   a. Additional requirements under the CAA become applicable to a major Part 71 source with a remaining permit term of 3 or more years.

   b. NNEPA or US 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.

   c. NNEPA or US EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

2. Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists, and shall be made as expeditiously as practicable.

3. Reopening for cause by NNEPA or EPA shall not be initiated before notice of such intent is provided to the permittee by NNEPA or EPA at least 30 days in advance of the date that the permit is to be reopened, except that NNEPA or EPA may provide a shorter time period in the case of an emergency.

4. Reopening for cause by US EPA shall follow the procedures set forth in 40 CFR § 71.7(g).

IV.L. Property Rights [40 CFR § 71.6(a)(6)(iv)][NNOPR § 302(B)(5)][The NNOPR provision is enforceable by NNEPA only.]

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

IV.M. Inspection and Entry [40 CFR § 71.6(c)(2)][NNOPR § 302(I)][The NNOPR provision is enforceable by NNEPA only.]

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Upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized representatives from NNEPA and US EPA to perform the following:

1. Enter upon the permittee's premises where a Part 71 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

4. As authorized by the federal CAA, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

IV.N. Emergency Provisions [40 CFR § 71.6(g)][NNOPR § 305][The NNOPR provision is enforceable by NNEPA only.]

1. In addition to any emergency or upset provision contained in any applicable requirement, the permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, the permittee shall demonstrate the affirmative defense of emergency 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 emissions standards, or other requirements in this permit; and

    d. The permittee submitted notice of the emergency to NNEPA and US EPA within 2 working days of the time when emissions limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. This notice fulfills the requirements of Condition III.C.2 of this permit.

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

2. 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 emissions 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 preventive maintenance, careless or improper operation, or operator error.

IV.O. Transfer of Ownership or Operation [40 CFR § 71.7(d)(1)(iv)][NNOPR § 405(C)][The NNOPR provision is enforceable by NNEPA only.]

A change in ownership or operational control of this facility may be treated as an administrative permit amendment if NNEPA determines no other change in this permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to NNEPA.

IV.P. Off-Permit Changes [40 CFR § 71.6(a)(12)][NNOPR § 404(B)][The NNOPR provision is enforceable by NNEPA only.]

The permittee is allowed to make certain changes without a permit revision, provided that the following requirements are met:

1. Each change is not addressed or prohibited by this permit;

2. Each change must comply with all applicable requirements and may not violate any existing permit term or condition;

3. Changes under this provision may not include changes or activities subject to any requirement under CAA Title IV or that are modifications under any provision of CAA Title I;

4. The permittee must provide contemporaneous written notice to NNEPA and US EPA Region IX of each change, except for changes that qualify as insignificant activities under 40 CFR § 71.5(c)(11). The written notice must describe each change, the date of the change, any change in emissions, pollutants emitted and any applicable requirements that would apply as a result of the change; and

5. The permittee must keep a record describing all changes that result in emissions of any regulated air pollutant subject to any applicable requirement not otherwise regulated under this permit, and the emissions resulting from those changes.

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IV.Q. Permit Expiration and Renewal [40 CFR §§ 71.5(a)(1)(iii), 71.6(a)(11), 71.7(b), 71.7(c)(1)(i) and (ii)][NNOPR §§ 301(B)(2) and 401(F)][The NNOPR provision is enforceable by NNEPA only.]

1. This permit shall expire upon the earlier occurrence of the following events:

   a. Five years elapse from the date of issuance; or

   b. The source is issued a Part 70 permit by a US EPA-approved permitting authority.

2. Expiration of this permit terminates the permittee's right to operate unless a timely and complete permit renewal application has been submitted on or before a date at least six months, but not more than 18 months, prior to the date of expiration of this permit.

3. If the permittee submits a timely and complete permit application for renewal consistent with 40 CFR § 71.5(a)(2), but NNEPA has failed to issue or deny the renewal permit, the permit shall not expire until the renewal permit has been issued or denied.

4. The permittee's failure to have a current Part 71 permit is not a violation of Part 71 until NNEPA takes final action on the permit renewal application. This protection shall cease to apply if, subsequent to a completeness determination under 40 CFR § 71.7(a)(4), the permittee fails to submit any additional information identified as being needed to process the application by the deadline specified in writing by NNEPA.

5. Renewal of this permit is subject to the same procedural requirements that apply to initial permit issuance, including those for public participation, affected State, and tribal review.

6. The application for renewal shall include the current permit number, description of permit revisions and off-permit changes that occurred during the permit term, any applicable requirements that were promulgated and not incorporated into the permit during the permit term, and other information required by the application.

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