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**TITLE V PERMIT TO OPERATE**

<u>PERMIT #:</u>	<u>FACILITY NAME:</u>	<u>LOCATION:</u>	<u>COUNTY:</u>	<u>STATE:</u>
NN-OP 00-02	RESOLUTE NATURAL RESOURCES COMPANY – ANETH UNIT	MONTEZUMA CREEK	SAN JUAN	UT
<u>ISSUE DATE:</u>	<u>EXPIRATION DATE:</u>	<u>AFS PLANT ID:</u>	<u>PERMITTING AUTHORITY:</u>	
00/00/00	00/00/00	04-017-NAV01	NNEPA	

**ACTION/STATUS:** INITIAL PERMIT ISSUANCE

Dale E. Cantwell, Vice President of Operations  
 Resolute Natural Resources Company  
 1675 Broadway, Suite 1950  
 Denver, Colorado 80202

Re: Issuance of Title V Operating Permit to the Resolute Aneth Unit.

Dear Mr. Cantwell:

This permit is being issued and administered by the Navajo Nation EPA (“NNEPA”) pursuant to the Delegation Agreement between EPA Region IX and NNEPA, dated October 15, 2004. In accordance with the provisions of Title V of the Clean Air Act, 40 CFR Part 71, Navajo Nation Operating Permit Regulations, and all other applicable rules and regulations, the Permittee, Resolute Natural Resources Company – Aneth Unit, is authorized to operate air emission units and to conduct other air pollutant-emitting activities in accordance with the permit conditions listed in this permit.

Terms and conditions not otherwise defined in this permit have the same meaning as assigned to them in the referenced regulations. All terms and conditions of the permit are enforceable by NNEPA and by EPA, as well as by citizens, under either or both the Navajo Nation Clean Air Act and the Clean Air Act, as applicable. If all proposed control measures and/or equipment are not installed and/or properly operated and maintained, this will be considered a violation of the permit.

This permit is valid for a period of five (5) years and shall expire at midnight on the date five (5) years after the date of issuance unless a timely and complete renewal application has been submitted at least 6 months but not more than 18 months prior to the date of expiration. The permit number cited above should be referenced in future correspondence regarding this facility.

\_\_\_\_\_ Date

\_\_\_\_\_ Stephen B. Etsitty  
 Executive Director  
 Navajo Nation Environmental Protection Agency

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## ABBREVIATIONS AND ACRONYMS

Administrator	Administrator of the United States Environmental Protection Agency
acfm	actual cubic feet per minute
AFS	AIRS Facility Subsystem
AIRS	Aerometric Information Retrieval System
AR	Acid Rain
Btu	British Thermal Units
CAA (“Act”)	Federal Clean Air Act, as amended [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CFR	Code of Federal Regulations
CO	Carbon monoxide
CO <sub>2</sub>	Carbon dioxide
EPA	United States Environmental Protection Agency
gal	gallon
H <sub>2</sub> S	Hydrogen sulfide
HAP	Hazardous Air Pollutant
hr	hour
Id. No.	Identification Number
kg	kilogram
lb	pound
lb-mole	pound mole
m/s	meter per second
MACT	Maximum Achievable Control Technology
Mg	megagram
MMBtu	million British Thermal Units
MMscf	million standard cubic feet
NESHAP	National Emission Standards for Hazardous Air Pollutants
NO <sub>x</sub>	Nitrogen oxides
NCAA	Navajo Nation Air Pollution Prevention and Control Act as amended April 22, 2004
NNOPR	Navajo Nation Operating Permit Regulations as amended July 8, 2004
NSPS	New Source Performance Standards
NSR	New Source Review
PM	Particulate matter
PM <sub>10</sub>	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 feet
scfm	standard cubic feet per minute
SO <sub>2</sub>	Sulfur dioxide
tpy	tons per year
VOC	Volatile Organic Compounds
VRU	Vapor Recovery Unit

## I. SOURCE IDENTIFICATION

- Company: Resolute Natural Resources Company  
1675 Broadway, Suite 1950  
Denver, Colorado 80202
- Plant Name: Aneth Unit
- Plant Location: near Montezuma Creek, San Juan County, Utah on the Navajo Reservation at the following locations:  
CO<sub>2</sub> Recycle Facility – SENE Section 22, T40S, R24E  
Tank Battery 21 – SENW Section 21, T40S, R24E  
Header 21-14 – SWNE Section 14, T40S, R24E  
Header 21-15 – NENE Section 15, T40S, R24E  
Header 21-16 – SENW Section 16, T40S, R24E  
Header 21-22 – SWNE Section 22, T40S, R24E
- Permit Contact: Patrick E. Flynn, Environmental Health & Safety Manager  
Resolute Natural Resources Company  
1675 Broadway, Suite 1950  
Denver, Colorado 80202  
Phone: (303) 534-4600, extension 145  
Electronic mail: pflynn@rnrc.net
- Facility Contact: Roger Atcitty, Operations Supervisor  
Resolute Natural Resources Company  
Montezuma Creek, Utah 84534  
Phone: (435) 651-3277, extension 103  
Electronic mail: ratcitty@rnrc.net
- Responsible Official:  
Dale E. Cantwell, Vice President of Operations  
Resolute Natural Resources Company  
1675 Broadway, Suite 1950  
Denver, Colorado 80202  
Phone: (303) 534-4600, extension 130  
Electronic mail: dcantwell@rnrc.net
- EPA Region: IX
- Contact Shaheerah Kelly  
(415) 947-4156
- Tribe: Navajo Nation
- Reservation: Navajo Reservation
- Tribal Contact: Wilson Laughter  
(928) 729-4093
- SIC Code: 1311

**Process Description:** The Aneth Unit is an oil and natural gas production facility. The Aneth Unit consists of several oil wells, headers 21-14, 21-15, 21-16 and 21-22, Tank Battery 21, a CO<sub>2</sub> Recycle Facility, and other associated equipment. Two (2) oil heater treaters and two (2) natural gas-fired turbines have been shutdown and no longer operate but the units are still located at the Source. Control devices at the Source include two (2) vapor recovery units (VRU) and several flares.

## II. SOURCE-WIDE REQUIREMENTS

Table 1-Emissions-generating units and activities

Emission Unit ID No.	Unit Description	Associated Control Equipment	Installation Date
21-15-F-1, 21-16-F-1, 21-22-F-1, 21-22-F-2, 21-F-1	Process and emergency flares at Headers 21-14, 21-15, 21-16, 21-22, and Tank Battery 21 <sup>1</sup>	None	1964
21-ST-1, 21-ST-2, 21-ST-3, 21-ST-4	Tank Battery 21 oil storage tanks, four (4) 3000 bbl tanks with VRU	Vapor Recovery Unit 21-ST-VRU and Flare 21-F-1	1991
INJ-F-1	CO <sub>2</sub> Recycle Facility flare	None	1999
INJ-St-1, INJ-ST-2, ING-ST-3	Production oil storage tanks at Recycle Facility	Vapor Recovery Unit INJ-ST-VRU and Flare INJ-F-1	1999
INJ-COMP-1	Electric compressor engine	None	2000
INJ-Fugitives, 21-Fugitives, Road Fugitives	VOC and HAP fugitive emissions from components and road	None	-
TRBN-1, TRBN-2	Solar turbines #1 and #2 <sup>2</sup>	None	1975
21-OT-1, 21-OT-2	Oil heater/treaters <sup>3</sup>	None	1973

<sup>1</sup>According to Resolute's January 2, 2007 application update, flare 21-14-F-1 at Header 21-14 was removed in 2000.

<sup>2</sup>These emission units are shutdown and inactive, but are currently located at the Aneth Unit site.

<sup>3</sup>These emission units are shutdown and inactive, but are currently located at the Aneth Unit site.

### II.A. Emission Limitations and Requirements [40 CFR § 71.6(b) and CAA § 304(f)]

1. The following emission limits shall apply at all times to the Source which consists of Tank Battery 21, a CO<sub>2</sub> Recycle Facility, and Headers 21-14, 21-15, 21-16 and 21-22.
2. Emissions of VOC shall not exceed 240.0 tpy based on a 12-month rolling sum.
3. Emissions of NO<sub>x</sub> shall not exceed 21.92 tpy based on a 12-month rolling sum.
4. Emissions of SO<sub>2</sub> shall not exceed 153.10 tpy based on a 12-month rolling sum.
5. Emissions of CO shall not exceed 112.70 tpy based on a 12-month rolling sum.
6. Emissions of any single HAP shall not exceed 9.0 tpy based on a 12-month rolling sum from the Production Oil Storage Tanks at Tank Battery 21.
7. Emissions of any single HAP shall not exceed 9.0 tpy based on a 12-month rolling sum from the Production Oil Storage Tanks at the CO<sub>2</sub> Recycle Facility.
8. Emissions of total HAPs shall not exceed 24.0 tpy based on a 12-month rolling sum from the Production Oil Storage Tanks at Tank Battery 21.

9. Emissions of total HAPs shall not exceed 24.0 tpy based on a 12-month rolling sum from the Production Oil Storage Tanks at the CO<sub>2</sub> Recycle Facility.
10. The Permittee shall not operate the following emission units that have been shutdown and are currently located at the Source: TURB-1 and TURB-2 (two 10.42 MMbtu/hr Solar gas turbines).
11. The Permittee shall not operate the following emission units that have been shutdown and are currently located at the Source: 21-OT-1, 21-OT-2 (two 2.0 MMbtu/hr oil heater treaters).
12. The permittee shall not have a threshold quantity of any regulated substance listed in 40 CFR § 68.130 in any process at the Source.

**II.B. Control Requirements [40 CFR § 71.6(b) and CAA § 304(f)]**

1. Vapor Recovery Units (VRUs) and Production Oil Storage Tanks
  - a. The Permittee shall operate the production oil storage tanks at Tank Battery 21 and the CO<sub>2</sub> Recycle Facility with a VRU. Each VRU shall be connected to the production oil storage tanks through a closed-vent system. The gases collected by the VRUs shall be sent to a gas gathering system or incinerated in a flare. The gases stored in the production oil storage tanks and recovered in each VRU shall not be vented to the atmosphere.
  - b. The VRUs shall be in operation while the storage tanks are receiving fluids, except during periods of malfunction, maintenance, or repair. Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions. The Permittee shall keep records of the time and duration of any periods of malfunction, maintenance or repair, and the specific maintenance or repair activity.
  - c. The Permittee shall re-direct flash gas from the storage tanks to any flare at the Source during periods in which any VRU is not operating due to a malfunction, maintenance, or repair. The Permittee shall keep records of these periods. The Permittee shall monitor flash gas sent to the flares and calculate emissions according to the flare requirements in Section II.C of this permit.
  - d. The cover and all openings on the cover (e.g., access hatches, sampling ports, and gauge wells) of each production oil storage tank shall be designed to form a continuous barrier over the entire surface area of the liquid in the storage tank. Each cover opening shall be secured in a closed, sealed position (e.g., covered by a gasketed lid or cap) whenever material is in the storage tank on which the cover is installed except during those times when it is necessary to use an opening as follows: (1) to add material to, or remove material from the unit (this includes openings necessary to equalize or balance the internal pressure of the unit following changes in the level of the material in the unit); (2) to inspect or sample

the material in the unit; (3) to inspect, maintain, repair, or replace equipment located inside the unit; or (4) to vent liquids, gases, or fumes from the unit through a closed-vent system to the VRU system.

- e. A copy of the owner/operator instruction manual for the VRUs shall be kept at the nearest manned facility and accessible to personnel at the Source.

2. Flares

- a. The Permittee shall use flares INJ-F-1, 21-F-1, 21-15-F-1, 21-16-F-1, 21-22-F-1, and 21-22-F-2 to reduce VOC and HAP emissions from the CO<sub>2</sub> Recycle Facility, Tank Battery 21, and Headers 21-14, 21-15, 21-16 and 21-22.
- b. Each flare shall be operated at all times when emissions may be vented to them.
- c. Flare INJ-F-1 shall be steam-assisted, air-assisted, or non-assisted and operated with a pilot flame present at all times.

**II.C. Monitoring and Testing Requirements [40 CFR § 71.6(a)(3)(i); 40 CFR § 71.6(a)(3)(i)(A) and NNOPR § 302(E)]**

1. Vapor Recovery Units and Production Oil Storage Tanks.

The total amount of oil or hydrocarbon fluid transferred to each production oil storage tanks shall be recorded monthly. The total amount of gas recovered by the VRUs shall be measured and recorded daily.

- a. The VRUs, storage tanks, and closed-vent systems shall be monitored as follows: for valves, flanges, tank hatch gaskets, joints, seams, and other connections that are permanently and semi-permanently sealed, the Permittee shall: (i) use a portable hydrocarbon detection instrument monthly to demonstrate that the closed-vent system has no leaks; leaks shall be defined as instrument reading greater than 500 parts per million by volume above background; (ii) conduct annual visual inspections for visible, audible, or olfactory indication of leaks; (iii) conduct monthly visual inspections or use a portable hydrocarbon detection instrument for defects that could result in air emissions (defects include, but are not limited to, visible cracks, holes, or gaps in piping; loose connections; or broken or missing caps or other closure devices); and (iv) in the event that a leak or defect is detected, the owner or operator shall repair the leak or defect or replace components as soon as practicable, but not later than 15 days after the leak or defect is detected.
- b. By the 30<sup>th</sup> day of each month, the Permittee shall calculate HAP and VOC emissions for the previous month from the VRUs and storage tanks, including emissions due to working, breathing, and flash losses from the storage tanks. The Permittee shall keep records of the following information: (A) the calculation method or model used, such as the latest version of EPA TANKS model or E & P Tank model, to determine HAP and VOC emissions; (B) a record of input and output parameters used in the calculation method or model (inputs to the calculation method or model shall be representative of actual operating conditions); (C) the calculations used to determine emissions estimates; (D) any liquid and/or gas analysis completed and a description of gas sampling procedures



and test method(s) used to conduct the gas analysis; and (E) any assumptions used to determine emissions estimates. The Permittee shall not use a calculation method if the site-specific factors for the storage tanks are beyond the specific constraints for the calculation method.

- c. The Permittee shall perform a rolling 12-month annual emission calculation for HAPs and VOCs to verify compliance with the emission limits.
- d. The Permittee shall calculate the 12-month rolling sum for each pollutant by summing the monthly emissions for each production oil storage tank, and adding the sum to the total emissions for the previous 11 months. The calculations for each month must be completed by the 30<sup>th</sup> day of the following month. The Permittee shall maintain all records of actual operating data and calculations.

## 2. Flares

- a. The Permittee shall operate and monitor each flare to assure that each flare is operated and maintained in conformance with its design.
- b. The Permittee shall continuously measure and record the total volume of gas vented to and combusted in flares 21-F-1, 21-15-F-1, 21-16-F-1, 21-22-F-1, 21-22-F-2 and INJ-F-1. On a monthly basis, the Permittee shall determine the total volume of gas combusted in each flare during all times, including normal operation, malfunctions, emergencies, and upsets. The Permittee shall calculate and record the total emissions from each flare. The volume of gas shall be recorded in MMscf on a monthly basis.
- c. Flares 21-F-1, 21-15-F-1, 21-16-F-1, 21-22-F-1 and 21-22-F-2 shall be equipped and operated at all times with automatic continuous spark igniters. The Permittee shall inspect the flares monthly to assure the continuous spark igniters for the flares are operating properly. The Permittee shall take corrective action as soon as practicable but not later than 15 days if the continuous spark igniters for the flares malfunction or are inoperable. No gas shall be sent to any flare that has an inoperable continuous spark igniter.
- d. The Permittee shall equip and operate a continuous heat sensing monitoring device on flare INJ-F-1 that indicates continuous ignition of the pilot flame. The heat sensing monitoring device shall be operated at all times. Flare INJ-F-1 shall be equipped with an alarm that informs Source operators of any period when a pilot flame is not present in the flare and no gas shall be sent to the flare until a pilot flame is restored.
- e. The Permittee shall operate flare INJ-F-1 with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours. EPA Test Method 22 in Appendix A of 40 CFR Part 60 shall be used to determine the compliance of flares with the visible emission provisions. The observation period is 2 hours and shall be used according to Method 22. The Permittee shall perform monthly visible emissions tests during a flaring event at flare INJ-F-1 using Method 22.
- f. On a semi-annual basis, the Permittee shall determine the Btu, sulfur, HAP, and VOC content of the gas vented to each flare through a gas analysis using the appropriate ASTM or EPA test methods. The Btu content shall be based on the

higher heating value of the gas. The frequency of the gas analyses shall move to annual after the second year. The frequency will revert back to semi-annual if the results show noncompliance of the emission limitations.

- g. By the 30<sup>th</sup> day of each month, the Permittee shall calculate monthly emissions from each flare using the monthly fuel consumption, the most recent higher heating value of the fuel, sulfur, HAP, and VOC content from the most recent monthly gas analysis, EPA-approved emission factors (e.g., AP-42) for NO<sub>x</sub> and CO, and the destruction efficiency of each flare. Monthly emissions shall be calculated using the following equations:

- i. for NO<sub>x</sub> and CO:

$$E_x = EF \times Q \times H$$

Where:

$E_x$  = Emissions rate for the pollutant in tons/month

$EF$  = Emission factor for the pollutant

$Q$  = Fuel use in MMscf/month

$H$  = Btu content of the fuel based on the higher heating value in MMBtu/MMscf.

- ii. for SO<sub>2</sub>:

$$E_{SO_2} = Q \times Y_{H_2S} \times \frac{1}{C} \times M_{SO_2} \times MW_{SO_2}$$

Where:

$E_{SO_2}$  = SO<sub>2</sub> emissions rate in tons/month

$Q$  = Fuel use in MMscf/month

$Y_{H_2S}$  = Mole fraction of H<sub>2</sub>S in inlet gas

$C$  = Molar volume of ideal gas, 379 scf/lb-mole at 60 degrees Fahrenheit and 1 atmosphere

$M_{SO_2}$  = Molar conversion ratio from H<sub>2</sub>S to SO<sub>2</sub>, lb-mole SO<sub>2</sub>/lb-mole H<sub>2</sub>S (based on stoichiometry and assuming complete conversion of H<sub>2</sub>S to SO<sub>2</sub>,  $M_{SO_2} = 1$ )

$MW_{SO_2}$  = Molecular weight of SO<sub>2</sub>, lb SO<sub>2</sub>/lb-mole SO<sub>2</sub>

iii. for HAP and VOC:

$$E_x = Q \times Y_x \times \frac{1}{C} \times MW_x \times \left(1 - \frac{DRE}{100}\right)$$

Where:

$E_x$  = Emissions rate for the pollutant in tons/month

$Q$  = Fuel use in MMscf/month

$Y_x$  = Mole fraction of the pollutant in the inlet stream in lbmole<sub>x</sub>/lbmole

$C$  = Molar volume of ideal gas, 379 scf/lb-mole at 60 degrees Fahrenheit

$MW_x$  = Molecular weight of pollutant

$DRE$  = Destruction and removal efficiency of the flare

- h. The Permittee shall calculate the 12-month rolling sum of emissions of NO<sub>x</sub>, CO, SO<sub>2</sub>, HAP, and VOC for flares 21-F-1, 21-15-F-1, 21-16-F-1, 21-22-F-1, 21-22-F-2 and INJ-F-1 to verify compliance with the emission limits. Each month a new twelve month sum shall be calculated using the previous twelve months data.
- i. The Permittee shall calculate the 12-month rolling sum for each pollutant by summing the monthly emissions for flares 21-F-1, 21-15-F-1, 21-16-F-1, 21-22-F-1, 21-22-F-2 and INJ-F-1, and adding the sum to the total emissions for the previous 11 months. The calculations for each month must be completed by the 30<sup>th</sup> day of the following month. The Permittee shall maintain all records of actual operating data and calculations.
- j. The Permittee shall perform the following test requirements for flare INJ-F-1 annually to demonstrate that the flare is operating as designed:
- i. The Permittee has the choice of adhering to the requirements of subparagraph (1) as follows, or the heat content specifications in subparagraph (2) and the maximum tip velocity specifications in subparagraphs (3) or (4) as follows:
- (1) The flare shall have a diameter of 3 inches or greater, is nonassisted, have a hydrogen content of 8.0 percent (by volume) or greater, and is designed for and operated with an exit velocity less than 37.2 m/sec (122 ft/sec) and less than the velocity  $V_{max}$ , as determined by the following equation:

$$V_{max} = (X_{H_2} - K_1) \times K_2$$

Where:

$V_{max}$  = Maximum permitted velocity, m/sec

$K_1$  = Constant, 6.0 volume-percent hydrogen

$K_2$  = Constant, 3.9(m/sec)/volume-percent hydrogen

$X_{H_2}$  = The volume-percent of hydrogen, on a wet basis, as calculated by using the American Society for Testing and Materials (ASTM) Method D1946-77.

The actual exit velocity of a flare shall be determined by dividing the volumetric flow rate of gas being combusted (in units of emission standard temperature and pressure), as determined by Test Method 2, 2A, 2C, or 2D in appendix A to 40 CFR Part 60, as appropriate, by the unobstructed (free) cross-sectional area of the flare tip.

- (2) The flare shall be used only with the net heating value of the gas being combusted at 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted at 7.45 MJ/scm (200 Btu/scf) or greater if the flare is non-assisted. The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K \sum_{i=1}^n C_i H_i$$

where:

$H_T$  = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of off-gas is based on combustion at 25 degrees Celsius and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 degrees Celsius.

$K$  = Constant  $1.740 \times 10^{-7}$  (1/ppm)(gmole/scm)(MJ/kcal) where the standard temperature for (gmole/scm) is 20 degrees Celsius.

$C_i$  = Concentration of sample component  $i$  in ppm on a wet basis, as measured for organics by Reference Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-77 or 90 (Reapproved

1994).

$H_i$  = Net heat of combustion of sample component  $i$ , kcal/g-mole at 25 degrees Celsius and 760 mmHg. The heats of combustion may be determined using ASTM D2382-76 or 88 or D4809-95 if published values are not available or cannot be calculated.

$n$  = Number of sample components

(3) If the flare is a steam-assisted and nonassisted flare, the Permittee shall operate the flare as follows:

(A) It shall be designed for and operated with an exit velocity less than 18.3 m/sec (60 ft/sec), except as provided in subparagraphs (B) and (C) specified as follows. The actual exit velocity of a flare shall be determined by dividing the volumetric flow rate of gas being combusted (in units of emission standard temperature and pressure), as determined by Test Method 2, 2A, 2C, or 2D in appendix A to 40 CFR Part 60, as appropriate, by the unobstructed (free) cross-sectional area of the flare tip.

(B) A flare designed for and operated with an exit velocity, equal to or greater than 18.3 m/sec (60 ft/sec) but less than 122 m/sec (400 ft/sec), is allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf). The exit velocity of a flare shall be determined by dividing the volumetric flow rate of gas being combusted (in units of emission standard temperature and pressure), as determined by Test Method 2, 2A, 2C, or 2D in appendix A to 40 CFR Part 60, as appropriate, by the unobstructed (free) cross-sectional area of the flare tip.

(C) A flare designed for and operated with an exit velocity that is less than the velocity  $V_{max}$ , as determined by the method specified as follows, but less than 122 m/sec (400 ft/sec) is allowed. The exit velocity of the flare shall be determined by dividing the volumetric flow rate of gas being combusted (in units of emission standard temperature and pressure), as determined by Test Method 2, 2A, 2C, or 2D in appendix A to 40 CFR Part 60, as appropriate, by the unobstructed (free) cross-sectional area of the flare tip. The maximum permitted velocity,  $V_{max}$ , for flares complying with this paragraph shall be determined by the following equation:

$$\text{Log}_{10}(V_{max}) = \frac{H_T + 28.8}{31.7}$$

Where:

$V_{max}$  = Maximum permitted velocity, m/sec

28.8 = Constant

31.7 = Constant

$H_T$  = The net heating value as determined earlier in this permit

- (4) If the flare is an air-assisted flare, it shall be operated with an exit velocity less than the velocity  $V_{max}$ . The maximum permitted velocity,  $V_{max}$ , for air-assisted flares shall be determined by the following equation:

$$V_{max} = 8.71 + 0.708(H_T)$$

Where:

$V_{max}$  = Maximum permitted velocity, m/sec

8.71 = Constant

0.708 = Constant

$H_T$  = The net heating value as determined earlier in this permit

#### **II.D. Recordkeeping Requirements [40 CFR § 71.6(a)(3)(ii) and NNOPR § 302(F)]**

1. The Permittee shall retain the following records at the stationary source for a period of five (5) years from the date of monitoring, sampling, measurement, or reporting. All applicable records shall be maintained at the nearest manned facility and shall be readily accessible.
  - a. Monthly emissions calculations for all pollutant-emitting units.
  - b. Each 12-month rolling sum for HAPs, VOCs, SO<sub>2</sub>, CO and NO<sub>x</sub>.
  - c. Monthly records of the total amount of oil or hydrocarbon fluid transferred and stored in each production oil storage tank.
  - d. Monthly records of hydrocarbon fluid and natural gas throughput for the Source.
  - e. Daily records of the total amount of gas recovered in each VRU.
  - f. A written log of the following information for each monthly and annual inspection for the VRUs, storage tanks and closed vent systems: (i) the date and time of the observation, and the name of the observer; (ii) the method (i.e., visual

or detection instrument); (iii) the components inspected; (iv) whether any leaks or defects were detected or observed; (v) a description of any corrective actions taken, repairs made and components replaced; and (vi) the date(s) of corrective actions, repairs and replacement of components.

- g. Times and durations of each pressure release.
- h. All records of any times and durations when the VRUs and flares were not in operation.
- i. For the VRUs, any records of the times and duration of any periods of malfunction, maintenance or repair, and the specific maintenance or repair activity.
- j. Records of periods when flash gas from the oil production storage tanks was re-directed from the VRUs to any flares.
- k. All records of gas analyses and testing.
- l. The monthly total volume of gas vented to each flare.
- m. Records of flare design for flares INJ-F-1, 21-F-1, 21-15-F-1, 21-16-F-1, 21-22-F-1 and 21-22-F-2 (including whether the flare INJ-F-1 is steam-assisted, air-assisted, or non-assisted).
- n. A written log of the monthly inspections of flares 21-F-1, 21-15-F-1, 21-16-F-1, 21-22-F-1 and 21-22-F-2 containing the following information for each inspection: (i) the date and time of the inspection, and the name of the observer; (ii) a description of any corrective actions taken and repairs made; and (iii) the date(s) of corrective actions and repairs.
- o. For flare INJ-F-1, all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made, and all periodic records and other recorded periods when the pilot flame is absent.
- p. Records of all regulated substances listed in 40 CFR § 68.130 in each process at the Source.
- q. Records that demonstrate that the Source does not have a threshold quantity of any regulated substance listed in § 68.130 in any process at the Source.

**II.E.** Compliance Schedule [40 CFR §§ 71.5(c)(8)(iii), 71.6(c)(3) and NNOPR § 302(I)(4)]

- 1. For applicable requirements with which the source is in compliance, the source 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.

**II.F.** Permit Shield [40 CFR § 71.6(f)(1)(i) and NNOPR § 302(J)]

- 1. A permit shield is granted for production oil storage tanks 21-ST-1, 21-ST-2, 21-ST-3, 21-ST-4, INJ-ST-1, INJ-ST-2, and INJ-ST-3 from 40 CFR Part 60 Subpart K, which applies to volatile liquid storage vessels constructed or modified after June 11, 1973 and prior to May 19, 1978. The four (4) oil storage tanks at Tank Battery 21 and the three (3) oil storage tanks at the Recycle Facility were not in place at the timeframe in which the

regulation applies pursuant to 40 CFR § 60.110(c). The permit shield applies as of the date of permit issuance.

2. A permit shield is granted for storage tanks 21-ST-1, 21-ST-2, 21-ST-3, 21-ST-4, INJ-ST-1, INJ-ST-2, and INJ-ST-3 from 40 CFR Part 60 Subpart Ka, which applies to volatile liquid storage vessels constructed or modified after May 18, 1978 and prior to July 24 1984. The four (4) oil storage tanks at Tank Battery 21 and the three (3) oil storage tanks at the Recycle Facility were not in place at the timeframe in which the regulation applies pursuant to 40 CFR § 60.110a(a). The permit shield applies as of the date of permit issuance.
3. A permit shield is granted for storage tanks 21-ST-1, 21-ST-2, 21-ST-3 and 21-ST-4 at Tank Battery 21, and INJ-ST-1, INJ-ST-2, and INJ-ST-3 at the Recycle Facility from 40 CFR Part 60 Subpart Kb, which applies to volatile liquid storage vessels constructed or modified after July 23, 1984. The four (4) oil storage tanks at Tank Battery 21 and the three (3) oil storage tanks at the Recycle Facility have a design capacity less than or equal to 1,589.874 m<sup>3</sup> used for petroleum or condensate stored, processed, or treated prior to custody transfer pursuant to 40 CFR § 60.110b(d)(4). This permit shield applies as of the date of permit issuance.
4. A permit shield is granted from 40 CFR Part 60 Subpart GG, which applies to stationary gas turbines, since gas-fired turbines TURB-1 and TURB-2 no longer operate at the Source. This permit shield shall no longer apply if the Permittee does not operate in accordance with Condition II.A(10) of this permit. This permit shield applies as of the date of permit issuance.
5. A permit shield is granted from the major stationary source requirements in 40 CFR Part 63, Subpart HH, which is the National Emission Standard for oil and gas production facilities. The Permittee is subject to federally enforceable limits on HAPs to remain below the major source thresholds for the standard. This permit shield applies as of the date of permit issuance.
6. A permit shield is granted from 40 CFR Part 61, Subpart V, which is the National Emission Standard for Equipment Leaks (Fugitive Emissions) because the benzene content at the Source does not reasonably exceed 10 percent by weight. This permit shield applies as of the date of permit issuance.
7. A permit shield is granted from 40 CFR § 68 which is the Chemical Accident Prevention regulation because the Source does not have more than a threshold quantity of a regulated substance in a process, as determined under 40 CFR § 68.115. This permit shield shall no longer apply if the Permittee does not operate in accordance with Condition II.A(12) of this permit. This permit shield applies as of the date of permit issuance.

### **III. SOURCE-WIDE & GENERIC PERMIT CONDITIONS**

Conditions in Part III of the Permit apply to all emissions units located at the Source [40 CFR § 71.6(a)(1)].

#### **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 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
  - 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. No adjustments are to be made within two (2) hours of the start of the tests. 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, may 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<sub>2</sub>, etc.
5. Each source test shall consist of at least three (3) valid test runs and the emission results shall be reported as the arithmetic average of all valid test runs and within 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 within 60 days of completing any

required source test.

**III.B. Recordkeeping Requirements [40 CFR 71.6 (a)(3)(ii) and NNOPR § 302(F)]**

In addition to the unit specific recordkeeping requirements derived from the applicable requirements for each individual unit and contained in Section 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 will include all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit.

**III.C. Reporting Requirements [40 CFR 71.6 (a)(3)(iii) and NNOPR § 302(G)]**

1. The permittee shall submit 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, except that the first reporting period shall begin on the effective date of this permit and end on December 31, 2007. All reports shall be submitted to NNEPA 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 Condition IV.E of this permit.
  - 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 exceedances as defined under 40 CFR Part 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; and
    - ix. The name, title, and signature of the responsible official who is certifying to the truth, accuracy, and completeness of the report.
  - b. Any report required by an applicable requirement that provides the same information described in paragraphs 1(a)(i) through (ix) of this section shall satisfy the requirement under III.C(1)(a).
  - 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 emissions limitation or standard has not been met;
    - iii. A situation in which observations or data collected demonstrate noncompliance with an emissions limitation or standard or any work practice or operating condition required by the permit; and
    - iv. A situation in which an exceedance, as defined in the compliance assurance plan (40 CFR Part 64), occurs.
2. The Permittee shall promptly report to NNEPA and EPA Region 9 deviations from permit 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. "Prompt" is defined as follows:
  - a. Any definition of "prompt" or a specific timeframe for reporting deviations provided in an underlying applicable requirement as identified in this permit;
  - b. Where the underlying applicable requirement does not define prompt or provide a timeframe for reporting deviations, reports of deviations will be submitted based on the following schedule:

- i. For emissions of a hazardous air pollutant or a toxic air pollutant (as identified in the applicable regulation) that continue for more than one hour in excess of permit requirements, the report must be made within 24 hours of the occurrence.
  - ii. 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.
  - iii. For all other deviations from permit requirements, the report shall be submitted with the semi-annual monitoring report required in paragraph III.C(1) of this permit.
3. If any of the conditions in III.C(2)(b)(i) or III.C(2)(b)(ii) of this permit exist, the source must notify the permitting authority by telephone, facsimile, or electronic mail sent to [nnepanilchi@navajo.org](mailto:nnepanilchi@navajo.org) and [r9.aeo@epa.gov](mailto:r9.aeo@epa.gov), based on the timetable listed. A written notice, certified consistent with paragraph III.C(4) of this permit section must be submitted within 10 working days of the occurrence. All deviations reported under this section must also be identified in the 6-month report required under paragraph III.C(1) of this section.
4. Any application form, monitoring report, or compliance certification required to be submitted by this permit shall contain certification by the permit-designated responsible official of truth, accuracy, and completeness consistent with Section IV.E of this permit and 40 CFR § 71.5(d). 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 Part 82]**

1. 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) in Subpart B:
  - a. Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to § 82.156.
  - b. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to § 82.158.

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

**III.E. Asbestos Removal and Disposal [40 CFR Part 61, Subpart M]**

1. The Permittee shall comply with 40 CFR Part 61, Subpart M when conducting any renovation or demolition at the facility.

#### IV. TITLE V ADMINISTRATIVE REQUIREMENTS

Conditions in this section of the permit are outlined in accordance with 40 CFR § 71 and NNOPR.

##### IV.A. Fee Payment [40 CFR § 71.6(a)(7), 40 CFR § 71.9, and NNOPR § Subpart VI]

1. The Permittee shall pay an annual permit fee in accordance with the procedures outlined below [See NNOPR Subpart VI § 603].
2. The Permittee shall pay the annual permit fee by April 1<sup>st</sup> of each year.
3. 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 EPA Account # 511004**.
4. The Permittee shall send fee payment and a completed fee filing form to:  

Navajo Nation Air Quality Control Program / Operating Permit Program  
Route 112 North, Building No. 2427  
Fort Defiance, AZ 86504
5. The Permittee shall send an updated fee calculation worksheet form and a photocopy of each fee payment check (or other confirmation of actual fee paid) submitted annually by the same deadline as required for fee payment to the address listed in Section IV.E of this permit. [Permittees should note that an annual emissions report, required at the same time as the fee calculation worksheet by NNOPR Subpart VI § 602(B) has been incorporated into the fee calculation worksheet form as a convenience.]
6. Basis for calculating annual fee:
  - a. The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all “regulated pollutants (for fee calculation)” emitted from the source by the presumptive emissions fee (in dollars/ton) in effect at the time of calculation.
    - i. “Actual emissions” means the actual rate of emissions in tpy of any regulated pollutant (for fee calculation) emitted from a Part 71 source over the preceding calendar year. Actual emissions shall be calculated using 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 [NNOPR Subpart I § 102.5 and Subpart VI].
    - ii. Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data [NNOPR Subpart I § 102.5 and Subpart VI].
    - iii. If actual emissions cannot be determined using the compliance methods in the permit, the Permittee shall use other federally recognized procedures [NNOPR Subpart I § 102.5 and Subpart VI].
    - iv. The term “regulated pollutant (for fee calculation)” is defined in NNOPR Subpart I § 102.52.
    - v. The Permittee should note that the presumptive fee amount is revised each

calendar year to account for inflation and it is available from NNEPA prior to the start of each calendar year.

- b. The Permittee shall exclude the following emissions from the calculation of fees [NNOPR Subpart I § 102.5 and Subpart VI]:
  - i. The amount of actual emissions of each regulated pollutant (for fee calculation) that the source emits in excess of 4,000 tons per year;
  - ii. Actual emissions of any regulated pollutant (for fee calculation) already included in the fee calculation; and
  - iii. The quantity of actual emissions (for fee calculation) of insignificant activities [defined in NNOPR Subpart I § 102.29 and 40 CFR § 71.5(c)(11)(i)] or of insignificant emissions levels from emissions units identified in the Permittee's application [pursuant to NNOPR Subpart I § 102.30 and 40 CFR § 71.5(c)(11)(ii)], [See 40 CFR § 71.9(c)(5)(iii)].
7. Fee calculation worksheets shall be certified as to the truth, accuracy, and completeness by a responsible official. [Permittees should note that the fee calculation worksheet form already incorporates a section that allows the permittee to meet this responsibility].
8. The Permittee shall retain fee calculation worksheets and other emissions-related data used to determine fee payment for 5 years following submittal of fee payment. Emissions-related data include, for example, emissions-related forms provided by EPA and used by the Permittee for fee calculation purposes, emissions-related spreadsheets, and emissions-related data, such as records of emissions monitoring data and related support information required to be kept in accordance with 40 CFR § 71.6(a)(3)(ii) and [NNOPR Subpart III § 302(F) and Subpart VII § 704].
9. 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 Subpart VI § 603(C).
10. When notified by NNEPA of underpayment of fees, the Permittee shall remit full payment within 30 days of receipt of notification [NNOPR Subpart VI § 603(C)].
11. A permittee who thinks an NNEPA assessed fee is in error and who 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 [NNOPR Subpart VI § 603(B)].

**IV.B. Blanket Compliance Statement** [40 CFR § 71.6(a)(6)(i) and (ii), and sections 113(a) and 113(e)(1) of the Act, and 40 CFR §§ 51.212, 52.12, 52.33, 60.11(g), and 61.12]

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 this part constitutes a violation of the Clean Air Act and

is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for 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)(i) and (ii)].

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 [Section 113(a) and 113(e)(1) of the Act, 40 CFR §§ 51.212, 52.12, 52.33, 60.11(g), and 61.12].

#### **IV.C. Compliance Certifications [40 CFR §71.6(c)(5)]**

1. The Permittee shall submit to NNEPA and EPA Region 9 a certification of compliance with permit terms and conditions, including emissions limitations, standards, or work practices, postmarked by January 30 of each year and covering the previous calendar year, except that the first certification shall cover the period from the effective date of this permit through December 31, 2007. The compliance certification shall be certified as to truth, accuracy, and completeness by a responsible official consistent with Section IV.E of this permit and section 114(a)(3) of the Clean Air Act.
2. 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. If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information.
  - 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. Whether compliance with each permit term was continuous or intermittent.

#### **IV.D. Duty to Provide and Supplement Information [40 CFR §§ 71.6(a)(6)(v), and 71.5(b)]**

The Permittee shall furnish to NNEPA and EPA, within a reasonable time, any information that NNEPA and EPA 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 and EPA copies of records that are required to be kept pursuant to the terms of the permit, including information claimed to be confidential. 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 such supplementary facts or corrected information. The Permittee shall also provide additional information as necessary to address any requirements that become applicable to the Source after this permit is issued.

**IV.E. Submissions** [40 CFR §§ 71.5(d), 71.6, 71.9, NNOPR Subparts VI, and VII § 704]

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

and

Director, Air Division  
EPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

**IV.F. Severability Clause** [40 CFR § 71.6(a)(5)]

The provisions of this permit are severable, and 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)]

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. Reopening for Cause** [40 CFR § 71.7(f) and NNOPR Subpart IV § 406]

1. NNEPA shall reopen and revise the permit prior to expiration under any of the following circumstances:
  - a. Additional applicable requirements under the Act become applicable to a major Part 71 source with a remaining permit term of 3 or more years.
  - b. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.
  - c. NNEPA determines that the permit contains a material mistake or that inaccurate



statements were made in establishing the emissions standards or other terms or conditions of the permit.

- d. NNEPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

**IV.I. Property Rights [40 CFR § 71.6(a)(6)(iv)]**

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

**IV.J. Inspection and Entry [40 CFR § 71.6(c)(2)]**

Upon presentation of credentials and other documents as may be required by law, the Permittee shall allow authorized representatives from NNEPA and 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 Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

**IV.K. Emergency Provisions [40 CFR § 71.6(g)]**

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 Source 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 EPA within 2 working days of the time when emission 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.B(2) of this permit.
  - e. In any enforcement proceeding in which the Permittee attempts to establish the

occurrence of an emergency, the Permittee has the burden of proof.

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 emission limitation under the permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

**IV.L. Transfer of Ownership or Operation [40 CFR § 71.7(d)(1)(iv)]**

1. A change in ownership or operational control of this Source 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.M. Off Permit Changes [40 CFR § 71.6(a)(12) and NNOPR Subpart IV § 404(B)]**

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 Title IV or that are modifications under any provision of Title I of the Clean Air Act;
4. The Permittee must provide contemporaneous written notice to NNEPA and EPA Region 9 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.
5. The permit shield does not apply to changes made under this provision;
6. 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.

**IV.N. 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), 71.8(d), and NNOPR Subpart III § 301(B)]**

1. This permit shall expire upon the earlier occurrence of the following events:
  - a. up to twelve (12) years elapses from the date of issuance to a solid waste incineration unit combusting municipal waste subject to standards under section 129 of the Clean Air Act; or
  - b. for sources other than those identified in subparagraph IV.N(1)(a) above, five (5)

years elapses from the date of issuance; or

- c. the source is issued a Part 70 permit by an 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 6 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) and NNOPR Subpart II § 201(A)(3), but the permitting authority has failed to issue or deny the renewal permit, then the permit shall not expire until the renewal permit has been issued or denied and any permit shield granted pursuant to 40 CFR§ 71.6(f) may extend beyond the original permit term until renewal.
4. The Permittee's failure to have a Part 71 permit is not a violation of this part until NNEPA takes final action on the permit renewal application. This protection shall cease to apply if, subsequent to the completeness determination, 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 form.

**IV.O. Administrative Permit Amendments [40 CFR § 71.7(d) and NNOPR Subpart IV § 405(C)(3)]**

1. The Permittee may request the use of administrative permit amendment procedures for a permit revision that:
  - a. Corrects typographical errors.
  - b. 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.
  - c. Requires more frequent monitoring or reporting by the Permittee.
  - d. Allows for a change in ownership or operational control of a source where NNEPA and EPA 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 the NNEPA and EPA.
  - e. Incorporates into the Part 71 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of 40 CFR §§ 71.7 and 71.8 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.

- f. Incorporates any other type of change which NNEPA has determined to be similar to those listed above in subparagraphs a through e.

**IV.P. Minor Permit Modifications [40 CFR § 71.7(e)(1) and NNOPR Subpart I § 102.32]**

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 title I; and
    - ii. An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Clean Air Act.
  - e. Are not modifications under any provision of title I of the Clean Air Act.
  - 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.P(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 that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by NNEPA and 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) and NNOPR Subpart I §§ 102.52 and 103, 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 the permitting authority to use to notify affected States as required under 40 CFR § 71.8.
4. The source may make the change proposed in its minor permit modification application

immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by 40 CFR § 71.7(e)(1)(iv)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, 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 [See 40 CFR § 71.7(e)(1)(vi)].

#### **IV.Q. Group Processing of Minor Permit Modifications [40 CFR § 71.7(e)(2)]**

1. Group processing of modifications by NNEPA may be used only for those permit modifications:
  - a. That meet the criteria for minor permit modification procedures under Condition IV.P(1) of this permit; and
  - b. That collectively are below the threshold level of 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in 40 CFR § 71.2, or 5 tons per year, whichever is least.
2. An application requesting the use of group processing procedures shall be submitted to NNEPA, 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) and NNEPA Subpart I §§ 102.52 and 103, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.
  - d. A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under subparagraph IV.Q(1)(b) above.
  - e. Completed forms for the permitting authority to use to notify affected States as required under 40 CFR § 71.8.
3. The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by 40 CFR § 71.7(e)(1)(iv)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its

proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

4. The permit shield under 40 CFR § 71.6(f) may not extend to group processing of minor permit modifications [40 CFR § 71.7(e)(1)(vi)].

#### **IV.R. Significant Permit Modifications [40 CFR § 71.7(e)(3)]**

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.
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. Permittees must meet all requirements of Part 71 for applications for significant permit modifications. 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 [See 40 CFR §§ 71.7(e)(3)(ii) and 71.5(a)(2)].

#### **IV.S. Operational Flexibility**

1. 502(b)(10) Changes [40 CFR § 71.6(a)(13)(i) and NNOPR § 404(A)]
  - a. The Permittee is allowed to make a limited class of changes under Section 502(b)(10) of the Clean Air Act within this permitted Source 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:
    - i. Changes that would violate applicable requirements; or
    - ii. Changes that would contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
  - b. The Permittee is required to send a notice to NNEPA 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.
  - c. Any permit shield provided in this permit does not apply to changes made under this provision.