Air Pollution Control
Title V Permit to Operate
Statement of Basis for Permit No. V-SU-0038-08.00
Final 1st Part 71 Renewal
September 2009

BP America Production Company
Dry Creek Compressor Facility
Southern Ute Indian Reservation
La Plata County, Colorado

1. Facility Information

a. Location

The Dry Creek Compressor Facility (Dry Creek) is owned and operated by BP America Production Company (BP) and is located within the exterior boundaries of the Southern Ute Indian Reservation, in the southwestern part of the State of Colorado. The exact location is Sections 5 & 6, T34N, R7W, La Plata County, Colorado. The mailing address is:

BP America Production Company
380 Airport Road
Durango, Colorado 81303

b. Contacts

Facility Contact:
Julie A. Best
Environmental Coordinator
BP America Production Co.
380 Airport Road
Durango, Colorado 81303
Phone: 970-375-7540
Fax: 970-375-7586

Responsible Official:
Kourtney K. Hadrick
Florida Operations Manager
BP America Production Co.
380 Airport Road
Durango, Colorado 81303
Phone: 970-247-6901
Fax: 970-247-6910

Tribal Contact:
James Temte
Air Program Manager
Southern Ute Indian Tribe
Phone: 970-563-4705

Company Contact:
Rebecca Tanory
Air Specialist
BP America Production Co.
501 Westlake park Blvd.
Houston, TX 77079
Phone: 281-366-3946
Fax: 281-366-7945

Alternate Responsible Official:
David P. McKenna
Operations Center Manager
BP America Production Co.
380 Airport Road
Durango, Colorado 81303
Phone: 970-247-6810
Fax: 970-247-6825

c. Description of Operations

Dry Creek is a natural gas compression facility located in southwestern Colorado within the exterior boundaries of the Southern Ute Indian Reservation. The facility was installed in 2000 to provide field compression for natural gas wells in the Fruitland formation.

The facility compresses coal bed methane gas from wells in the Fruitland formation. The natural gas handled by the facility is a mixture of approximately 90% methane and 10% carbon dioxide. This gas mixture is also water vapor saturated. The natural gas coming into the compressor station is at approximately 70 psig and 65 °F. It should be noted that this facility does not handle any condensate or natural gas liquids.

The natural gas entering the compressor facility first passes through an inlet separator vessel to remove any free liquid water in the gas stream by gravity. The gas stream then passes to a distribution header, which distributes the gas to one of four compressors. There is a filter vessel on the inlet to each compressor, which serves to filter out any solids such as coal dust in the gas. Each compressor package consists of a skid-mounted combination of engine and compressor. The four engines at Dry Creek are Waukesha 7042 GL reciprocating engines fueled by natural gas and utilize lean burn technology.

The compressors raise the gas pressure from 70 psig to 400 psig. After compression the gas passes through an outlet coalescer vessel, which serves to remove any entrained droplets of lubricating oil carried over from the compressors. The gas then passes to one of three glycol absorber columns where it contacts a tri-ethylene glycol solution. The purpose of this contact is to remove water vapor in the gas. The gas is then routed and metered into the medium pressure pipeline.

d. List of All Units and Emission-Generating Activities

BP provided the information contained in Tables 1 and 2. Table 1 lists emission units and emission generating activities, including any air pollution control devices. Emission units identified as "insignificant" are listed separately in Table 2.

Table 1 - Emission Units
Dry Creek Compressor Facility

Emission Unit Id.	Description	Control Equipment
	Waukesha 7042 GL reciprocating lean burn compressor engines, 1,318 bhp, 10.79 MMBtu/hr, natural gas fired:	
C-100	Serial No. C-12597/4 Installed: 2/2000[a]	None
C-200	Serial No. C-10430/3 Installed: 3/6/08[b]	None
C-300	Serial No. C-12658/3 Installed: 11/14/07[c]	None
C-400	Serial No. C-10987/3 Installed: 3/20/08[d]	Oxidation Catalyst (unenforceable)

a. Per Waukesha, this engine was manufactured on 6/1/98, and based on the installation date, operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
b. This engine was manufactured on 10/31/91 and operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
c. This engine was manufactured on 8/20/98. It was previously installed at Williams Middle Mesa CDP and operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
d. This engine was manufactured on 10/22/93 and replaced a Waukesha L5794LT engine in March 2008. Per Exterran, the engine vendor, this engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.

Part 71 allows sources to separately list in the permit application units or activities that qualify as "insignificant" based on potential emissions below 2 tpy for all regulated pollutants that are not listed as hazardous air pollutants (HAPs) under section 112(b) of the Clean Air Act (CAA) and below 1,000 lbs per year or the de minimus level established under Section 112(g), whichever is lower, for HAP emissions. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the fee. Units that qualify as "insignificant" for the purposes of the part 71 application are in no way exempt from applicable requirements or any requirements of the part 71 permit.

BP stated in its part 71 permit renewal application that the emission units in Table 2, below, are IEUs. The application provided emission calculations for the tanks and sumps using TANKS 4.09d, for the glycol dehydrators using GRI-GlyCalc Version 4.0, and for the heaters and burners using AP-42 emission factors. In addition, the application provided emission estimates for produced water tanks, compressor blowdowns and fugitive emissions. This data supports the source's claim that these units qualify as IEUs.

Table 2 - Insignificant Emission Units
Dry Creek Compressor Facility

Description
1 - Used oil sump tank (95 bbls)
4 - Lube oil tanks (500 gallons each)
2 - TEG storage tanks (300 gallons each)
1 – TEG storage tank (500 gallons)
1 - EG tank (500 gallons)
2 - Produced water tanks (210 bbls each)
2 - 250 MBtu/hr heaters for produced water tanks
1 - Water and oil sump (95 bbls)
2 - TEG dehydration unit still vents
1 - TEG dehydration unit 500 MBtu/hr reboiler burner
1 - TEG dehydration unit 750 MBtu/hr reboiler burner
Dehy #3 TEG dehydration unit still vent
Dehy #3 TEG dehydration unit 800 MBtu/hr reboiler burner
Residual TEG sump (95 bbls)
Used oil sump (95 bbls)
Compressor blow down (max of 850 MMscf/yr)
Process fugitives

e. Construction, Permitting, and Compliance History

Dry Creek commenced operations in February of 2000 and was comprised of three 1,300 hp natural gas fired Waukesha L7042GL compressor engines (C-100, C-200, and C-300). At that time, the facility was considered a minor stationary source for HAPs and criteria pollutants. In addition, Dry Creek was not otherwise subject to part 71 due to other potential triggers as specified in 40 CFR 71.3(a).

In September of 2002 a 1,379 hp Waukesha L5794LT engine was installed (C-400). The start-up of this new engine and new information regarding emission factors for natural gas-fired engines caused Dry Creek to become major for NOx, CO, and formaldehyde for purposes of part 71 permitting. The addition of the engine did not trigger the requirements of the Prevention of Significant Deterioration (PSD) permitting program. In addition, all the engines installed at the facility were existing four stroke lean burn (4SLB) engines and thus were not subject to any of the requirements of 40 CFR Part 60, Subpart ZZZZ – National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (RICE

MACT). An initial part 71 application was submitted by BP on August 15, 2003, and an initial permit, containing only part 71 administrative requirements but no other applicable CAA requirements (hollow permit), was issued on January 9, 2004.

On October 6, 2004, engine C-100 was replaced with another existing 4SLB engine of the same make, model, and horsepower rating as the engine being replaced. This engine replacement did not increase the potential to emit of the facility, nor did it trigger any new applicable requirements.

On February 17, 2005, engine C-200 was replaced with another existing 4SLB engine of the same make, model, and horsepower rating as the engine being replaced. This engine replacement did not increase the potential to emit of the facility, nor did it trigger any new applicable requirements.

On May 10, 2007, engine C-300 was replaced with another existing 4SLB engine of the same make, model, and horsepower rating as the engine being replaced. This engine replacement did not increase the potential to emit of the facility, nor did it trigger any new applicable requirements.

On September 28, 2007, engine C-400 (1,300 hp Waukesha 5794 LT) was replaced with an existing 1,300 hp Waukesha 5794 LT engine. This engine replacement did not increase the potential to emit of the facility, nor did it trigger any new applicable requirements.

On November 5, 2007 and again on November 14, 2007, engine C-300 was replaced with an existing 4SLB engine of the same make, model, and horsepower rating as the engine being replaced. These engine replacements did not increase the potential to emit of the facility, nor did it trigger any new applicable requirements.

On March 6, 2008, engine C-200 was replaced with another existing 4SLB engine of the same make, model, and horsepower rating as the engine being replaced. This engine replacement did not increase the potential to emit of the facility, nor did it trigger any new applicable requirements. This engine was later equipped with an oxidation catalyst in April of 2008. However, BP did not request federally enforceable limits to recognize the reduction in emissions due to the use of this catalyst. Therefore, the potential emissions from C-400 are based on uncontrolled emissions.

On March 17, 2008, engine C-400 was replaced with an existing 1,300 hp Waukesha L7042GL 4SLB engine. A minor modification to the part 71 permit to account for this engine change was issued on July 30, 2008. At the time of this minor permit modification; EPA removed specific non-enforceable facility information such as the plant mailing address, the name of the Responsible Official, and the Facility Contacts from the permit. Part 71 does not require this information to be in the permit and changes to such information are the most often requested administrative permit amendments. This information is now maintained in the Statements of Basis for each permit action and notification of changes to this information is now maintained in the Off Permit file for this facility. In addition, EPA also noted that the permit lacked a condition requiring the use of GRI-GLYCalc to determine the natural gas flow rate for benzene emissions from the glycol dehydration unit. In order to meet the criteria for an exemption from control

requirements under §63.764(e)(1), this requirement was added to the permit. Finally, due to new rules promulgated at 40 CFR parts 60 and 63, EPA has added clarification text to permit Sections II.C Alternative Operating Scenarios and III.Q Off Permit Changes. The updated text clarifies when the alternative operating scenarios can be utilized and it updates the notification requirements when an off permit change is made.

On July 3, 2008, EPA received the permit renewal application for the Dry Creek Compressor Facility. The existing permit was still valid and was not due to expire until January 9, 2009. However, part 71 requires that permitted facilities submit renewal applications six months prior to permit expirations. The application defaulted to complete 60 days after EPA received it, on September 2, 2008. Upon review of the renewal application, EPA determined that no additional information was needed to draft a renewal permit.

Based on EPA's records (The Enforcement & Compliance History Online (ECHO) database, located at: http://www.epa-echo.gov), BP is currently in compliance with the CAA requirements at the Dry Creek Compressor Facility.

Table 3 illustrates the permitting history, the changes in the unit-specific and facility-wide PTE and emission status, and the compliance history since operation of the facility commenced in 2000.

Table 3 – Construction and Permitting History
BP Dry Creek Compressor Facility
(In Context of Some CAA Regulations That May Apply)

August 7, 1980 Prevention of Significant Deterioration Pre-Construction Permitting Program Promulgated (the 8/7/80 rules form the basis of the current regulations)
Applicability: PSD is a preconstruction review requirement that applies to proposed projects that are sufficiently large (in terms of emissions) to be a "major" stationary source or "major" modification. Source size is defined in terms of "potential to emit," which is its capability at maximum design capacity to emit a pollutant, except as constrained by federally and practically enforceable conditions. A new source or a modification to an existing minor source is major if the proposed project has the potential to emit any pollutant regulated under the CAA in amounts equal to or exceeding specified major source thresholds [100 tpy for the 28 listed industrial source categories and 250 tpy for all other sources]. PSD also applies to modifications at existing major sources that cause a significant "net emissions increase" at that source. A modification is a physical change or change in the method of operation. Significance levels for each pollutant are defined in the PSD regulations at 40 CFR 52.21. Compliance: No new source or modification of a source subject to PSD review may be constructed without a permit.

February 19, 1999 - Part 71 (Title V) Operating Permit Program Promulgated (the 2/19/99 rules form the basis of the current regulations)
Applicability: Any major source (criteria pollutants > 100 tpy, or any single HAP > 10 tpy, or aggregated HAPS > 25 tpy); Any source, including an area source, subject to a standard, limitations, or other requirements under 111 or 112 of the CAA promulgated on or before July 21, 1992. Non-major sources subject to 111 or 112 regulation promulgated after July 21, 1992 are subject unless the rule specifies otherwise; Any Acid Rain source; Any Solid Waste Incineration Unit; Application Due Date: Within 12 months after commencing operation.

Table 3 – Construction and Permitting History, continued…

June 17, 1999 - MACT HH for Major HH HAP Oil and Gas Production Sources Promulgated (HAP > 10/25 tpy)

HAP PTE determined by emissions from dehydrators and storage vessels with a potential for flash emissions only, unless the facility is oil and gas plant.

Affected Sources:

- Glycol dehydration units
- Storage vessels with the potential for flash emissions
- Group of ancillary equipment (pumps, valves, flanges, etc…)
- Compressors intended to operate in volatile hazardous air pollutant service, located at natural gas processing plants

Final Compliance Dates

- Construction or reconstruction commenced before February 6, 1998 – June 17, 2002
- Construction or reconstruction commenced after February 6, 1998 – Upon start-up or June 17, 2002, whichever date is later
- Area → Major HAP Source
  - Construction or reconstruction of the affected unit commenced before February 6, 1998, causing source to become major – 3 years after becoming major
  - Construction or reconstruction of the affected unit commenced after February 6, 1998, causing source to become major – Upon start-up

February 2000 – Dry Creek Operations Commenced

	PTE (tpy)				
	NOx	**CO**	**VOC**	**HAPs**	**CH_2O**
C-100, 1,300 hp Waukesha L 7042 GL (no controls)	25.11	33.27	12.55	2.55	2.50
C-200, 1,300 hp Waukesha L 7042 GL (no controls)	25.11	33.27	12.55	2.55	2.50
C-300, 1,300 hp Waukesha L 7042 GL (no controls)	25.11	33.27	12.55	2.55	2.50
Facility PTE for 2000 New Source	**75.33**	**99.81**	**37.65**	**7.65**	**7.50**

PSD Status: Minor **HAP Status:** Minor
HAP Status per Subpart HH: Minor **Title V Status:** Minor

September 2002 – Addition and start-up of fourth compressor engine. Updated formaldehyde emission factors for 3 existing engines. Triggers part 71 permitting

	PTE (tpy)				
	NOx	**CO**	**VOC**	**HAPs**	**CH_2O**
C-400, 1,300 hp Waukesha L5794LT (no controls)	32.62	23.97	13.32	2.98	2.93
C-100, 1,300 hp Waukesha L 7042 GL (no controls)	-	-	-	1.14	1.14
C-200, 1,300 hp Waukesha L 7042 GL (no controls)	-	-	-	1.14	1.14
C-300, 1,300 hp Waukesha L 7042 GL (no controls)	-	-	-	1.14	1.14
Change in Emissions for this Project	+32.62	+23.97	+13.32	+6.4	+6.35
Facility PTE for 2002 Source	**107.95**	**123.78**	**50.97**	**14.06**	**13.85**

PSD Status of Facility: Minor **HAP Status of Facility:** Major: RICE MACT exempt - existing lean burn engines
HAP Status of Facility per Subpart HH: Minor **Title V Status of Facility:** Subject, permit issued 1/9/2004

June 15, 2004 – RICE MACT For Major HAP Sources Promulgated (HAP >10/25 tpy)

Affected Sources:

- Existing RICE ≥ 500 hp, located at major sources of HAP emissions, constructed or reconstructed on or before 12/19/2002
- New/Reconstructed RICE ≥ 500 hp, located at major sources of HAP emissions, constructed or reconstructed after 12/19/2002

Final Compliance Dates

- Existing lean burn RICE – Exempt.
- Existing rich burn RICE – June 15, 2007.
- Start up a new or reconstructed rich or lean burn RICE on or before August 16, 2004 – August 16, 2004.
- Start up a new or reconstructed rich or lean burn RICE after August 16, 2004 – upon start-up.
- Area → Major HAP Source
  - Commenced construction or reconstruction after becoming a major HAP source – upon start-up.
  - Commence d construction or reconstruction before becoming a major HAP source – within 3 years of becoming major.

Table 3 – Construction and Permitting History, continued…

January 3, 2007 - MACT HH for Area Sources of Oil & Gas Production Facilities Promulgated (HAP < 10/25 tpy)

Affected Sources:

Triethylene Glycol (TEG) dehydration units

Final Compliance Dates

Construction or reconstruction of the affected unit located in an Urban-1 county commenced before February 6, 1998:

Located w/i UA Plus Offset and UC boundary – January 4, 2010

Not Located w/i UA Plus Offset and UC boundary – January 5, 2009

Construction or reconstruction of the affected unit located in an Urban-1 county commenced on or after February 6, 1998 – Upon start-up or January 3, 2007, whichever date is later.

Construction or reconstruction of the affected unit not located in an Urban-1 county commenced before July 8, 2005:

Located w/i UA Plus Offset and UC boundary – January 4, 2010

Not Located w/i UA Plus Offset and UC boundary – January 5, 2009

July 30, 2008 – Minor Permit Modification Issued – Replaced C-400 with a Waukesha L7042GL

	PTE (tpy)				
	NOx	**CO**	**VOC**	**HAPs**	**CH_2O**
Add: C-400, 1,300 hp Waukesha L 7042 GL (unenforceable controls) – existing 4SLB RICE	+25.11	+33.27	+12.55	+3.64	+3.64
Remove: C-400, 1,379 hp Waukesha L5794LT (no controls)	-32.62	-23.97	-13.32	-2.93	-2.93
Change in Emissions for Minor Modification	**-7.51**	**+9.3**	**-0.77**	**+0.71**	**+0.71**
Total Source PTE	**100.44**	**133.08**	**50.20**	**14.56**	**14.56**

PSD Status of Facility: Minor **HAP Status of Facility:** Major; RICE MACT Exempt – engines all existing 4SLB

HAP Status of Facility per Subpart HH: Minor **Title V Status:** Subject

January 18, 2008 Modified MACT ZZZZ Promulgated
Area Sources (HAP < 25 tpy & for any size engine)
Major Sources (HAP > 25 tpy & for engines ≤ 500 hp)

Affected Sources:

New or reconstructed RICE of any hp at area sources of HAP emissions, constructed or reconstructed on or after 6/12/06

New or reconstructed RICE ≤ 500 hp at major sources of HAP emissions, constructed or reconstructed on or after 6/12/06

Final Compliance Dates

Major HAP source

Start up a new or reconstructed RICE ≤ 500 hp before January 18, 2008 – January 18, 2008

Start up a new or reconstructed RICE ≤ 500 hp after January 18, 2008 – upon start-up

Area HAP source

Start up a new or reconstructed RICE of any hp before January 18, 2008 – January 18, 2008

Start up a new or reconstructed RICE of any hp after January 18, 2008 – upon start-up

January 18, 2008 NSPS JJJJ for Spark Ignition Engines Promulgated

Affected Sources:

Stationary spark ignition (SI) internal combustion engines (ICE) that commenced construction, modification or reconstruction after June 12, 2006, where the SI ICE are manufactured on or after specified manufacture trigger dates. The manufacture trigger dates are based on the engine type, fuel used, and maximum engine horsepower.

For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator (See 40 CFR 60.4230(a)).

Compliance Date – Upon start up

Table 3 – Construction and Permitting History, continued…

September 2009 – First Renewal Permit **Updated Emission factors for engine emissions used. Waukesha updated the engine emission factors in 4/2007.**					
	PTE (tpy)				
	NOx	**CO**	**VOC**	**HAPs**	**CH_2O**
C-100, 1,318 hp Waukesha L 7042 GL (no controls) – existing 4SLB RICE	19.091	38.18	12.73	3.69	3.69
C-200, 1,318 hp Waukesha L 7042 GL (no controls) – existing 4SLB RICE	19.091	38.18	12.73	3.69	3.69
C-300, 1,318 hp Waukesha L 7042 GL (no controls) – existing 4SLB RICE	19.091	38.18	12.73	3.69	3.69
C-400, 1,318 hp Waukesha L 7042 GL (unenforceable controls) – existing 4SLB RICE	19.091	38.18	12.73	3.69	3.69
IEUs	1.40	1.17	2.12	0	0.01
Total Source PTE	**79.03**	**153.89**	**53.02**	**14.76**	**14.77**
PSD Status of Facility: Minor **HAP Status of Facility:** Major; RICE MACT Exempt – existing lean burn engines **HAP Status of Facility per Subpart HH:** Minor **Title V Status:** Subject					

f. Potential to Emit

Under 40 CFR § 52.21, PTE is defined as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operation limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation, or the effect it would have on emission, is federally enforceable.

The PTE for Dry Creek was reported by BP in forms "PTE" and "EMISS" of the part 71 renewal application. The PTE for this facility are as follows:

Nitrogen Oxides (NOx) – 79.03 tpy
Carbon Monoxide (CO) – 153.89 tpy
Volatile Organic Compounds (VOCs) – 53.02 tpy
Small Particulates (PM_{10}) – 1.65 tpy
Lead (Pb) – 0 tpy
Sulfur Dioxide (SO_2) – 0.10 tpy
Total Hazardous Air Pollutants (HAPs) – 14.76 tpy
Largest Single HAP (Formaldehyde, CH_2O) – 14.77 tpy

2. Tribe Information

a. Indian Country

Dry Creek is located within the exterior boundaries of the Southern Ute Indian Reservation and is thus within Indian country as defined at 18 U.S.C. §1151. The Southern Ute Indian Tribe does not have a federally-approved CAA title V operating permits program nor does EPA's approval of the State of Colorado's title V program extend to Indian country. Thus, EPA is the appropriate governmental entity to issue the title V permit.

b. The Reservation

The Southern Ute Indian Reservation is located in Southwestern Colorado adjacent to the New Mexico boundary. Ignacio is the headquarters of the Southern Ute Indian Tribe, and Durango is the closest major city, just 5 miles outside of the north boundary of the Reservation. Current information indicates that the population of the Tribe is about 1,305 people with approximately 410 tribal members living off the Reservation. In addition to Tribal members, there are over 30,000 non-Indians living within the exterior boundaries of the Southern Ute Reservation.

c. Tribal Government

The Southern Ute Indian Tribe is governed by the Constitution of the Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado adopted on November 4, 1936 and subsequently amended and approved on October 1, 1975. The Southern Ute Indian Tribe is a federally recognized Tribe pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat.984), as amended by the Act of June 15, 1935 (49 Stat. 378). The governing body of the Southern Ute Indian Tribe is a seven member Tribal Council, with its members elected from the general membership of the Tribe through a yearly election process. Terms of the Tribal Council are three (3) years and are staggered so in any given year two (2) members are up for reelection. The Tribal Council officers consist of a Chairman, Vice-Chairman, and Treasurer.

d. Local Air Quality

The Tribe maintains an air monitoring network consisting of two stations equipped to measure ambient concentrations of oxides of nitrogen (NO, NO_2, and NO_x), ozone (O_3), and carbon monoxide (CO), and to collect meteorological data. The Tribe has collected NO_2 and O_3 data at the Ignacio, Colorado station (also known as the Ute 1 station, with AQS identification number 08-067-7001) and the Bondad, Colorado station (also known as Ute 3, with AQS identification number 08-067-7003) since June 1, 1982, and April 1, 1997, respectively. The CO channel at the Ignacio station has been reporting to AQS since January 1, 2000, and both stations began reporting NO and NO_x data to AQS on the same day. Also in 2000, both stations initiated meteorological monitors measuring wind speed, wind direction, vertical wind speed, outdoor temperature, relative humidity, solar radiation, and rain/snowmelt precipitation. Reporting of vertical wind speed data from both stations terminated on July 1, 2007. Particulate data (PM_{10}) was collected from December 1, 1981 to September 30, 2006 at the Ignacio station and from April 1, 1997 to September 30, 2006 at the Bondad station. The Tribe reports hourly data to

AQS for the criteria pollutants being monitored (NO_2, O_3, and CO), allowing AQS users to retrieve data that can be compared to any of the National Ambient Air Quality Standards for these pollutants.

3. Applicable Requirements

The following discussions address applicable requirements, and requirements that may appear to be applicable but are not. All applicable and non-applicable requirements addressed here are included in the CFR at title 40.

Prevention of Significant Deterioration (PSD)

PSD is a preconstruction review requirement of the CAA that applies to proposed projects that are sufficiently large (in terms of emissions) to be a "major" stationary source or "major" modification of an existing stationary source. The PSD regulations are found at 40 CFR 52.21. Source size is defined in terms of "potential to emit," which is its capability at maximum design capacity to emit a pollutant, except as constrained by existing federally and practically enforceable conditions applicable to the source. A new stationary source or a modification to an existing minor stationary source is major if the proposed project has the potential to emit any pollutant regulated under the CAA in amounts equal to or exceeding specified major source thresholds, which are 100 tpy for 28 listed industrial source categories and 250 tpy for all other sources. PSD also applies to modifications at existing major sources that cause a "significant net emissions increase" at that source. Significance levels for each pollutant are defined in the PSD regulations at 40 CFR 52.21. A modification is a physical change or change in the method of operation.

The Dry Creek facility does not belong to any of the 28 listed source categories. Therefore, the potential to emit threshold for determining PSD applicability for this source is 250 tpy. Based on the information provided by BP, at no time has the PSD permitting requirements been triggered during the history of this facility.

New Source Performance Standards (NSPS)

40 CFR Part 60, Subpart A: General Provisions. This subpart applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication of any standard in part 60. The general provisions under subpart A apply to sources that are subject to the specific subparts of part 60.

As explained below, Dry Creek is not subject to any specific subparts of part 60; therefore, the General Provisions of part 60 do not apply.

40CFR Part 60, Subpart Dc: Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. This rule applies to steam generating units with a maximum design heat capacity of 100 MMBtu/hr or less, but greater than or equal to 10 MMBtu/hr.

All heaters at the Dry Creek facility have a maximum design heat input capacity less than 10 MMBtu/hr; therefore, subpart Dc does not apply.

40 CFR Part 60, Subpart K: Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978. This rule applies to storage vessels for petroleum liquids with a storage capacity greater than 40,000 gallons. 40 CFR part 60, Subpart K does not apply to storage vessels for petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer.

All tanks storing volatile organic liquids at the Dry Creek facility are less that 471 bbl (19,810 gal); therefore, subpart K does not apply.

40 CFR Part 60, Subpart Ka: Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to June 23, 1984. This rule applies to storage vessels for petroleum liquids with a storage capacity greater than 40,000 gallons. Subpart Ka does not apply to petroleum storage vessels with a capacity of less than 420,000 gallons used for petroleum or condensate stored, processed, or treated prior to custody transfer.

All tanks storing volatile organic liquids at the Dry Creek facility are less that 471 bbl (19,810 gal); therefore, subpart Ka does not apply.

40 CFR Part 60, Subpart Kb: Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced After July 23, 1984. This rule applies to storage vessels with a capacity greater than or equal to 75 cubic meters (471 bbl).

All tanks storing volatile organic liquids at the Dry Creek facility are less that 471 bbl (19,810 gal); therefore, subpart Kb does not apply.

40 CFR Part 60, Subpart GG: Standards of Performance for Stationary Gas Turbines. This rule applies to stationary gas turbines, with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (10 MMBtu/hr), that commenced construction, modification, or reconstruction after October 3, 1977.

There are no stationary gas turbines located at the Dry Creek facility; therefore, subpart GG does not apply.

40 CFR Part 60, Subpart JJJJ: Standards of Performance for Stationary Spark Ignition Internal Combustion Engines. This subpart establishes emission standards and compliance requirements for the control of emissions from stationary spark ignition (SI) internal combustion engines (ICE) that commenced construction, modification or reconstruction after June 12, 2006, where the SI ICE are manufactured on or after specified manufacture trigger dates. The manufacture trigger dates are based on the engine type, fuel used, and maximum engine horsepower.

For the purposes of this subpart, the date that construction commences is the date the engine is ordered by the owner or operator (See 40 CFR 60.4230(a)).

BP provided the following information:

Table 4 – NSPS Subpart JJJJ Applicability Determination
BP Dry Creek Compressor Facility

Unit	Serial Number	Unit Description	Fuel	BHP	Manufacture/ Commence Construction, Modification, or Reconstruction Date	Install/ Start-up Date	Subpart JJJJ Trigger Date- Manufactured on or after
C-100	C-12597/4	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 6/1/1998; Reconstruction: Pre-12/19/2002	February 2000[a]	7/1/2007
C-200	C-10430/3	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 10/31/1991 Reconstruction: Pre-12/19/2002	March 2008[b]	7/1/2007
C-300	C-12658/3	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 8/20/1998 Reconstruction: Pre-12/19/2002	November 2007[c]	7/1/2007
C-400	C-10987/3	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 10/22/1993 Reconstruction: Pre-12/19/2002	March 2008[d]	7/1/2007

a. Per Waukesha, this engine was manufactured on 6/1/98, and based on the installation date, operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
b. This engine was manufactured on 10/31/91 and operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
c. This engine was manufactured on 8/20/98. It was previously installed at Williams Middle Mesa CDP and operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
d. This engine was manufactured on 10/22/93 and replaced a Waukesha L5794LT engine in March 2008. Per Exterran, the engine vendor, this engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.

All four Waukesha L7042GL engines were manufactured prior to July 1, 2007 (trigger date for lean burn engine with a maximum engine power greater than or equal to 1,350 hp). None of the engines have been modified or reconstructed since June 12, 2006. Therefore, subpart JJJJ does not apply.

40 CFR Part 60, Subpart KKK: Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. This rule applies to compressors and other equipment at onshore natural gas processing facilities. As defined in this subpart, a natural gas processing plant is any processing site engaged in the extraction of natural gas liquids (NGLs) from field gas, fractionation of mixed NGLs to natural gas products, or both. NGLs are defined as the hydrocarbons, such as ethane, propane, butane, and pentane that are extracted from field gas.

The Dry Creek facility does not extract natural gas liquids from field gas, nor does it fractionate mixed NGLs to natural gas products, and thus does not met the definition of a natural gas processing plant under this subpart. Therefore, subpart KKK does not apply.

40 CFR Part 60, Subpart LLL: Standards of Performance for Onshore Natural Gas Processing; SO_2 Emissions. This rule applies to sweetening units and sulfur recovery units at onshore natural gas processing facilities. As defined in this subpart, sweetening units are process devices that separate hydrogen sulfide (H_2S) and carbon dioxide (CO_2) from a sour natural gas stream. Sulfur recovery units are defined as process devices that recover sulfur from the acid gas (consisting of H_2S and CO_2) removed by a sweetening unit.

Dry Creek has no sweetening or sulfur recovery units. Therefore, subpart LLL does not apply.

National Emissions Standards for Hazardous Air Pollutants (NESHAP)

40 CFR Part 63, Subpart A: General Provisions. This subpart contains national emissions standards for HAPs that regulate specific categories of sources that emit one or more HAP regulated pollutants under the CAA. The general provisions under subpart A apply to sources that are subject the specific subparts of part 63.

As explained below, Dry Creek is not subject to any specific subparts of part 63; therefore, the General Provisions of part 63 do not apply. However, records of non-applicability must be kept.

40 CFR Part 63, Subpart HH: National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities. This subpart applies to the owners and operators of affected units located at natural gas production facilities that are major or area sources of HAPs, and that process, upgrade, or store natural gas prior to the point of custody transfer, or that process, upgrade, or store natural gas prior to the point at which natural gas enters the natural gas transmission and storage source category or is delivered to a final end user. The affected units are glycol dehydration units, storage vessels with the potential for flash emissions, and the group of ancillary equipment, and compressors intended to operate in volatile hazardous air pollutant service, which are located at natural gas processing plants.

Throughput Exemption

Those sources whose maximum natural gas throughput, as appropriately calculated in §63.760(a)(1)(i) through (a)(1)(iii), is less than 18,400 standard cubic meters per day are exempt from the major source requirements of this subpart.

Source Aggregation

Major source, as used in this subpart, has the same meaning as in §63.2, except that:

1) Emissions from any oil and gas production well with its associated equipment and emissions from any pipeline compressor station or pump station shall not be aggregated with emissions from other similar units.

2) Emissions from processes, operations, or equipment that are not part of the same facility shall not be aggregated.

3) For facilities that are production field facilities, only HAP emissions from glycol dehydration units and storage tanks with flash emission potential shall be aggregated for a major source determination.

Facility

For the purpose of a major source determination, facility means oil and natural gas production and processing equipment that is located within the boundaries of an individual surface site as defined in subpart HH. Examples of facilities in the oil and natural gas production category include, but are not limited to: well sites, satellite tank batteries, central tank batteries, a compressor station that transports natural gas to a natural gas processing plant, and natural gas processing plants.

Production Field Facility

Production field facilities are those located prior to the point of custody transfer. The definition of custody transfer (40 CFR 63.761) means the point of transfer after the processing/treating in the producing operation, except for the case of a natural gas processing plant, in which case the point of custody transfer is the inlet to the plant.

Natural Gas Processing Plant

A natural gas processing plant is defined in 40 CFR 63.761 as any processing site engaged in the extraction of NGLs from field gas, or the fractionation of mixed NGLs to natural gas products, or a combination of both. A treating plant or gas plant that does not engage in these activities is considered to be a production field facility.

Major Source Determination for Production Field Facilities

The definition of major source in this subpart (at 40 CFR 63.761) states, in part, that only emissions from the dehydration units and storage vessels with a potential for flash emissions at production field facilities shall be aggregated when comparing to the major source thresholds. For facilities that are not production field facilities, HAP emissions from all HAP emission units shall be aggregated.

Area Source Applicability

40 CFR part 63, subpart HH applies also to area sources of HAPs. An area source is a HAP source whose total HAP emissions are less than 10 tpy of any single HAP or 25 tpy for all HAPs in aggregate. This subpart requires different emission reduction requirements for glycol dehydration units found at oil and gas production facilities based on their geographical location.

Units located in densely populated areas (determined by the Bureau of Census) and known as urbanized areas with an added 2-mile offset and urban clusters of 10,000 people or more, are required to have emission controls. Units located outside these areas will be required to have the glycol recirculation pump rate optimized or operators can document that PTE of benzene is less than 1 tpy.

Applicability of Subpart HH to the Dry Creek Compressor Facility

Dry Creek does not engage in the extraction of NGLs and therefore is not considered a natural gas processing plant. Hence, the point of custody transfer, as defined in this subpart HH, occurs downstream of the station and the facility would therefore be considered a production field facility. For production field facilities, only emissions from the dehydration units and storage vessels with a potential for flash emissions are to be aggregated to determine major source status. Dry Creek is not a major source under this rule.

The facility is potentially subject to the area source requirements of subpart HH, because the facility is an minor source of HAP (per the subpart), upgrades natural gas, and is a production field facility. The TEG dehydration units are affected sources under the subpart.

With respect to the area source requirements of this subpart, the facility is located outside both an urban area and an urban cluster. There are no tanks that have the potential for flash emissions at the facility. Furthermore, uncontrolled benzene emissions from the TEG glycol dehydrators at the facility have been determined to be less than 1 tpy using GRI-GLYCalc Version 4.0, as presented in the supporting documentation in the application. **As a result, the three dehydration units at the facility are exempt from the §63.764(d) general requirements for area sources per §63.764(e)(1)(ii). However, the following general recordkeeping requirement will continue to apply to this facility:**

- §63.774(d)(1) – retain the GRI-GLYCalc determinations used to demonstrate that actual average benzene emissions are below 1 tpy.

40 CFR Part 63, Subpart HHH: National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities. This rule applies to natural gas transmission and storage facilities that transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user, and that are a major source of HAP emissions. Natural gas transmission means the pipelines used for long distance transport and storage vessel is a tank or other vessel designed to contain an accumulation of crude oil, condensate, intermediate hydrocarbon, liquids, produced water or other liquid and is constructed of wood, concrete, steel or plastic structural support.

Dry Creek is a natural gas production facility, and not a natural gas transmission or storage facility. Therefore, subpart HHH does not apply.

40 CFR Part 63, Subpart ZZZZ: National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. This rule establishes national emission limitations and operating limitations for HAPs emitted from stationary RICE.

This rule applies to owners or operators of new and reconstructed stationary RICE of any horsepower rating which are located at a major or area source of HAP emissions. While all stationary RICE located at major or area sources are subject to the final rule (promulgated January 18, 2008, amending the final rule promulgated June 15, 2004), there are distinct requirements for regulated stationary RICE depending on their design, use, horsepower rating, fuel, and major or area HAP emission status.

Major Source Applicability

The standard now applies to engines with a horsepower rating of less than or equal to 500 brake horsepower (bhp) in addition to those engines with a horsepower rating greater than 500 bhp. The standard continues to have specific requirements for new or reconstructed RICE and existing spark ignition 4 stroke rich burn (4SRB) stationary RICE with horsepower ratings greater than 500 bhp located at a major HAP facility.

With the exception of the existing spark ignition 4SRB stationary RICE, other types of existing stationary RICE (i.e., spark ignition 2 stroke lean burn (2SLB), spark ignition 4 stroke lean burn (4SLB), compression ignition (CI), stationary RICE that combust landfill or digester gas equivalent to 10 percent or more of the gross heat input on an annual basis, emergency, and limited use units) located at a major source of HAP emissions are not subject to any specific requirement under the final amended rule.

Existing RICE: A stationary RICE with a site rating of greater than 500 bhp is existing at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced before December 19, 2002. A stationary RICE with a site rating of less than or equal to 500 bhp is existing at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced before June 12, 2006.

New RICE: A stationary RICE with a site rating of greater than 500 bhp is new at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after December 19, 2002. A stationary RICE with a site rating of less than or equal to 500 bhp is new at a major source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after June 12, 2006.

Area Source Applicability

The standard now has specific requirements for new and reconstructed stationary RICE located at minor sources of HAPs, for engines with horsepower ratings less than, equal to, or greater than 500 bhp. The area source standards for new stationary RICE defer to the requirements of NSPS JJJJ for Spark Ignition Internal Combustion Engines or NSPS IIII for Compression Ignition Internal Combustion Engines for demonstrating compliance with subpart ZZZZ. Existing RICE located at an area HAP source are not subject to any specific requirements under the final rule.

Existing RICE: A stationary RICE is existing at an area source of HAP emissions if construction or reconstruction of the unit commenced before June 12, 2006. The area source standards do not apply to existing stationary RICE.

New RICE: A stationary RICE is new at an area source of HAP emissions if construction or reconstruction (as defined in §63.2) of the unit commenced on or after June 12, 2006.

Applicability of 40 CFR 63, Subpart ZZZZ to the Dry Creek Facility:

Table 5 – RIC MACT Applicability Determination
BP Dry Creek Compressor Facility

Unit	Serial Number	Unit Description	Fuel	BHP	Manufacture/ Commence Construction, Modification, or Reconstruction Date	Install/ Start-up Date
C-100	C-12597/4	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 6/1/1998; Reconstruction: Pre-12/19/2002	February 2000[a]
C-200	C-10430/3	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 10/31/1991 Reconstruction: Pre-12/19/2002	March 2008[b]
C-300	C-12658/3	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 8/20/1998 Reconstruction: Pre-12/19/2002	November 2007[c]
C-400	C-10987/3	Waukesha L7042GL, 4SLB	Natural gas	1,318	Manufactured: 10/22/1993 Reconstruction: Pre-12/19/2002	March 2008[d]

a. Per Waukesha, this engine was manufactured on 6/1/98, and based on the installation date, operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
b. This engine was manufactured on 10/31/91 and operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
c. This engine was manufactured on 8/20/98. It was previously installed at Williams Middle Mesa CDP and operated prior to 12/19/02. This engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.
d. This engine was manufactured on 10/22/93 and replaced a Waukesha L5794LT engine in March 2008. Per Exterran, the engine vendor, this engine has not had any overhauls since 12/19/02 that cost greater than 50% of the cost of a new engine.

Dry Creek is a major HAP facility with formaldehyde emissions greater than 10 tpy. However, all four engines are four stroke lean burn engines and have been constructed or reconstructed prior to December 19, 2002. Therefore, subpart ZZZZ does not currently apply.

Compliance Assurance Monitoring (CAM) Rule

40 CFR Part 64: Compliance Assurance Monitoring Provisions. According to 40 CFR 64.2(a), the CAM rule applies to each Pollutant Specific Emission Unit (PSEU) at a major source that is required to obtain a part 70 or part 71 permit if the unit satisfies all of the following criteria:

1) The unit is subject to an emission limitation or standard for the applicable regulated air pollutant other than an emissions limitation or standard that is exempt under §64.2(b)(1);

"§64.2(b)(1): Exempt emission limitations or standards. The requirements of this part shall not apply to any of the following emission limitations or standards:

(i) Emission limitations or standards proposed by the Administrator after November 15, 1990 pursuant to Section 111 or 112 of the Act;
(ii) Stratospheric ozone protection requirements under title VI of the Act;
(iii) Acid Rain Program requirements pursuant to Sections 404, 405, 406, 407(a), 407(b) or 410 of the Act;
(iv) Emissions limitations or standards or other applicable requirements that apply solely under an emissions trading program approved or promulgated by the Administrator under the Act that allows for trading emissions with a source or between sources;
(v) An emissions cap that meets the requirements specified in §70.4(b)(12) or §71.6(a)(13)(iii) of this chapter;
(vi) Emission limitations or standards for which a part 70 or 71 permit specifies a continuous compliance determination method, as defined in §64.1."

"§64.1: Continuous compliance method means a method, specified by the applicable standard or an applicable permit condition, which:

(1) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and
(2) Provides data either in units of the standard or correlated directly with the compliance limit."

2) The unit uses a control device to achieve compliance with any such limit or standard; and

3) The unit has pre-control device emissions of the applicable regulated pollutant that are equal to or greater than 100 percent of the amount, in tons per year, required for a source to be classified as a major source.

Since no PSEU at Dry Creek is subject to an emission standard or limitation, uses a control device to meet an emission standard or limitation, or has pre-controlled emissions greater than 100 tpy, the CAM requirements do not apply.

Chemical Accident Prevention Program

40 CFR Part 68: Chemical Accident Prevention Provisions. Based on BP's application, the Dry Creek currently does not manufacture, process, use, store, or otherwise handle regulated substances in excess of the threshold quantities in this rule and, therefore, is not subject to the requirement to develop and submit a risk management plan. However, BP has an ongoing responsibility to submit this plan IF a substance is listed that the total source has in quantities

over the threshold amount or IF the total source ever increases the amount of any regulated substance above the threshold quantity.

Stratospheric Ozone and Climate Protection

40 CFR Part 82, Subpart F: Air Conditioning Units. There is one air conditioning unit at the Dry Creek facility that contains Class 1 or Class 2 refrigerants (chlorofluorocarbons (CFCs)). Should BP perform any maintenance, service, repair, or disposal of any equipment containing CFCs, or contract with someone to do this work, BP would be required to comply with title VI of the CAA and submit an application for a modification to this title V permit.

40 CFR Part 82, Subpart H: Halon Fire Extinguishers. There are no halon fire extinguishers at the Dry Creek facility. However, should BP obtain any halon fire extinguishers, then it must comply with the standards of 40 CFR part 82, subpart H for halon emissions reduction, if it services, maintains, tests, repairs, or disposes of equipment that contains halons or uses such equipment during technician training. Specifically, BP would be required to comply with 40 CFR part 82 and submit an application for a modification to this title V permit.

Off Permit Changes and Alternative Operating Scenarios

Language has been included in the permit to allow off permit replacement of individual compressor engines with new or overhauled engines, provided that each replacement engine is the same make, model, horsepower rating, configuration, and with equivalent air emission controls and meeting the same applicable requirements, as the engine it replaces, and provided that the provisions in the Off Permit Changes section of the permit, specific to engine replacement, are satisfied. The primary purpose of the special provisions is to ensure existing emission limits, PSD, NSPS, and MACT requirements are not circumvented by off permit changes. Related language is also included in the section on Alternative Operating Scenarios.

Conclusion

Since the Dry Creek facility is located in Indian country, the State of Colorado's implementation plan does not apply to this source. In addition, no tribal implementation plan (TIP) has been submitted and approved for the Southern Ute Tribe, and EPA has not promulgated a federal implementation plan (FIP) for the area of jurisdiction governing the Southern Ute Indian Reservation. Therefore, the Dry Creek facility is not subject to any implementation plan.

Based on the information provided in BP's applications for Dry Creek, EPA has determined that the facility is subject only to those applicable federal CAA programs discussed in 3.a. above.

EPA recognizes that, in some cases, sources of air pollution located in Indian country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in nonattainment areas and of minor sources in both attainment and nonattainment areas. These programs will establish, where appropriate, control requirements for sources that would be

incorporated into part 71 permits. To establish additional applicable, federally-enforceable emission limits, EPA Regional Offices will, as necessary and appropriate, promulgate FIPs that will establish federal requirements for sources in specific areas. EPA will establish priorities for its direct federal implementation activities by addressing as its highest priority the most serious threats to public health and the environment in Indian country that are not otherwise being adequately addressed. Further, EPA encourages and will work closely with all tribes wishing to develop TIPs for approval under the Tribal Authority Rule. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved TIP.

4. EPA Authority

a. General Authority to Issue Part 71 Permits

Title V of the CAA requires that EPA promulgate, administer, and enforce a federal operating permits program when a state does not submit an approvable program within the time frame set by title V or does not adequately administer and enforce its EPA-approved program. On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR 71 setting forth the procedures and terms under which the Agency would administer a federal operating permits program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing federal operating permits to stationary sources in Indian country.

As described in 40 CFR 71.4(a), EPA will implement a part 71 program in areas where a state, local, or tribal agency has not developed an approved part 70 program. Unlike states, Indian tribes are not required to develop operating permits programs, though EPA encourages tribes to do so. See, e.g., Indian Tribes: Air Quality Planning and Management (63 FR 7253, February 12, 1998) (also known as the "Tribal Authority Rule"). Therefore, within Indian country, EPA will administer and enforce a part 71 federal operating permits program for stationary sources until a tribe receives approval to administer their own operating permits programs.

5. Use of All Credible Evidence

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the 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 by the source and EPA in such determinations.

6. Public Participation

a. Public Notice

There was a 30-day public comment period for actions pertaining to the draft permit. Public notice was given for the draft permit by mailing a copy of the notice to the permit applicant, the affected state, tribal and local air pollution control agencies, the city and county executives, the state and federal land managers and the local emergency planning authorities which have jurisdiction over the area where the source is located. A copy of the notice was also provided to

all persons who have submitted a written request to be included on the mailing list. If you would like to be added to our mailing list to be informed of future actions on these or other Clean Air Act permits issued in Indian country, please send your name and address to:

Kathleen Paser, Part 71 Permit Contact
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202-1129

Public notice was published in the Durango Herald on July 22, 2009, giving opportunity for public comment on the draft permit and the opportunity to request a public hearing.

b. Opportunity for Comment

Members of the public were given the opportunity to review a copy of the draft permit prepared by EPA, the application, the statement of basis for the draft permit, and all supporting materials for the draft permit. Copies of these documents were available at:

La Plata County Clerk's Office
1060 East 2nd Avenue
Durango, Colorado 81302

and

Southern Ute Indian Tribe
Environmental Programs Office
116 Mouache Drive
Ignacio, Colorado 81137

and

US EPA Region 8
Air Program Office
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202-1129

All documents were available for review at the U.S. EPA Region 8 office Monday through Friday from 8:00 a.m. to 4:00 p.m. (excluding federal holidays).

Any interested person could submit written comments on the draft part 71 operating permit during the public comment period to the Part 71 Permit Contact at the address listed above. EPA keeps a record of the commenters and of the issues raised during the public participation process. All comments have been considered and answered by EPA in making the final decision on the permit.

Anyone, including the applicant, who believed any condition of the draft permit was inappropriate could raise all reasonable ascertainable issues and submit all arguments supporting their position by the close of the public comment period. Any supporting materials submitted must have been included in full and may not have been incorporated by reference, unless the material was already submitted as part of the administrative record in the same proceeding or consisted of state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference material.

Comments on the draft permit and Statement of Basis were received from the permittee during the public comment period.

c. Opportunity to Request a Hearing

A person could submit a written request for a public hearing to the Part 71 Permit Contact, at the address listed in section 8.a above, by stating the nature of the issues to be raised at the public hearing. No request for a public hearing was received. EPA did not receive any requests for a public hearing during the public comment period.

d. Appeal of Permits

Within 30 days after the issuance of a final permit decision, any person who filed comments on the draft permit or participated in the public hearing may petition to the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or participate in the public hearing may petition for administrative review, only if the changes from the draft to the final permit decision or other new grounds were not reasonably foreseeable during the public comment period. The 30-day period to appeal a permit begins with EPA's service of the notice of the final permit decision.

The petition to appeal a permit must include a statement of the reasons supporting the review, a demonstration that any issues were raised during the public comment period, a demonstration that it was impracticable to raise the objections within the public comment period, or that the grounds for such objections arose after such a period. When appropriate, the petition may include a showing that the condition in question is based on a finding of fact or conclusion of law which is clearly erroneous; or, an exercise of discretion, or an important policy consideration that the Environmental Appeals Board should review.

The Environmental Appeals Board will issue an order either granting or denying the petition for review, within a reasonable time following the filing of the petition. Public notice of the grant of review will establish a briefing schedule for the appeal and state that any interested person may file an amicus brief. Notice of denial of review will be sent only to the permit applicant and to the person requesting the review. To the extent review is denied, the conditions of the final permit decision become final agency action.

A motion to reconsider a final order shall be filed within 10 days after the service of the final order. Every motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration shall be directed to the Administrator

rather than the Environmental Appeals Board. A motion for reconsideration shall not stay the effective date of the final order unless it is specifically ordered by the Board.

e. Petition to Reopen a Permit for Cause

Any interested person may petition EPA to reopen a permit for cause, and EPA may commence a permit reopening on its own initiative. EPA will only revise, revoke and reissue, or terminate a permit for the reasons specified in 40 CFR 71.7(f) or 71.6(a)(6)(i). All requests must be in writing and must contain facts or reasons supporting the request. If EPA decides the request is not justified, it will send the requester a brief written response giving a reason for the decision. Denial of these requests is not subject to public notice, comment, or hearings. Denials can be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts.

f. Notice to Affected States/Tribes

As described in 40 CFR 71.11(d)(3)(i), public notice was given by mailing a copy of the notice to the air pollution control agencies of affected states, tribal and local air pollution control agencies that have jurisdiction over the area in which the source is located, the chief executives of the city and county where the source is located, any comprehensive regional land use planning agency and any state or Federal land manager whose lands may be affected by emissions from the source. The following entities were notified:

- State of Colorado, Department of Public Health and Environment
- State of New Mexico, Environment Department
- Southern Ute Indian Tribe, Environmental Programs Office
- Ute Mountain Ute Tribe, Environmental Programs
- Navajo Tribe, Navajo Nation EPA
- Jicarilla Tribe, Environmental Protection Office
- La Plata County, County Clerk
- Town of Ignacio, Mayor
- National Park Service, Air, Denver, CO
- U.S. Department of Agriculture, Forest Service, Rocky Mountain Region
- Carl Weston
- San Juan Citizen Alliance
- Wild Earth Guardians (formerly Rocky Mountain Clean Air Action)