

**Air Pollution Control
Title V Permit to Operate
Statement of Basis for Title V Permit, No. V-SU-00040-2009.01
Reopen for Cause
February 2011**

**Red Cedar Gathering Company
La Posta Compressor Station
Southern Ute Reservation
La Plata County, Colorado**

1. Facility Information

a. Location

The La Posta Compressor Station, owned and operated by Red Cedar Gathering Company (“Red Cedar”), 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 Section 2, T33N, R10W, in La Plata County, Colorado. The mailing address is:

Red Cedar Gathering Company
125 Mercado Street, Suite 201
Durango, CO 81301

b. Contacts

Responsible Official:

Albert J. Brown, President
Chief Operating Officer
125 Mercado Street, Suite 201
Durango, CO 81301
Main Office: (970) 764-6900
Fax: (970) 382-0462

Tribal Contact:

Brenda Jarrell
Air Quality Program Manager
Southern Ute Indian Tribe
Phone: 970-563-4705

Facility Contact:

Ethan Hinkley, Environmental Compliance Specialist - Air Quality
Red Cedar Gathering Company
125 Mercado Street, Suite 201
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Main Office: (970) 764-6900
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2. Description of Reopen for Cause

On March 3, 2010 (75 FR 9648), EPA published revisions to the National Emission Standards for Hazardous Air Pollutants, also known as the maximum achievable control technologies (MACT) for Reciprocating Internal Combustion Engines (RICE MACT). While the primary purpose of the final rule was to include the regulation of emissions of hazardous air pollutants (HAPs) from certain existing compression ignition RICE, the rule also included changes to the startup, shutdown, and malfunction (SSM) provisions for all RICE as a result of a December 18, 2008 D.C. Circuit Court of Appeals order.

According to 40 CFR 71.7(f)(1)(i), issued operating permits shall be reopened for cause if an additional applicable requirement under the Clean Air Act (CAA) becomes applicable to a major part 71 source with a remaining permit term of 3 or more years. 40 CFR 71.7(f)(3) requires the permitting authority to provide a notice of intent to reopen for cause to the part 71 source at least 30 days in advance of the date the permit is to be reopened. EPA notified Red Cedar Gathering Company of its intent to reopen the operating permit for La Posta Compressor Station in a letter dated May 11, 2010.

Following EPA's notification letter of intent to reopen the permit for cause to address the March 3, 2010 revisions to RICE MACT, additional changes to the rule were promulgated on August 20, 2010. While the main focus of the August 20, 2010 rule revisions was to include additional affected units, there were also changes made to the allowed performance test methods that affect the language in the permit. Rather than specifically referencing the test methods appropriate for the emission units in the permit, we have revised the language to provide greater flexibility by referencing the table of requirements for performance test in the regulation. This does not change any of the applicable requirements of the RICE MACT. The August 20, 2010 rule revisions also included Continuous Parameter Monitoring Systems (CPMS) specifications. The permit has been revised to incorporate the new CPMS requirements for the affected emission units.

a. RICE MACT promulgation history and applicability

40 CFR Part 63, Subpart ZZZZ (RICE MACT): 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 spark ignition internal combustion engines (SI ICE) and stationary compression ignition internal combustion engines (CI ICE).

For the purposes of this standard, construction or reconstruction is as defined in §63.2.

Rule History

June 15, 2004: SI and CI ICE > 500 bhp at Major HAP Source

This rule was originally promulgated in June 15, 2004 (69FR 33474). The original rule regulated all new and reconstructed lean burn and rich burn stationary SI ICE and CI ICE greater than 500

bhp located at major HAP sources. Only one category of existing ICE was subject to the rule at that time: Existing 4SRB SI ICE with a horse power rating equal to or greater than 500 bhp.

For this version of the rule,

Existing means: Construction or reconstruction commenced on or before 12/19/2002.

New means: Construction or reconstruction commenced after 12/19/2002.

January 18, 2008: New SI & CI ICE at Area HAP Sources & New SI & CI ICE with Horse Power Rating \leq 500 bhp at Major HAP Sources

The first round of amendments to RICE MACT was promulgated on January 18, 2008 (73FR 3568). Requirements were established for new SI and CI ICE of any horse power rating located at area sources of HAPs and new SI and CI ICE with a horse power rating less than or equal to 500 bhp at major sources of HAPs.

For this version of the rule:

Existing means: Construction or reconstruction commenced before 6/12/2006.

New means: Construction or reconstruction commenced on or after 6/12/2006.

March 3, 2010: Existing CI ICE at Area & Major HAP Sources

The second round of amendments to RICE MACT was promulgated on March 3, 2010. New requirements were established for existing CI ICE of any horse power rating located at area sources of HAPs, existing CI RICE with a horse power rating less than or equal to 500 bhp at major sources of HAPs, and existing non-emergency CI ICE with a horse power rating greater than 500 bhp at major sources of HAPs.

For this version of the rule

Existing CI at Area Source any bhp = Construction or reconstruction commenced before 6/12/2006.

Existing CI at Major Source, bhp \leq 500 = Construction or reconstruction commenced before 6/12/2006.

Existing Non-Emergency CI at Major Source, bhp $>$ 500 = Construction or reconstruction commenced on or before 12/19/2002.

August 20, 2010: Existing SI ICE at Area Sources & Existing SI ICE \leq 500 bhp at Major HAP Sources

The third round of amendments to RICE MACT was promulgated on August 20, 2010. New requirements were established for existing SI ICE of any horse power rating at area sources of HAPs and existing SI ICE with a horse power rating less than or equal to 500 bhp at major sources of HAPs.

For this version of the rule:

Existing SI ICE at Area Source, any bhp = Construction or reconstruction commenced before 6/12/2006.

Existing SI ICE at Major Source, $bhp \leq 500$ bhp = Construction or reconstruction commenced before 6/12/2006

While engines identified above are subject to the final rule and its amendments (August 20, 2010, March 3, 2010, January 18, 2008, June 15, 2004), there are distinct requirements for each engine depending on their design, use, horsepower rating, fuel, and major or area HAP emission status.

Summary of Applicability to Engines at Major HAP Sources

**Table 1 - Applicability to Engines at Major HAP Sources
Red Cedar La Posta Compressor Station**

Major HAP Sources			
Engine Type	Horse Power Rating	New or Existing?	Trigger Date
SI ICE – All ¹	≥ 500 hp	New	On or After 12/19/2002
SI ICE - 4SRB	> 500 hp	Existing	Before 12/19/2002
SI ICE – All ¹	≤ 500 hp	New	On or After 6/12/2006
SI ICE – All ¹	≤ 500 hp	Existing	Before 6/12/2006
CI ICE - All ²	≥ 500 hp	New	On or After 12/19/2002
CI ICE - Non Emergency	> 500 hp	Existing	Before 12/19/2002
CI ICE - All ²	≤ 500 hp	New	On or After 6/12/2006
CI ICE - All ²	≤ 500 hp	Existing	Before 6/12/2006

1. All includes emergency ICE, limited use ICE, ICE that burn land fill gas, 4SLB, 2SLB, and 4SRB.

2. All includes emergency ICE and limited use ICE

Summary of Applicability to Engines at Area HAP Sources

**Table 2 - Applicability to Engines at Area HAP Sources
Red Cedar La Posta Compressor Station**

Area HAP Sources			
Engine Type	Horse Power Rating	New or Existing?	Trigger Date
SI ICE - All ¹	All hp	New	On or After 6/12/2006
SI ICE - All ¹	All hp	Existing	Before 6/12/2006
CI ICE - All ²	All hp	New	On or After 6/12/2006
CI ICE - All ²	All hp	Existing	Before 6/12/2006

1. All includes emergency ICE, limited use ICE, ICE that burn land fill or digester gas, 4SLB, 2SLB, and 4SRB.

2. All includes emergency ICE and limited use ICE

Applicability of 40 CFR 63, Subpart ZZZZ to the La Posta Compressor Station

BP America provided the following information:

**Table 3 - NESHAP Subpart ZZZZ Applicability Determination
Red Cedar La Posta Compressor Station**

Unit	Serial Number	Unit Description	Fuel	BHP	Commenced Construction Reconstruction or Modification Date	Subpart ZZZZ Requirements
C-201	C-11647/1	Waukesha 7042 GL/LB	NG	1,330	Pre- 12/19/2002	Not Subject (Existing)
C-301	C-11521/1	Waukesha 7042 GL/LB	NG	1,330	Pre- 12/19/2002	Not Subject (Existing)
C-401	C-12583/1	Waukesha 7042 GL/LB	NG	1,330	Pre- 12/19/2002*	Subject (New)
G-101	02-03-00318	Onan (Ford) ESG-6421-6005A	NG	97	Pre- 12/19/2002	Not Subject (Existing)

*See discussion below for explanation of why unit C-401 is subject to the RICE MACT requirements.

According to the information provided by Red Cedar in the renewal application and records of off permit change notifications, units C-201, C-301, and G-101 are not subject to the subpart; however, unit C-401 is subject to the major source requirements of subpart ZZZZ. The subpart does not apply to units C-201, and C-301, because the Waukesha L7042GL compressor engines currently operating at the facility are considered existing 4SLB stationary RICE with a site rating of greater than 500 bhp that commenced construction prior to December 19, 2002 and have not been modified or reconstructed since. The subpart also does not apply to unit G-101, because it is considered an existing 4SRB stationary RICE with a site rating of less than or equal to 500 bhp that commenced construction, reconstruction, or modification prior to December 19, 2002. Should Red Cedar propose to replace engine units C-201, C-301, or G-101 with engines that are subject to subpart ZZZZ requirements, Red Cedar will not be allowed to use the off permit changes provision, and will be required to submit a permit modification application, to include the respective unit(s) as an additional unit(s) subject to the subpart ZZZZ requirements.

Unit C-401 is subject to the subpart because it is a new 4SLB engine, according to the Alternative Operating Scenarios provisions of the permit (Section III.D. of the permit). Unit C-401 was replaced in September 2008 with a like-kind engine that commenced construction prior to December 19, 2002. However, the permit specifies that if unit C-401 is replaced via the Off Permit Changes provisions of the permit (Section IV.Q. of the permit), the replacement engine is considered a new engine with respect to subpart ZZZZ and shall be subject to the same requirements that applied to the replaced engine.

b. RICE MACT revisions applicable to La Posta

The revisions to the RICE MACT published in the federal register on March 3, 2010 included emission regulations for stationary CI ICE that are located at area and major sources of HAP emissions. Additionally, the rule included revised standards for the startup, shutdown, and malfunction (SSM) procedures that were previously regulated under the RICE MACT. The engines located at La Posta are all SI ICE, but only engine unit C-401 was previously subject to the RICE MACT. Therefore, the revised standards for SSM procedures apply only to engine unit C-401 at La Posta.

EPA has promulgated additional operational standards during startup as part of the revised rule.

These standards specify that the permittee must limit the engine startup time to no more than 30 minutes and must minimize the engine's time spent at idle during startup. For conditions where it may take more than 30 minutes to start up the engine (i.e. cold starts or where the ambient temperature is very cold), the permittee may petition the Administrator pursuant to 40 CFR 63.6(g) for alternative work practices. These standards apply during normal operations, as well as during malfunctions, and are reflected in Section II of the permit. In addition, emission limitations apply at all times, except during periods of startup, and sources are no longer required to implement and maintain a SSM plan under the revised rule.

The following modifications have been made to this permit:

- Section II. – Requirements for Engines
 1. Corrected the text to reflect recent updates to the applicable regulatory requirements

For specific applicability information regarding the part 71 permit for this facility, please see the Statement of Basis for permit number V-SU-0040-09.00.

c. Conclusion

Based on the information provided in Red Cedar's applications for the La Posta Compressor Station, EPA has determined that the facility is subject to the March 3, 2010 and August 20, 2010 revisions promulgated at 40 CFR part 63, subpart ZZZZ as discussed in Section 2., above. As discussed in Section 5 below, only portions of the permit that have been revised are subject to public review and comment during the public comment period.

3. 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.

4. 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.

5. Public Participation

a. Public notice

As described in 40 CFR 71.11(a)(5), all part 71 draft operating permits shall be publicly noticed and made available for public comment. The public notice of permit actions and public comment period is described in 40 CFR 71.11(d). **40 CFR 71.7(f)(2) further states that “proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.”**

There was a 30-day public comment period for actions pertaining to a draft permit. The public comment period will only affect those parts of the permit for which cause to reopen exists according to 40 CFR 71.7 (f)(2). Public notice was given for this 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 CAA permits issued in Indian country, please send your name and address to the contact listed below:

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

Public notice was published in the Durango Herald as detailed in the cover letter of this package, 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 are available at:

La Plata County Clerk's Office
98 Everett Street, Suite C
Durango, Colorado 81303

and
Southern Ute Indian Tribe

Environmental Programs Office
116 Mouache Dr.
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 was given the opportunity to submit written comments on Section II of 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.

Anyone, including the applicant, who believed any condition in Section II 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 be 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 consists of state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference material. No comments were received on the draft permit.

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 above, by stating the nature of the issues to be raised at the public hearing.

d. Appeal of permits

Within 30 days after the issuance of a final permit decision, any person who filed comments on Section II of the draft permit or participated in the public hearing may petition to the Environmental Appeals Board to review any condition of Section II 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 which 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 which 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 also 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
La Plata County, Assessor's Office
Town of Ignacio, Mayor
National Park Service, Air, Denver, CO
U.S. Department of Agriculture, Forest Service, Rocky Mountain Region
San Juan Citizen Alliance
Carl Weston
WildEarth Guardians

Air Pollution Control

Title V Permit to Operate

Statement of Basis for Final 1st Renewal Title V Permit, No. V-SU-0040-09.00

December 2009

**Red Cedar Gathering Company
La Posta Compressor Station
Southern Ute Reservation
La Plata County, Colorado**

1. Facility Information

a. Location

The La Posta Compressor Station, owned and operated by Red Cedar Gathering Company (“Red Cedar”), 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 Section 2, T33N, R10W, in La Plata County, Colorado. The mailing address is:

Red Cedar Gathering Company
125 Mercado Street, Suite 201
Durango, CO 81301

b. Contacts

Responsible Official:

Albert J. Brown, President - Chief Operating Officer
125 Mercado Street, Suite 201
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Main Office: (970) 764-6900
Fax: (970) 382-0462

Facility Contact:

Ethan Hinkley, Environmental Compliance Specialist - Air Quality
Red Cedar Gathering Company
125 Mercado Street, Suite 201
Durango, CO 81301
Main Office: (970) 764-6900
Direct Line: (970) 764-6910

Tribal Contact:

James Temte

Air Quality Program Manager - Southern Ute Indian Tribe

(970) 563-4705

c. Description of Operations

The La Posta Compressor Station, owned and operated by Red Cedar, is a natural gas production field facility (prior to the point of custody transfer as defined in 40 CFR part 63.7691). The facility performs natural gas compression and dehydration using three natural gas-fired 4-stroke lean burn (4SLB) reciprocating internal combustion engines (RICE) driving natural gas compressors. All the engines are Waukesha model L7042GL, fired only on natural gas, rated at 1,330 bhp and exhaust individually to the atmosphere. An Onan (Ford) model ESG-6421-6005-A electrical generator set, fired only on natural gas, manufacturer rated at 97 bhp provides electrical power to the facility. The facility also operates one 0.5 MMBtu/hr triethylene glycol (TEG) dehydrator.

The La Posta Compressor Station is a major source for carbon monoxide (CO) and formaldehyde (CH₂O) with respect to the operating permit thresholds and requirements of 40 CFR Part 71.

d. List of All Units and Emission-Generating Activities

In the part 71 operating permit renewal application for La Posta Compressor Station, Red Cedar provided the information shown in Tables 1 and 2 below. Table 1 lists emission units and emission generating activities, including any air pollution control devices. Emission units identified as “insignificant” emitting units (IEUs) are listed separately in Table 2.

Table 1 - Emission Units
Red Cedar Gathering Company, La Posta Compressor Station

Emission Unit ID	Description	Control Equipment
C-201 C-301	Waukesha L7042GL Compressor Engines, 1,330 bhp, 4SLB, natural gas fired: serial no. C-11647/1 Installed 8/28/2007* serial no. C-11521/1 Installed 6/11/2008*	None
C-401	Waukesha L7042GL Compressor Engine, 1,330 bhp, 4SLB, natural gas fired: serial no. C-12583/1 Installed 9/25/2008*	Oxidation Catalyst
G-101	Onan (Ford) ESG-642I-6005-A Electrical Generator Set, 97 bhp, 8.1 mmscf/yr, natural gas fired: serial no. 02-03-003318 Installed 10/2002	None

* NSPS JJJJ and NESHAP ZZZZ applicability determinations are included in Section 3.a. of this Statement of Basis

Part 71 allows sources to separately list in the permit application units or activities that qualify as “insignificant” based on potential emissions below 2 tons/year (tpy) for all regulated pollutants that are not listed as hazardous air pollutants (HAPs) under section 112(b) and below 1,000 lbs/year or the de minimis level established under section 112(g), whichever is lower, for HAPs. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement. 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.

Red Cedar stated in the part 71 permit application that the emission units in Table 2, below, are IEUs. The application provided emission calculations for the tanks using TANKS 4.0, for the glycol dehydrators using GRI-GLYCalc Version 3.0, and for the heaters using AP-42 emission factors. This supporting data justifies the source’s claim that these units qualify as IEUs.

**Table 2 -- Insignificant Emission Units
Red Cedar Gathering Company, La Posta Compressor Station**

Emission Unit ID	Description
TK-501	1 Waste Water Drain Tank, 21,000 gallons, Atmospheric Vent & Heater
TK-502	1 Waste Oil Drain Tank, 8,820 gallons, Atmospheric Vent & Heater
TK-503	1 Glycol Still Column Vent Tank, 756 gallons
TK-505	1 TEG Storage Tank, 500 gallons, Atmospheric Vent
TK-506	1 Lube Oil Storage Tank, 1,600 gallons, Atmospheric Vent
TK-508, TK-509	2 Engine Coolant Storage Tanks, 500 gallons each, Atmospheric Vent
TK-510, TK-511, TK-512	3 Engine Coolant Surge Tanks, 30 gallons each, Atmospheric Vent; on C-201, C-301, and C-401, respectively
H-101	1 Catalytic Heater (V-101 – inlet slug catcher); 6,000 Btu/hr
H-401, H-402	2 Catalytic Heaters (X-401, X-402 fuel gas skids), 18,000 Btu/hr each
H-501, H-502	2 Tank Heaters (TK-501, TK-502), 0.325 MMBtu/hr each
X-601	1 25 MMScf/d TEG Dehydrator with 0.5 MMBtu/hr Reboiler

e. 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 operational 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 emissions, is federally enforceable.

The PTE for the La Posta Compressor Station was listed by Red Cedar in Forms “GIS”, “PTE,” and the various forms “EUD” of the part 71 operating permit renewal application. Table 3 shows PTE data broken down by each individual emission unit, as well as the total facility-wide PTE.

Table 3 - Potential to Emit (Controlled)
Red Cedar Gathering Company, La Posta Compressor Station

Emission Unit ID	Regulated Air Pollutants (tpy)							
	NO _x	VOC	SO ₂	PM ₁₀	CO	Lead	HAP	CH ₂ O
C-201	19.3	12.8	0.0	0.4	34.0	0.0	4.9	3.7
C-301	19.3	12.8	0.0	0.4	34.0	0.0	4.9	3.7
C-401	19.3	12.8	0.0	0.4	34.0	0.0	4.9	3.7
G-101	9.6	0.1	0.0	0.0	15.8	0.0	0.2	0.1
IEUs	0.6	1.5	0.0	0.0	0.5	0.0	0.7	0.0
TOTAL*	68.0	40.2	0.0	1.3	118.4	0.0	15.6	11.3

*For the purposes of reporting consistent significant figures in this table, the reported PTE for individual emission units has been rounded to the nearest tenth; however, the total PTE is based on the facility-wide PTE reported in form "GIS" of the part 71 operating permit renewal application, which was calculated using additional significant figures for each emission unit. Therefore, some PTE totals do not appear to agree with simply adding the rounded individual unit PTE.

f. Construction, Permitting, and Compliance History

The La Posta Compressor Station commenced operation on November 14, 2002, operating with two 4SLB RICE (C-101 and C-201). The third 4SLB RICE (C-301) was installed on February 3, 2003, and a fourth 4SLB RICE (C-401) was installed on October 20, 2003. The installation of the fourth 4SLB RICE increased the PTE of carbon monoxide emissions to title V major source thresholds, requiring Red Cedar to submit an initial title V operating permit application within 12 months.

The U.S. Environmental Protection Agency, Region 8 (EPA) received the initial title V operating permit application from Red Cedar on March 8, 2004 and issued the final initial title V operating permit (#V-SU-0040-04.00) on January 13, 2005. On February 28, 2006 EPA received an administrative amendment request to change the responsible official and facility contact. EPA issued the administrative amendment (#V-SU-0040-04.01) on May 22, 2006.

EPA inspected the facility on August 15, 2006, and determined that Red Cedar had been using AP-42 emission factors when calculating PTE of CH₂O from the compressor engines. AP-42 emission factors are industry averaged factors that tend to over or underestimate potential emissions. Where emission factors for a specific emitting unit are available, EPA prefers permittees use these more accurate factors. This is especially important where the applicability of requirements is being determined. Using manufacturer specific emission factors, the facility-wide PTE was back calculated and determined to have exceeded major source thresholds for HAP emissions when unit C-301 was installed; therefore, EPA determined that the National Emission Standards for Hazardous Air Pollutants (NESHAP) for RICE applied to engine C-401 based on its commenced construction date, which was after December 19, 2002. *[Note: NESHAPs for specific source categories are also commonly referred to as the Maximum*

Achievable Control Technology (MACT) rules; therefore the NESHAP for RICE will herein be referred to as the RICE MACT.] The RICE MACT requires emission controls for “new” engines that have commenced construction after December 19, 2002. EPA issued a Compliance Assistance Plan for CAA violations at the La Posta Compressor Station on July 23, 2007. The CAP specified all of the CAA violations discovered at the La Posta Compressor Station and the corrective action to be taken, which included installing emission controls on unit C-401, complying with all other applicable RICE MACT requirements, a schedule for submitting documentation of compliance with the applicable requirements, and applying for a modification to the part 71 operating permit to include the RICE MACT requirements.

On August 28, 2007, engine C-201 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 4, 2007, EPA received an application from Red Cedar proposing a significant permit modification to incorporate RICE MACT requirements for unit C-401. EPA issued the significant modification on December 5, 2008.

On June 12, 2008, engine C-301 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 25, 2008, RICE MACT-subject engine C-401 was replaced with an 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 commenced construction prior to December 19, 2002, and generally would not be subject to the RICE MACT requirements. However, because it was a replacement for unit C-401 that was conducted via the off permit changes provisions of the permit, the replacement engine must also be subject to the RICE MACT requirements, according to the permit.

EPA received Red Cedar’s application to renew the part 71 permit on July 31, 2009, followed by additional corrected information on August 10, 2009. The application was determined complete as of August 10, 2009. Based on EPA’s records (The Enforcement & Compliance History Online (ECHO) database, located at: <http://www.epa-echo.gov>), Red Cedar is currently in compliance with all requirements at the La Posta Compressor Station.

EPA has no record of any other federal permitting activity, such as Prevention of Significant Deterioration (PSD) or minor New Source Review (NSR), at this facility.

Table 4 below shows the construction and permitting history of the La Posta Compressor Station in the context of the history of potentially applicable CAA regulations, and includes the calculated PTE and relevant regulatory air pollutant emission status at each point in time.

Table 4 - Construction, Permitting, and Compliance History
Red Cedar La Posta Compressor Station
(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)
<p>Applicability:</p> <p>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].</p> <p>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.</p> <p>Compliance: No new source or modification of a source subject to PSD review may be constructed without a permit.</p>
February 19, 1999 - Part 71 (Title V) Operating Permit Program Promulgated (the 2/19/99 rules form the basis of the current regulations).
<p>Applicability:</p> <p>Any major source (criteria pollutants > 100 tpy, or any single HAP > 10 tpy, or aggregated HAPS > 25 tpy);</p> <p>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;</p> <p>Any Acid Rain source;</p> <p>Any Solid Waste Incineration Unit.</p> <p>Application Due Date: Within 12 months after commencing operation.</p>
June 17, 1999 – MACT HH for Major HH HAP Oil and Gas Production Sources Promulgated (HAP > 10/25 tpy)
<p>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.</p> <p>Affected Sources:</p> <ul style="list-style-type: none"> 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 <p>Final Compliance Dates:</p> <ul style="list-style-type: none"> Construction or reconstruction commenced before February 6, 1998 – June 17, 2002 Construction or reconstruction commenced after February 6, 1998 – Upon startup or June 17, 2002, whichever date is later <p>Area → Major</p> <ul style="list-style-type: none"> Construction or reconstruction of affected unit commenced before February 6, 1998, causing source to become major – 3 years after becoming major Construction or reconstruction of affected unit commenced after February 6, 1998, causing source to become major – Upon startup

Table 4 - Construction, Permitting, and Compliance History (continued)
Red Cedar La Posta Compressor Station
(In Context of Some CAA Regulations That May Apply)

November 14, 2002 – Initial Construction					
	PTE (tpy)				
	NOx	CO	VOC	HAPs	CH ₂ O
C-101, 1,364 bhp Waukesha 7042 GL (no controls) – existing 4SLB RICE	19.3	34.8	12.9	3.1	2.3
C-201, 1,364 bhp Waukesha 7042 GL (no controls) – existing 4SLB RICE	19.3	34.8	12.9	3.1	2.3
Insignificant Emission Units					
TEG Dehydration Still Columns (2), TEG Tanks (2), Engine Coolant Storage Tanks (2), Lube Oil Storage Tank, Waste Water Drain Tank, Waste Oil Drain Tank	0.3	0.1	0.1	0.0	0.0
Facility PTE for 2002 New Source	38.9	69.7	25.9	6.205	4.6
PSD Status of Facility: Minor		HAP Status of Facility: Minor			
HAP Status of Facility per Subpart HH: Minor		Title V Status of Facility: Not Subject			
February 3, 2003 – Addition of Third Compressor Engine, C-301; New Engine Results in a Major Title V Source for CO Emissions.					
	PTE (tpy)				
	NOx	CO	VOC	HAPs	CH ₂ O*
C-301, 1,364 bhp Waukesha 7042 GL (no controls) – existing 4SLB RICE	19.3	34.8	12.9	3.1	2.3
Modification PTE Total (Minor Mod. of Minor PSD Source)	+19.3	+34.8	+12.9	+3.1	+2.3
Facility PTE after February 2003 Modification	58.2	104.5	38.8	9.305	6.7
PSD Status of Facility: Minor		HAP Status of Facility: Minor*			
HAP Status of Facility per Subpart HH: Minor		Title V Status of Facility: Subject; App Due w/in 12 mos.			
* Red Cedar believed at the time the facility was minor for emissions of CH ₂ O based on their use of AP-42 emission factors for engine emission calculations.					
October 20, 2003 – Addition of Fourth Compressor Engine					
	PTE (tpy)				
	NOx	CO	VOC	HAPs	CH ₂ O*
C-401, 1,478 bhp Waukesha 7042 GL (no controls) - New 4SLB RICE	19.3	34.8	12.9	3.1	2.3
Modification PTE Total (Minor Mod. of Minor PSD Source)	+19.3	+34.8	+12.9	+3.1	+2.3
Facility PTE After Minor Mod. / January 2005 Initial Title V Permit	77.5	139.3	51.6	12.4	9.2
PSD Status of Facility: Minor		HAP Status of Facility per Subpart HH: Minor*			
HAP Status of Facility: Minor		Title V Status of Facility: Subject; App. Rec'd 3/8/04; #V-SU-0040-04.00 Permitted 1/13/05			
*Red Cedar believed at the time the facility was minor for emissions of CH ₂ O based on their use of AP-42 emission factors for engine emission calculations.					
June 15, 2004 – NESHAP for Reciprocating Internal Combustion Engines (RICE) Promulgated					
Affected Sources: Existing RICE ≥ 500 bhp, located at major sources of HAP emissions, constructed or reconstructed on or before 12/19/2002 New/Reconstructed RICE ≥ 500 bhp, 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 New or reconstructed rich or lean burn RICE constructed on or before August 16, 2004 New or reconstructed rich or lean burn RICE constructed after August 16, 2004 – upon startup					
Applicability to La Posta Compressor Station <i>Exempt – Red Cedar believed facility was minor for HAP at the time based on using AP-42 engine emission factors.</i>					

Table 4 - Construction, Permitting, and Compliance History (continued)
Red Cedar La Posta Compressor Station
(In Context of Some CAA Regulations That May Apply)

February 28, 2006 – Request for Administrative Amendment to Change Responsible Official, Facility Contact					
No Change in Facility PTE					
PSD Status of Facility: Minor HAP Status of Facility per Subpart HH: Minor			HAP Status of Facility: Minor* Title V Status: Subject; #V-SU-0040-04.01 Issued May 22, 2006		
* Red Cedar believed at the time the facility was minor for emissions of CH ₂ O and not subject to 40 CFR part 63, subpart ZZZZ based on their use of AP-42 emission factors for engine emission calculations.					
August 15, 2006 – First Ever EPA Inspection of Facility; EPA Re-calculated PTE for CH ₂ O from Engines Using Manufacturer-Specific Emission Factors (Red Cedar Previously Used AP-42 factors) → Results in Back-Calculated Major HAP Status for CH ₂ O Emissions (>10 tpy) Upon Startup of Original Unit C-301 (replaced June 12, 2008) and Triggers RICE MACT Upon Startup of original “New” Unit C-401 (replaced September 25, 2008).					
	PTE (tpy)				
	NOx	CO	VOC	HAPs	CH ₂ O
C-101, 1,478 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	21.4	37.8	14.3	<5.5	4.1
C-201, 1,478 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	21.4	37.8	14.3	<5.5	4.1
C-301, 1,478 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	21.4	37.8	14.3	<5.5	4.1
C-401, 1,478 bhp Waukesha 7042 GL (no controls) - New 4SLB RICE	21.4	37.8	14.3	<5.5	4.1
Insignificant Emission Units	0.8	0.7	3.5	1.8	0.0
Change in PTE Resulting from Corrected Engine PTE Calculations (Addition of C-401 Still Minor Mod. of Minor PSD Source)	+8.9	+12.6	+9.1	+11.4	+7.4
Facility PTE After Corrected Engine PTE Calculations	86.4	151.9	60.7	23.8	16.6
PSD Status of Facility: Minor HAP Status of Facility per Subpart HH: Minor			HAP Status of Facility: Major – Based on re-calculated PTE Title V Status: Subject; #V-SU-0040-04.01 Permitted May 22, 2006		
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/in Urban Area (UA) Plus Offset and Urban Cluster (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 startup 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					
Applicability to La Posta Compressor Station: Facility is area HAP source, but X-601 & X-701 are not subject (exempt), because actual average benzene emissions <1 tpy each per 40 CFR 63.772(b)(2)(i).					
July 23, 2007 – Final Compliance Assistance Plan for CAA Violations; Requires Red Cedar to Comply with RICE MACT for Unit C-401 (including installing oxidation catalyst controls), and Submit a Significant Modification Application to EPA to Incorporate RICE MACT Requirements Into the Permit.					
No Change in Facility PTE From Post-Inspection Report					
PSD Status of Facility: Minor HAP Status of Facility per Subpart HH: Minor			HAP Status of Facility: Major (single HAP >10tpy) Title V Status: Subject; Permit #V-SU-0040-04.01		

Table 4 - Construction, Permitting, and Compliance History (continued)
Red Cedar La Posta Compressor Station
(In Context of Some CAA Regulations That May Apply)

August 28, 2007 – 4SLB SI RICE unit C-201 Replaced with Existing Like-Kind Engine
No change in PTE or PSD, title V, or HAP status. Replacement engine operated at another facility prior to December 19, 2002 and had not been reconstructed or modified (per 40 CFR part 63, subpart A) prior to installation at the facility; therefore, it was not subject to RICE MACT requirements.
January 18, 2008 – NSPS for Spark Ignition (SI) Internal Combustion Engines (ICE) and Amendments to NESHAP for RICE Promulgated
<p>Affected Sources:</p> <ul style="list-style-type: none"> • As above for 2004 RICE NESHAP promulgation for >500 bhp at major sources • New/Reconstructed SI ICE at minor HAP Sources that commenced construction, modification, or reconstruction after 6/12/2006 (SI ICE NSPS) • Existing RICE < 500 bhp, located at major sources of HAP emissions, constructed or reconstructed before 6/12/2006 • New/Reconstructed RICE < 500 bhp, located at major sources of HAP emissions, constructed or reconstructed on or after 6/12/2006 <p>Final Compliance Dates</p> <ul style="list-style-type: none"> • As above for 2004 RICE NESHAP Promulgation for >500 bhp at major sources • Existing lean burn RICE at minor HAP source or ≤ 500 bhp at major source - No requirements • Existing rich burn RICE at minor HAP source or ≤ 500 bhp at major source - No requirements • New/Reconstructed RICE at minor HAP source or ≤ 500 bhp at major HAP source started up before January 18, 2008 → January 18, 2008 • New/Reconstructed RICE at minor HAP source or ≤ 500 bhp at major source started up after January 18, 2008 → upon startup <p>Applicability to La Posta Compressor Station</p> <p><i>C-401 remains subject to major source requirements – Facility became a major source of HAP emissions after installation of C-301, and subject to major source requirements upon startup of C-401 (commenced construction after 12/19/2002).</i></p>
June 12, 2008 – 4SLB SI RICE unit C-301 Replaced with Existing Like-Kind Engine
No change in PTE or PSD, title V, or HAP status. Replacement engine operated at another facility prior to December 19, 2002 and had not been reconstructed or modified (per 40 CFR part 63, subpart A) prior to installation at the facility; therefore, it was not subject to RICE MACT requirements.
September 25, 2008 – 4SLB SI RICE unit C-401 Replaced with Existing Like-Kind Engine
No change in PTE or PSD, title V, or HAP status. Replacement engine operated at another facility prior to December 19, 2002 and had not been reconstructed or modified (per 40 CFR part 63, subpart A) prior to installation at the facility; however, because the original unit C-401 was subject to RICE MACT requirements, and the replacement was conducted via the off permit changes provisions of the permit, the replacement engine must be subject as well.

Table 4 - Construction, Permitting, and Compliance History (continued)
Red Cedar La Posta Compressor Station
(In Context of Some CAA Regulations That May Apply)

December 5, 2008 –Significant Modification to Title V Permit; Incorporate RICE MACT Requirements (Re-evaluated Major HAP Source); Addition of Generator Set; Addition/Removal of IEUs; Emission unit C-101 removed, but placeholder kept in permit. (Application received September 4, 2007)					
	Potential to Emit (tpy)				
	NOx	CO	VOC	HAPs	CH ₂ O
C-101, 1,478 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	21.4	37.8	14.3	<5.5	4.1
C-201, 1,478 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	21.4	37.8	14.3	<5.5	4.1
C-301, 1,478 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	21.4	37.8	14.3	<5.5	4.1
C-401, 1,478 bhp Waukesha 7042 GL (oxidation catalyst) - New 4SLB RICE	21.4	2.7	14.3	0.4	0.3
G-101, 8.1 mmcf/yr Onan (Ford) ESG-6421-6005-A (no controls) – Existing 4SRB Electrical Generator Set	9.6	15.8	0.1	0.2	0.1
Insignificant Emission Units	0.8	0.7	3.5	1.8	0.0
Total PTE of Significant Modification #2 (Minor Mod. of Minor PSD Facility)	0.0	-19.3	+0.1	-4.9	-3.9
Facility PTE After Final Significant Modification #2	96.0	132.6	60.8	18.9	12.7
PSD Status of Facility: Minor			HAP Status of Facility: Major (single HAP >10tpy)		
HAP Status of Facility per Subpart HH: Minor			Title V Status: Subject, #V-SU-0040-04.02		
August 10, 2009 – Application for First Renewal of the Title V Permit; Remove Placeholder for Emission Unit C-101.					
	Potential to Emit (tpy)				
	NOx	CO	VOC	HAPs	CH ₂ O
C-201, 1,330 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	19.3	34.0	12.8	4.9	3.7
C-301, 1,330 bhp Waukesha 7042 GL (no controls) – Existing 4SLB RICE	19.3	34.0	12.8	4.9	3.7
C-401, 1,330 bhp Waukesha 7042 GL (oxidation catalyst) - New 4SLB RICE	19.3	34.0	12.8	4.9	3.7
G-101, 8.1 mmcf/yr Onan (Ford) ESG-6421-6005-A (no controls) – Existing 4SRB Electrical Generator Set	9.6	15.8	0.1	0.2	0.1
Insignificant Emission Units	0.6	0.5	1.5	0.7	0.0
2009 Facility-Wide PTE Totals	68.0	118.4	40.2	15.6	11.3
PSD Status of Facility: Minor			HAP Status of Facility: Major (single HAP >10 tpy)		
HAP Status of Facility per Subpart HH: Minor			Title V Status: Subject, #V-SU-0040-09.00 To Be Permitted		

Note: Throughout the facility history, Red Cedar has re-calculated criteria and HAP pollutant emissions based on re-evaluations of information available at each time, such as manufacturer-specific emission factors and site-rated horsepower. This has resulted in unit-specific PTE discrepancies between certain modifications and/or submittals described above.

2. Tribe Information - Southern Ute Tribe

a. Indian Country

Red Cedar's La Posta Compressor Station 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 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 to this facility.

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 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 1,450 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 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, NO₂, and NO_x), ozone (O₃), and carbon monoxide (CO), and to collect meteorological data. The Tribe has collected NO₂ and O₃ 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 (PM₁₀) 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 (NO₂, O₃, 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. Analysis of Applicable Requirements

a. Federal Requirements Reviewed for Applicability

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 Code of Federal Regulations at title 40.

Prevention of Significant Deterioration (PSD)

New major stationary sources of air pollution are required by the CAA to obtain an air pollution permit before commencing construction. A major stationary source is any source type belonging to a list of 28 source categories which emits or has the potential to emit 100 tpy or more of any pollutant subject to regulation under the CAA or any other source type which emits or has the potential to emit such pollutants in amounts equal to or greater than 250 tpy.

The La Posta Compressor Station does not belong to any of the 28 source categories. Therefore, the potential to emit threshold for determining PSD applicability for this newly constructed source is 250 tpy. A review of the La Posta Compressor Station application indicates that the potential emission increases of any pollutant regulated under the CAA (not including pollutants listed under section 112) associated with the construction of the La Posta Compressor Station in November 2002, and subsequent construction projects in February 2003 and October 2003, were all below the major source levels, therefore, this facility was not required to obtain a PSD permit and at this time remains a true minor source with respect to the PSD regulations.

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, the La Posta Compressor Station is not subject to any specific subparts of part 60, therefore the General Provisions of part 60 do 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.

The subpart does not apply to the storage vessels at the La Posta Compressor Station because there are no tanks at this site that were constructed, reconstructed, or modified after June 11, 1973, and prior to May 19, 1978.

40 CFR 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 input capacity of 100 MMBtu/hr or less, but greater than or equal to 10 MMBtu/hr.

There are no steam generating units with a maximum design heat input capacity greater than or equal to 10 MMBtu/hr at the facility; therefore, the La Posta Compressor Station is not subject to subpart Dc.

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.

The subpart does not apply to the storage vessels at the La Posta Compressor Station because there are no tanks at this site that were constructed, reconstructed, or modified after May 18, 1978, and prior to June 23, 1984.

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 (~19,813 gallons).

The facility has 1 tank that qualifies as an affected facility under this rule. Tank TK-501 stores produced water with trace amounts of condensate and is exempted from this rule according to 40 CFR 60.110b(d)(4). Therefore, this subpart does not apply to the storage vessel at the La Posta Compressor Station.

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 million Btu/hr), that commenced construction, modification, or reconstruction after October 3, 1977.

There are no stationary gas turbines located at the La Posta Compressor Station; therefore, this rule 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 from field gas,

fractionation of mixed natural gas liquids (NGLs) to natural gas products, or both. Natural gas liquids are defined as the hydrocarbons, such as ethane, propane, butane, and pentane that are extracted from field gas.

The La Posta Compressor Station does not extract NGLs from field gas, nor does it fractionate mixed NGLs to natural gas products, and thus does not meet the definition of a natural gas processing plant under this subpart. Therefore, this rule does not apply.

40 CFR Part 60, Subpart LLL: Standards of Performance for Onshore Natural Gas Processing; SO₂ 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 (H₂S) and carbon dioxide (CO₂) from a sour natural gas stream. Sulfur recovery units are defined as process devices that recover sulfur from the acid gas (consisting of H₂S and CO₂) removed by a sweetening unit.

There are no sweetening or sulfur recovery units at the La Posta Compressor Station; therefore, this rule 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)).

Red Cedar provided the following information:

**Table 5 – NSPS Subpart JJJJ Applicability Determination
Red Cedar La Posta Compressor Station**

Unit	Serial Number	Unit Description	Fuel	BHP	Manufacture Date	Start-up Date	Subpart JJJJ Trigger Date – Manufactured on or after
C-201	C-11647/1	Waukesha 7042 GL/4SLB	Natural Gas	1,330	January 1994	8/27/2007	7/1/2007
C-301	C-11521/1	Waukesha 7042 GL/4SLB	Natural Gas	1,330	Prior to 12/1/1995	6/12/2008	7/1/2007
C-401	C-12583/1	Waukesha 7042 GL/4SLB	Natural Gas	1,330	1/3/2002	9/25/2008	7/1/2007
G-101	02-03-00318	Onan (Ford) ESG-6421-6005A 4SRB	Natural Gas	97	1/30/2002	10/2002	7/1/2008

According to the information provided by Red Cedar in the part 71 operating permit renewal application, none of the engines currently operating at the facility were constructed, modified, or

reconstructed after the trigger date of June 12, 2006; therefore, the requirements in subpart JJJJ do not apply to the engines at La Posta Compressor Station. Should Red Cedar propose to install a replacement engine for C-201, C-301, C-401, or G-101 that is subject to subpart JJJJ, Red Cedar will not be allowed to use the off permit changes provision, and will be required to submit a minor permit modification application to incorporate subpart JJJJ requirements into the permit.

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 Clean Air Act (CAA). The general provisions under subpart A apply to sources that are subject the specific subparts of part 63.

As explained below, the La Posta Compressor Station emits at least one HAP regulated under the CAA, and has equipment subject to standards established under part 63 (engine C-401, which is a stationary RICE regulated by 40 CFR part 63, subpart ZZZZ) (see 63.1(b)(3)). This unit is subject to the requirements of subpart A as outlined in §63.6665.

The facility also has equipment in relevant source categories (TEG dehydrator X-601, and tank TK-503 (subpart HH)), which are not subject to the relevant standards. A record of an applicability determination demonstrating that these sources are not subject to the relevant part 63 standards must be kept (per §63.10(b)(3)) on site for five (5) years after the determinations or until a source changes its operations to become an affected source. EPA approved a request from Red Cedar for a waiver of the onsite recordkeeping requirement in a letter dated August 6, 2008.

These applicability determinations will be kept at the corporate headquarters office in Durango, Colorado.

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 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 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 are to 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 also applies 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 La Posta Compressor Station

The La Posta Compressor Station is a production field facility prior to the point of custody transfer. 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. The facility has a glycol dehydrator with an associated still column vent tank with the potential for flash emissions. The HAP emissions from the dehydration unit and flash tank alone at the facility are below the major source thresholds of 10 tpy of a single HAP and 25 tpy of aggregated HAPs. Therefore, the La Posta Compressor Station is an area source of HAP emissions.

With respect to the area source requirements of this subpart, the facility is located outside both an urban area and an urban cluster. Furthermore, uncontrolled benzene emissions from the TEG glycol dehydrator unit 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 dehydration unit (X-601) at the facility will be exempt from the §63.764(d) general requirements for area sources. 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.

Should uncontrolled emissions of benzene from the dehydrator ever exceed 1 tpy, then the facility will become subject to the requirements for area sources.

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. A compressor station that transports natural gas prior to the point of custody transfer or to a natural gas processing plant (if present) is not considered a part of the natural gas transmission and storage source category.

This subpart does not apply to the La Posta Compressor Station as the facility is a natural gas

production facility and not a natural gas transmission or storage facility.

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 HAP emissions emitted from stationary RICE.

This rule applies to owners or operators of new and reconstructed stationary RICE of any horsepower rating that are located at a major or area source of HAP emissions. While all new or reconstructed 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 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 for existing SI 4 stroke rich burn (4SRB) stationary RICE located at a major HAP facility.

With the exception of the existing SI 4SRB stationary RICE, other types of existing stationary RICE (i.e., SI 2 stroke lean burn (2SLB), SI 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 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 (minor) Source Applicability

The standard now has specific requirements for new and reconstructed stationary RICE located at minor sources of HAP emissions, for engines of all horsepower ratings. The area source standards for new stationary RICE reference the requirements of NSPS JJJJ for SI ICE and/or NSPS IIII for CI ICE. Existing RICE located at an area HAP source are not subject to any specific requirement 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 La Posta Compressor Station

Red Cedar provided the following information:

Table 6 - NESHAP Subpart ZZZZ Applicability Determination

Unit	Serial Number	Unit Description	Fuel	BHP	Commenced Construction Reconstruction or Modification Date	Installation Date
C-201	C-11647/1	Waukesha 7042 GL/LB	Natural Gas	1,330	Pre- 12/19/2002	8/27/2007
C-301	C-11521/1	Waukesha 7042 GL/LB	Natural Gas	1,330	Pre- 12/19/2002	6/12/2008
C-401	C-12583/1	Waukesha 7042 GL/LB	Natural Gas	1,330	Pre- 12/19/2002*	9/25/2008
G-101	02-03-00318	Onan (Ford) ESG-642I-6005A	Natural Gas	97	Pre- 12/19/2002	10/2002

*See discussion below for explanation of why unit C-401 is subject to the RICE MACT requirements.

According to the information provided by Red Cedar in the renewal application and records of off permit change notifications, units C-201, C-301, and G-101 are not subject to the subpart; however, unit C-401 is subject to the major source requirements of subpart ZZZZ. The subpart does not apply to units C-201, and C-301, because the Waukesha L7042GL compressor engines currently operating at the facility are considered existing 4SLB stationary RICE with a site rating of greater than 500 bhp that commenced construction prior to December 19, 2002 and have not been modified or reconstructed since. The subpart also does not apply to unit G-101, because it is considered an existing 4SRB stationary RICE with a site rating of less than or equal to 500 bhp that commenced construction, reconstruction, or modification prior to December 19, 2002. Should Red Cedar propose to replace engine units C-201, C-301, or G-101 with engines that are subject to subpart ZZZZ requirements, Red Cedar will not be allowed to use the off permit changes provision, and will be required to submit a permit modification application, to include the respective unit(s) as an additional unit(s) subject to the subpart ZZZZ requirements.

Unit C-401 is subject to the subpart because it is a new 4SLB engine, according to the Alternative Operating Scenarios provisions of the permit (Section III.D. of the permit). Unit C-401 was replaced in September 2008 with a like-kind engine that commenced construction prior to December 19, 2002. However, the permit specifies that if unit C-401 is replaced via the Off Permit Changes provisions of the permit (Section IV.Q. of the permit), the replacement engine is considered a new engine with respect to subpart ZZZZ and shall be subject to the same requirements that applied to the replaced engine.

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.

The La Posta Compressor Station is not subject to CAM requirements, because no PSEUs at the facility have pre-control emissions that exceed or equal 100 tpy.

Chemical Accident Prevention Program

40 CFR Part 68: Chemical Accident Prevention Provisions. Based on Red Cedar's application, the La Posta Compressor Station currently has no regulated substances above the threshold quantities in this rule and therefore is not subject to the requirement to develop and submit a risk management plan. However, Red Cedar 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. Based on information supplied by the applicant, Red Cedar does not currently engage in the activities regulated under this provision. However, should Red Cedar perform any maintenance, service, repair, or disposal of any equipment containing chlorofluorocarbons (CFCs), or contracts with someone to do this work, Red Cedar 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. Based on information supplied by the applicant, there are no halon fire extinguishers at the La Posta Compressor Station. However, should Red Cedar 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, Red Cedar Gathering Company 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

In response to an earlier Red Cedar application request, language was included in the Alternative Operating Scenarios section of the permit (Section III.D. of 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 (Section IV.Q.7 of the permit), are satisfied. The primary purpose of the special provisions is to ensure the PSD and MACT permitting requirements are not circumvented by off permit changes.

Periodic Monitoring

The *Appalachian Power* court decision held that 40 CFR 71.6(a)(3)(i) authorizes a sufficiency review of monitoring and testing in an existing emissions standard, and enhancement of that monitoring or testing through the permit, when the standard requires no periodic testing or instrumental or noninstrumental monitoring, specifies no frequency, or requires only a one-time test. Thus, EPA has authority in the federal operating permit regulation to specify additional testing or monitoring for a source to assure compliance, when existing applicable regulations do

not require periodic monitoring or only require a one-time emissions test. Because 40 CFR part 63, subpart ZZZZ requires continuous emissions monitoring and frequent testing of the subject engines, EPA determined that enhancement of the monitoring and testing was not necessary.

b. Conclusion

Since the La Posta Compressor Station 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 La Posta Compressor Station is not subject to any implementation plan.

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

As described in 40 CFR 71.11(a)(5), all part 71 draft operating permits shall be publicly noticed and made available for public comment. The public notice of permit actions and public comment period is described in 40 CFR 71(d).

Public notice is 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 that have jurisdiction over the area where the source is located. A copy of the notice is provided to all persons who 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 CAA permits issued in Indian country, please send your name and address to the contact listed below:

Claudia Smith, 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 November 9, 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
205 Ouray Drive, Building #293
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.

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.

The 30-day public comment period ended on December 9, 2009. EPA did not receive any comments on the draft permit or Statement of Basis.

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. 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 which 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 which 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
San Juan Citizen Alliance
Carl Weston
Wild Earth Guardians
La Plata County Assessor