

Rule Overview

Regulation No.3, 6 and 7

June 3, 2014

Colorado Department of Public Health and Environment
Air Pollution Control Division



Colorado Department
of Public Health
and Environment



Colorado Department
of Public Health
and Environment

Resources

- Send comments to: comments.apcd@state.co.us

- More information:

www.colorado.gov/cdphe/airoilandgas

Air Emissions Requirements for Oil and Gas Industry

- Rule Summary
- NSPS OOOO Reporting Form
- Frequently Asked Questions (FAQ document)
- Regulation No. 3 PS Memo



Colorado Department
of Public Health
and Environment

Rule Changes

- Regulation No. 3
 - Catch-all Provisions – REMOVED
 - Non-criteria Reportable Pollutant Threshold – REVISED
 - Crude Oil Tank Permit Exemption – REPEALED
- Regulation No. 6
 - NSPS OOOO – ADOPTED
- Regulation No. 7
 - Section XVII – REVISED
 - Section XVIII – REVISED

Effective Date:


April 14, 2014

Regulation No. 3

- Catch-all Provisions – REMOVED
- Non-criteria Reportable Pollutant Threshold – REVISED
- Crude Oil Tank Permit Exemption – REPEALED

STATE OF COLORADO

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
AIR POLLUTION CONTROL DIVISION
TELEPHONE: (303) 492-3150



CONSTRUCTION PERMIT

PERMIT NO: 14XX0000 **Issuance 1**

DATE ISSUED:
ISSUED TO: **Oil & Gas Production Company**

THE SOURCE TO WHICH THIS PERMIT APPLIES IS DESCRIBED AND LOCATED AS FOLLOWS:
Oil and gas facility.

THE SPECIFIC EQUIPMENT OR ACTIVITY SUBJECT TO THIS PERMIT INCLUDES THE FOLLOWING:

AIRS Point	Description
001	Three (3) 400 BBL fixed roof storage tanks used to store crude oil. Emissions from these tanks are controlled by an enclosed combustor.

THIS PERMIT IS GRANTED SUBJECT TO ALL RULES AND REGULATIONS OF THE COLORADO AIR QUALITY CONTROL COMMISSION AND THE COLORADO AIR POLLUTION PREVENTION AND CONTROL ACT C.R.S. (25-7-101 et seq), TO THOSE GENERAL TERMS AND CONDITIONS INCLUDED IN THIS DOCUMENT AND THE FOLLOWING SPECIFIC TERMS AND CONDITIONS:

REQUIREMENTS TO SELF-CERTIFY FOR FINAL AUTHORIZATION

- YOU MUST notify the Air Pollution Control Division (the Division) no later than fifteen days after issuance of this permit, by submitting a Notice of Startup form to the Division.** The Notice of Startup form may be downloaded online at www.cdphe.state.co.us/apc/download/forms.html. Failure to notify the Division of startup of the permitted source is a violation of Air Quality Control Commission (AQCC) Regulation No. 3, Part B, Section III G.1 and can result in the revocation of the permit.
- Within one hundred and eighty days (180) after issuance of this permit, compliance with the conditions contained in this permit shall be demonstrated to the Division. It is the owner or operator's responsibility to self-certify compliance with the conditions. Failure to demonstrate compliance within 180 days may result in revocation of the permit. (Reference: Regulation No. 3, Part B, III G.2).
- This permit shall expire if the owner or operator of the source for which this permit was issued: (i) does not commence construction/modification or operation of this source within 18 months after either, the date of issuance of this construction permit or the date on which such construction or activity was scheduled to commence as set forth in the permit application associated with this permit; (ii) discontinues construction for a period of eighteen months or more; (iii) does not complete construction within a reasonable time of the

AIRS ID: 0000000 Page 1 of 1
Condensate Tank SMM Version 2012-1



Colorado Department
of Public Health
and Environment

Regulation No. 3

- **Catch-all Provisions – REMOVED**
 - Part A, Section II.D.1. and Part B, Sections II.A.5. and II.D.
 - Sources are no longer required to submit an APEN or obtain a permit due solely to applicability to federal NSPS or MACT rules
 - Sources may utilize other APEN or permit exemptions to aid in determination of requirements, including the 1/2 tpy APEN and 2/5 tpy permit thresholds
 - Permits currently issued remain in force; Sources may elect to request cancellation of their permits



Colorado Department
of Public Health
and Environment

Regulation No. 3

- Non-criteria Reportable Pollutant Threshold – REVISED
 - Part A, Appendix A
 - NCRPs are now reportable at a flat 250 lb/year threshold, regardless of Bin or Scenarios
 - Requirements
 - Revised APENs with newly reported NCRPs are due by April 30, 2015
 - Revised APENs with removal of NCRPs are due at the next renewal
 - NCRP emissions below 250 lb/year will not be used in calculating annual fees for the 2015 billing cycle (which encompasses the 2014 inventory year)



Colorado Department
of Public Health
and Environment

Regulation No. 3

- **Crude Oil Tank Permit Exemption – REPEALED**
 - Part B, Section II.D.1.n. and Part C, Section II.E.3.ddd.
 - Crude oil tanks are no longer categorically exempt from permitting
 - Sources may utilize other permit exemptions to aid in determination of requirements, including the 2/5 tpy thresholds
 - **Statewide Crude Oil Emission Factors**
 - Sources may use the statewide emission factors or develop site specific emission factors for comparison to the APEN/permit thresholds

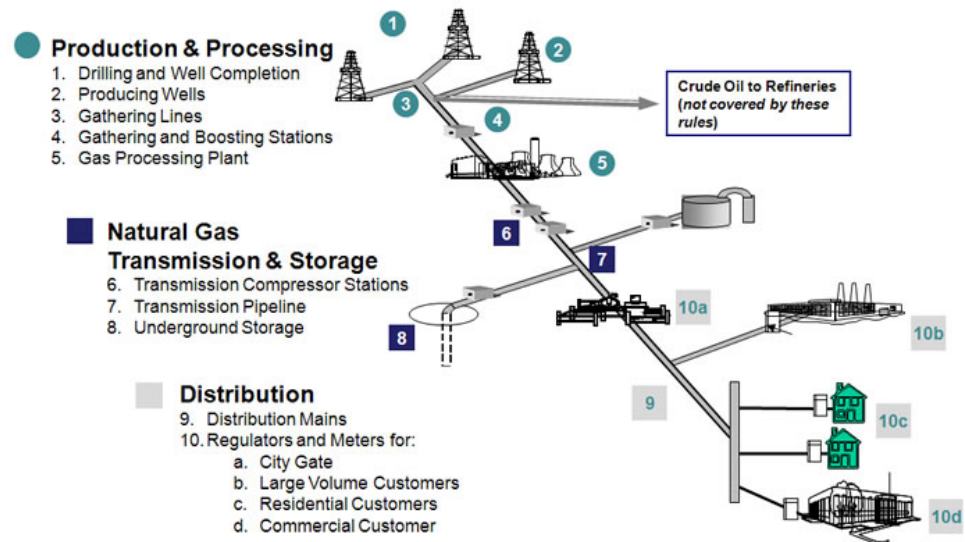
VOC (lb/bbl)	Benzene (lb/bbl)	n-Hexane (lb/bbl)
3.2	0.046	0.245

Regulation No. 6

- NSPS OOOO – ADOPTED

The Natural Gas Production Industry

Natural gas systems encompass wells, gas gathering and processing facilities, storage, and transmission and distribution pipelines.



Source: Adapted from American Gas Association and EPA Natural Gas STAR Program



Colorado Department
of Public Health
and Environment

Regulation No. 6

- NSPS OOOO – ADOPTED
 - Part A, Subpart OOOO
 - Colorado has full authority for all aspects of NSPS OOOO.
 - Reporting and notifications
 - 2-day well completion notifications should go to COGCC; not required to send also to EPA email address
 - Annual reports should be submitted to: cdphe.nspsoooo@state.co.us
 - Form for NSPS OOOO reporting: www.colorado.gov/cdphe/airoilandgas

Air Emissions Requirements for Oil and Gas Industry >>

Annual Compliance Report NSPS OOOO 

Regulation No. 7

- Section XVII – REVISED
- Section XVIII – REVISED





Colorado Department
of Public Health
and Environment

Regulation No. 7

- Auto-igniters
 - Regulation No. 7, Section XVII.B.2.d.

- Storage Tank Controls
 - Regulation No. 7, Section XVII.C.1.

- Storage Tank Emission Capture
 - Regulation No. 7, Section XVII.C.2.



Colorado Department
of Public Health
and Environment

Regulation No. 7

- Leak Detection and Repair (LDAR)
 - Regulation No. 7, Section XVII.F.
- Wellhead venting and flaring
 - Regulation No. 7, Section XVII.G.
- Well unloading
 - Regulation No. 7, Section XVII.H.
- Pneumatics
 - Regulation No. 7, Section XVIII



Colorado Department
of Public Health
and Environment

Resources

- Send comments to: cdphe.commentsapcd@state.co.us
- Next Steps:
 - Well unloading meeting with industry and Division
 - Ongoing meetings with COGA, CPA, other industry groups
- More information: www.colorado.gov/cdphe/airoilandgas

Air Emissions Requirements for Oil and Gas Industry



Revisions to Colorado Air Quality Control Commission's Regulation Numbers 3, 6, and 7 Fact Sheet

Rulemaking Summary:

On February 23, 2014, Colorado's Air Quality Control Commission ("Commission") fully adopted EPA's Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution found in 40 C.F.R. Part 60, Subpart OOOO ("NSPS OOOO") into Regulation Number 6, Part A; adopted corresponding revisions to its emissions reporting and permitting framework in Regulation Number 3, Parts A, B, and C; and adopted complementary oil and gas control measures in Regulation Number 7. This rulemaking was the culmination of the Commission's October 2012, directive to consider full adoption of EPA's NSPS OOOO. These oil and gas control measures revisions focus on identifying and repairing leaks in the oil and gas sector, but also contain some recordkeeping and reporting requirements. This rulemaking received support from environmental groups and some companies within the oil and gas industry. In addition to extensive VOC reductions, the Regulation Number 7 revisions also regulate methane emissions from the oil and gas industry.

These oil and gas control measures are estimated to reduce VOC emissions by approximately 93,500 tons per year and methane/ethane emissions by approximately 65,000 tons per year, at a cost of approximately \$42.5 million per year.

Discussion of Revisions:

Regulation Number 3

- The revisions remove the so-called catchall provisions from Part A., Section II.D.1., and Part B, Sections II.A.5. and II.D. Sources subject to a federal New Source Performance Standard ("NSPS") or National Emission Standard for Hazardous Air Pollutants ("NESHAP") incorporated into Regulation Numbers 6 or 8 are no longer subject to reporting and permitting solely due to being subject to that NSPS or NESHAP. These sources now only trigger reporting and permitting if the source's emissions exceed the reporting and permitting thresholds.
- The revisions set a 250 lb/year reporting threshold for non-criteria reportable pollutants, replacing the complex matrix in Part A, Appendix A.
- The revisions remove the crude oil storage tank permitting exemptions in Part B, Section II.D.1.n., and Part C, Section II.E.3.ddd., and correct an error in the crude oil truck loading equipment permitting exemption in Part B, Section II.D.1.l.

Regulation Number 6, Part A

- The revisions fully adopt NSPS OOOO.

Regulation Number 7, Sections II., XVII., and XVIII.

Revisions regulate hydrocarbon emissions from oil and gas on a state-only, state-wide basis.

General Provisions (Section XVII.B.)

- The revisions expand the requirement to use good air pollution control practices to minimize hydrocarbon emissions from hydrocarbon liquid collection, storage, processing, and handling.
- The revisions expand the requirement to use auto-igniters. Combustion devices installed on or after May 1, 2014, must utilize an auto-igniter upon installation. Combustion devices installed before May 1, 2014, must utilize auto-igniters beginning May 1, 2016.



Revisions to Colorado Air Quality Control Commission's Regulation Numbers 3, 6, and 7 Fact Sheet

- Beginning January 1, 2015, the revisions require that open-ended valves or lines be sealed or become subject to leak detection and repair (“LDAR”) requirements, centrifugal compressors reduce hydrocarbon emissions by 95%, and reciprocating compressors at natural gas compressor stations replace rod packing every 26,000 hours of operation or every 36 months.
- The revisions also require storage tanks to comply with both applicable federal control requirements (NSPS OOOO) and Regulation Number 7, Section XVII. The revisions similarly require glycol natural gas dehydrators and internal combustion engines to comply with both applicable federal control requirements and Regulation Number 7, Section XVII.F. leak detection and repair requirements.

Storage Tanks (Section XVII.C.)

- The revisions require storage tanks with uncontrolled actual VOC emissions ≥ 6 tons per year (“tpy”) to control hydrocarbon emissions by 95% (and if using a combustion device, the device must be designed to achieve 98% control). The revisions require all storage tanks, except temporary frac tanks, utilized during the first 90 days of production to control emissions by 95% (and similarly meet a 98% design control efficiency) unless projected emissions during those 90 days are < 1.5 tons.
 - The revisions require controlled tanks to conduct audio, visual and olfactory (“AVO”) and additional visual inspections at the frequency of liquids loadout (not more than every 7 days, and at least every 31 days).
 - The revisions require controlled tanks to operate without venting during normal operation.
- The revisions require storage tanks subject to system-wide controls in Section XII.D.2., and storage tanks with VOC emissions ≥ 6 tpy to develop and employ Storage Tank Emission Management (“STEM”) plans to meet the “operate without venting” standard, which includes Approved Instrument Monitoring Method (“AIMM”) inspections. Storage tanks constructed on or after May 1, 2014, must comply with STEM and implement AIMM inspections within 90 days after the storage tank commences operation, or within 30 days of the phase-in schedule for facilities subject to monthly AIMM, and thereafter in accordance with Table 1. Storage tanks constructed before May 1, 2014, must comply with STEM by May 1, 2015, and implement AIMM inspections within 90 days of the phase-in schedule in Table 1.

Table 1 – Storage Tank Inspections		
Threshold: Storage Tank Uncontrolled Actual VOC Emissions (tpy)	Approved Instrument Monitoring Method Inspection Frequency	Phase-In Schedule
≥ 6 and ≤ 12	Annually	January 1, 2016
> 12 and ≤ 50	Quarterly	July 1, 2015
> 50	Monthly	January 1, 2015

- The revisions do not require AVO/visual inspections or AIMM inspections where it is unsafe, difficult, or inaccessible to monitor.
- The revisions require STEM records be made available to the Division upon request. The revisions also require monitoring records be kept for 2 years and also be made available to the Division.
- The revisions do not require storage tank reporting.



Revisions to Colorado Air Quality Control Commission's Regulation Numbers 3, 6, and 7 Fact Sheet

Glycol Natural Gas Dehydrators (Section XVII.D.)

- The revisions require glycol natural gas dehydrators constructed on or after May 1, 2015, with uncontrolled actual VOC emissions greater than 2 tpy, to control emissions by 95% (and if using combustion device, the device must be designed to achieve 98% control). The revisions require glycol natural gas dehydrators constructed before May 1, 2015, with VOC emissions greater than 6 tpy, or 2 tpy if located within 1,320 feet of a building unit or designated outside activity area, to control by 95% (and similarly meet a 98% design control efficiency).

LDAR (Section XVII.F.)

- The revisions require owners/operators to inspect components at natural gas compressor stations and well production facilities for leaks.
 - Natural gas compressor stations must be inspected beginning January 1, 2015. The frequency of inspections is based on fugitive VOC emissions, calculated using Table 2-4 of the 1995 EPA Protocol for Equipment Leak Emission Estimates, as provided in Table 3.

Fugitive VOC Emissions (tpy)	Inspection Frequency
> 0 and ≤ 12	Annually
> 12 and ≤ 50	Quarterly
> 50	Monthly

- Well production facilities constructed on or after October 15, 2014, must be inspected 15-30 days after the facility commences operation, and thereafter in accordance with Table 4. Well production facilities constructed before October 15, 2014, must be inspected within 90 days of the phase-in schedule in Table 4, or within 30 days of the phase-in schedule for facilities subject to monthly AIMM, and also thereafter in accordance with the frequencies in Table 4. The frequency of inspections is based on the uncontrolled actual VOC emissions from the highest emitting storage tank, or the total controlled actual VOC emissions from all permanent equipment and components for well production facilities without oil or condensate storage tanks.

Thresholds (per XVII.F.4.c.)				
Well production facilities without storage tanks (tpy)	Well production facilities with storage tanks (tpy)	Approved Instrument Monitoring Method Inspection Frequency	AVO Inspection Frequency	Phase-In Schedule
> 0 and ≤ 6	> 0 and ≤ 6	One time	Monthly	January 1, 2016
> 6 and ≤ 12	> 6 and ≤ 12	Annually	Monthly	January 1, 2016
> 12 and ≤ 20	> 12 and ≤ 50	Quarterly	Monthly	January 1, 2015
> 20	> 50	Monthly		January 1, 2015

- The revisions do not require AVO or AIMM inspections for components that are unsafe, difficult, or inaccessible to monitor.



Revisions to Colorado Air Quality Control Commission's Regulation Numbers 3, 6, and 7 Fact Sheet

- The revisions set different thresholds for leaks requiring repair based on the method used to detect the leak. The leak thresholds do not apply to leaks associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation. The leak threshold for leaks detected with an IR camera or AVO is any detectable emission. The leak thresholds for leaks detected with EPA Reference Method 21 are:
 - > 2,000 ppm hydrocarbons for compressor stations constructed before May 1, 2014;
 - > 500 ppm for well production facilities constructed before May 1, 2014; and
 - > 500 ppm for compressor stations and well production facilities constructed on or after May 1, 2014.
 - Leaks detected using AIMM or AVO may be remonitored with EPA Method 21 prior to repair for comparison to the leak thresholds specified for EPA Method 21 monitoring.
- The revisions require a first attempt to repair within 5 days, unless parts are unavailable, shutdown is required, or for other good cause, and remonitoring within 15 days of repair.
- The revisions require LDAR records be kept for 2 years, and made available to the Division.
- The revisions require an annual LDAR report be submitted to the Division by every May 31.

Well Operation

- Beginning August 1, 2014, the revisions require gas from newly constructed, hydraulically fractured, or recompleted wells be routed to a gas gathering line or controlled by 95% (and if using combustion device, the device must be designed to achieve 98% control).

Well Maintenance and Liquids Unloading

- Beginning May 1, 2014, the revisions require best management practices to minimize hydrocarbon emissions and the need for well venting during well maintenance and liquids unloading. The revisions also require records be kept for 2 years, and made available to the Division upon request.

Pneumatic Controllers

- The revisions expand the low-bleed pneumatic controller requirement statewide, beginning May 1, 2014. The revisions also require no-bleed pneumatic controllers where on-site electrical grid power is used and the no-bleed pneumatic controller is technically and economically feasible.

For More Information:

Revisions to Regulation Number 3 (5 CCR 1001-5), Regulation Number 6 (5 CCR 1001-8) and Regulation Number 7 (5 CCR 1001-9) will become effective on upon publication by Colorado's Secretary of State, and will be posted at: <https://www.sos.state.co.us/CCR/Welcome.do>

Unofficial regulatory text and related documents associated with the rulemaking hearing may be found at: <http://www.colorado.gov/cs/Satellite/CDPHE-AQCC/CBON/1251647985820>

Implementation tools, guidance and other compliance assistance tools are currently being developed and will be posted on the Division's website at: <http://www.colorado.gov/cdphe/airoilandgas>

Finally, please submit questions or comments to: comments.apcd@state.co.us



Colorado Venting and Flaring; Reg. 7

AKA the 'Oil and Gas' or 'Methane' Rule

June 6th, 2014

Overview of Presentation

- Brief history of rule-making
- Other revisions to the rule
 - Regulation No. 6
 - Regulation No. 3
- Regulation No. 7
 - Select new or revised definitions
 - Discussion by equipment type:
 - Combustion Devices
 - Storage Tanks
 - Pneumatic Controllers
 - Leak Detection and Repair (LDAR)
 - Other
- Deadlines

Brief History of the Rule-making

- December 2012 – Colorado Department of Public Health and Environment (CDPHE) began posted initial notice and requested stakeholder involvement.
- 2013 – CDPHE and various stakeholders hold meetings and public hearings.
- February 23, 2014 – Air Pollution Control Board (APCD) fully adopted the proposed revisions to Colorado Regulations Nos. 3, 6 and 7.
- April 14, 2014 – Revised regulations became effective

Other Revisions to the Rule

- Regulation No. 6 (Standards of Performance for New Stationary Sources)
 - The revision fully adopts NSPS OOOO.
- Regulation No. 3 (Stationary Source Permitting)
 - Reduced threshold for Air Pollutant Emission Notices (APENS) to 250 lb./yr. for any Non-Criteria Reportable Pollutants(NCRP)
 - list can be found in Part A, Appendix A of the rule
 - For each individual NCRP pollutants
 - Based on uncontrolled actual emissions
 - Revised APENS due by April 30, 2015

Other Revisions to the Rule

- Removal of ‘Catch all’ provision
 - Sources subject to New Source Performance Standards (NSPS) or National Emission Standard for Hazardous Air Pollutants (NESHAP) that are incorporated into Regulation Nos. 6 and 8 are no longer subject to APEN and construction permits SOLELY for being subject to NSPS or NESHAP.
 - Owner/operator’s responsibility to determine and file cancellation request if appropriate.

- Repeal of Crude Oil Storage Tank Permitting Exemption
 - Removed Reg. 3 Part B, Section II.D.1.n
 - Removed Reg.3 Part C, Section II.E.3.ddd
 - If construction began before April 14, 2014 then owner/operator NOT required to obtain construction permit but may voluntarily do so to establish enforceable emission limits

Other Revisions to the Rule

- Voluntary construction permit timeline:

Storage Tank Location	Submission date:
Rio Blanco County	September 1, 2014
Counties A – L	January 1, 2015
Counties M – Y (other than Rio Blanco)	July 1, 2015

- Constructed/Modified on or after April 14, 2014:
 - Non E&P; Must receive a Construction Permit prior to construction if required.
 - E&P facility: Within 90 days of 1st production an APEN/application must be filed.
- General Permit 08 (GP 08) for storage tanks is expected to be available by the end of June 2014
 - Immediate authority to construct if GP conditions are met
 - Will have immediate federally enforceable limits on controlled emissions under NSPS OOOO

Regulation No. 7

“Regulate Hydrocarbon emissions from oil and gas on a state-only, state-wide basis”

- Revised: Section II (General Provisions):
 - Expands definition of ‘Hydrocarbon’ to include Methane and Ethane
- Revised: Section XVII (Statewide Controls for Oil and Gas Operations...)
 - Definitions:
 - “Approved Instrument Monitoring Method” includes
 - Infra-red Camera
 - EPA Method 21
 - Other Division approved method
 - “Auto-Igniter” means a device which will automatically attempt to relight the pilot flame in the combustion chamber of a control device in order to combust VOC emissions.

Regulation No. 7

- “Well Production Facility” means all equipment at a single stationary source directly associated with one or more oil wells or gas wells. This equipment includes, but is not limited to, equipment used for storage, separation, treating, dehydration, artificial lift, combustion, compression, pumping, metering, monitoring, and flowline.
- Section XVIII (Natural Gas-Actuated Pneumatic Controllers...)
 - Definitions:
 - “No-Bleed Pneumatic Controller” shall mean any pneumatic controller that is not using hydrocarbon gas as the valve’s actuating gas.
 - “Enhanced Maintenance” is specific to high-bleed devices and shall include but is not limited to cleaning, tuning, and repairing leaking gaskets, tubing fittings, and seals; tuning to operate over a broader range of proportional band; and eliminating unnecessary valve positioners.

Regulation No. 7

- **Combustion Devices (XVII.B):**
 - Enclosed (XVII.B.2.b).

 - No visible emissions by observation or other means (XVII.B.2.b).

 - Auto-Igniters
 - Must be operational upon installation for any combustion device install on or after May 1, 2014 (XVII.B.2.d(I)).

 - On combustion devices installed before May 1, 2014, auto-igniter must be operational by May 1, 2016 or next planned combustion device shutdown, whichever is first (XVII.B.2.s.(II)).

Regulation No. 7

- **Storage Tanks (XVII.C):**
 - Storage Tanks with uncontrolled actual emissions of VOCs equal to or greater than six (6) tons per year (tpy) [rolling 12 basis] must control emissions via air pollution control equipment that achieves an average efficiency of 95% (XVII.C.1.b)
 - If a combustion device is used, the device must have a design destruction efficiency of 98% except where the device was authorized before May 1, 2014 (XVII.C.1.b).
 - If storage tank is constructed on or after May 1, 2014 the tank must be in compliance within ninety (90) days of commencement of storage tank operation (XVII.C.1.b.(I)(a)).
 - If storage tank is constructed before May 1, 2014 the tank must be in compliance by May 1, 2015 (XVII.C.1.b.(I)(b)).
 - If, after May 1, 2014, a storage tank that increases uncontrolled actual VOCs emissions above six (6) tpy has sixty (60) days from date of increase to achieve compliance. (XVII.C.1.b.(I)(c)).

Regulation No. 7

- **Storage Tanks (XVII.C):**
 - First ninety (90) days of production:
 - Storage tanks at well production facilities must collect/control emissions during first ninety (90) days of production beginning May 1, 2014 ((XVII.C.1.c.(I)).
 - Doesn't apply if storage tanks are projected to have less than 1.5 tpy of VOC emissions during first ninety (90) days after the date of first production ((XVII.C.1.c.(I)).
 - Air pollution control equipment and associated monitoring equipment may be removed after first ninety (90) calendar days as long as source can demonstrate uncontrolled actual emissions are below the six (6) tpy threshold ((XVII.C.1.c.(II)).

Regulation No. 7

- **Storage Tanks (XVII.C):**
 - Storage tanks beginning May 1, 2014 or applicable compliance date, whichever is later, must conduct Audio, Visual and Olfactory (AVO) and additional visual inspections of the storage tank and any associated equipment (separator, pressure reducer, pollution control, etc.) at the same frequency as liquids are loaded out of the tank (XVII.C.1.d)
 - Not more frequently than less than seven (7) days and at least once every thirty one (31) days (XVII.C.1.d).
 - Monitoring is not required for tanks and equipment if it meets the definition of unsafe, difficult or inaccessible per XVII.C.1.e (XVII.C.1.d).

Regulation No. 7

- **Storage Tanks (XVII.C):**
 - Monitoring must include:
 - » Visual inspection of thief hatch, pressure relief valve and other access points to ensure they are closed and properly sealed (XVII.C.1.d.(I)).
 - » Visual inspection of air pollution control equipment (XVII.C.1.d.(II)).
 - » If combustion device is used, visual inspection of auto-igniter and valves and smoke; if smoke is observed the equipment must be shut-in or Method 22 must be conducted immediately to determine if visible emissions are present (XVII.C.1.d.(III-V)).

Regulation No. 7

- **Storage Tanks (XVII.C):**

- Storage Tank Emission Management System (STEM)

- If storage tank is subject to the following (XVII.C.2.b);

- XII.D.2 (tanks in ozone non-attainment area)

- XVII.C.1.a (tanks constructed after May 1, 2008 with twenty (20) tpy uncontrolled or more) or

- XVII.C.1.b (tanks after May 1, 2014 with six (6) tpy uncontrolled or more)

Then a STEM program must be developed for the tank.

- STEM records must be kept for two (2) years (XVII.C.2.b.(iv)).

- Owner/operator must certify STEM program (XVII.C.2.b.(iv)).

- STEM must include monitoring and operational practices, procedures for evaluating emission capture performance and monitoring with approved instrument monitoring methods (AIMM) and within required frequencies (see below) (XVII.C.2.b.(i)).

Regulation No. 7

- Storage Tanks (XVII.C):

Uncontrolled Actual VOC Emissions (tpy)	Inspection Frequency	Phase-in Date
≥ 6 and ≤ 12	Annually	January 1, 2016
> 12 and	Quarterly	July 1, 2015
> 50	Monthly	January 1, 2015

- Tanks constructed on or after May 1, 2014 must comply within ninety (90) days of commencement of operation (XVII.C.2.b.(ii)(a)).
- Tanks constructed before May 1, 2014 must comply within
 - Ninety (90) days of phase-in date
 - Tanks w/ over 50 tpy must comply within thirty (30) days
- Tanks containing only stabilized liquids are not required to develop STEM system (XVII.C.2.b).

Regulation No. 7

- **Pneumatic Controllers (XVIII)**

- All pneumatic controllers placed into service on or after May 1, 2014 must;
 - Emit VOCs in an amount equal to or less than a low-bleed pneumatic controller [6 SCF/hr.] (XVIII.C.2.a.(I)).
 - Utilize ‘No-bleed’ pneumatic controllers where in-site electrical grid power is being used and are technically and economically feasible (XVIII.C.2.a.(II)).
 - All High-bleed pneumatic controllers placed into service prior to May 1, 2014 must be replaced or retrofitted by May 1, 2015 to a level equivalent to a low-bleed controller (XVIII.C.2.b).
 - Owner/operator can submit justification for high-bleed controllers to remain in service (XVIII.C.2.c).
 - » In service prior to May 1, 2014; justification must be submitted by March 1, 2015
 - » In service after May 1, 2014; justification prior to installation

Regulation No. 7

- **Pneumatic Controllers (XVIII)**

- Division shall be deemed to have approved justification if it doesn't object within thirty (30) day of receipt (XVIII.C.2.c).
- All High-bleed controllers in service on or after May 1, 2015 will be physically tagged with unique controller number and maintained by owner/operator (VIII.D.2.a).
- Effective May 1, 2015, each High-bleed controller shall be inspected on a monthly basis, and undergo enhanced maintenance [XVIII.B.2] and follow manufacturer's maintenance plan (XVIII.D.2.b).
- Logs of total number of high-bleed controllers, justifications, maintenance, enhanced maintenance shall be kept for a period of three (3) years (XVIII.E.1-3).

Regulation No. 7

- **Leak Detection and Repair (LDAR) (XVII.F)**
 - Apply in lieu of any directed inspection and maintenance program requirements established pursuant to Regulation Number 3, Part B, Section III.D.2. (XVII.F.1).
 - Well production facilities or natural gas compressor station may estimate uncontrolled actual emissions from components for the purpose of evaluating the applicability of component fugitive emissions to Regulation Number 3 by utilizing the emission factors defined as less than 10,000 ppmv of Table 2-8 of the 1995 EPA Protocol for Equipment Leak Emission Estimates (Document EPA-453/R-95-017) (XVII.F.2).
 - Beginning January 1, 2015 owner/operators of natural gas compressor stations must inspect components for leaks using an ‘approved instrument monitoring method – see below (XVII.F.3)

Regulation No. 7

- **Leak Detection and Repair (LDAR) (XVII.F)**

Natural Gas Compressor Station Component Inspections	
Fugitive VOC emissions (tpy)	Inspection Frequency
> 0 and ≤ 12	Annually
> 12 and < 50	Quarterly
> 50	Monthly

- Inspections must occur within ninety (90) days after January 1, 2015 or after the commencement of operations for emissions between 0 and 50 tpy; greater than 50 tpy must occur within thirty (30) days (XVII.F.3.a-b).
- fugitive emissions must be calculated using the emission factors of Table 2-4 of the 1995 EPA Protocol for Equipment Leak Emission Estimates (Document EPA-453/R-95-017), or other Division approved method (XVII.F.3.d).

Regulation No. 7

- **Leak Detection and Repair (LDAR) (XVII.F)**
 - Owners or operators of well production facilities constructed on or after October 15, 2014, must identify leaks from components using an AIMM no sooner than fifteen (15) days and no later than thirty (30) days after the facility commences operation (XVII.F.4.a).
 - An approved instrument monitoring method and AVO inspections must be conducted – see below.

Well Production Facility Component Inspections				
Thresholds (per XVII.F.4.c)				
w/o storage tanks	w/ storage tanks	AIMM Inspection Freq.	AVO Freq.	Phase-In date
> 0 and ≤ 6	> 0 and ≤ 6	One time	Monthly	Jan. 1, 2016
> 6 and ≤ 12	> 6 and ≤ 12	Annually	Monthly	Jan. 1, 2016
> 12 and ≤ 20	> 12 and ≤ 50	Quarterly	Monthly	Jan. 1, 2015
> 20	> 50	Monthly		Jan. 1, 2015

Regulation No. 7

- **Leak Detection and Repair (LDAR) (XVII.F)**
 - Owners or operators of well production facilities constructed before October 15, 2014, must identify leaks from components using an AIMM within ninety (90) days of the Phase-In Schedule; within thirty (30) days for well production facilities subject to monthly AIMM inspections; or by January 1, 2016, for well production facilities subject to a one time AIMM inspection (XVII.F.4.b).
 - Estimated uncontrolled actual VOC emissions from the highest emitting storage tank must be used to determine frequency of inspections; If no tanks are present, facility emissions (including fugitives) must be used (XVII.F.4.c).
 - Difficult, Unsafe and Inaccessible components are not required to be monitored until feasible to do so (XVII.F.5.a-c).

Regulation No. 7

- **Leak Detection and Repair (LDAR) (XVII.F)**
 - Leaks requiring repair;
 - Facility constructed before May 1, 2014 via Method 21
 - 2,000 ppm hydrocarbons not associated with normal operations
 - 500 ppm at well production facilities assoc. w/ normal operations
 - Facility constructed on or after May 1, 2014 via Method 21
 - 500 ppm hydrocarbons not associated with normal operations
 - For infra-red camera and AVO monitoring, a leak is any detectable emissions not associated with normal operations

Regulation No. 7

- **Leak Detection and Repair (LDAR) (XVII.F)**
 - For leaks detected using camera or AVO;
 - Follow up with Method 21 within five (5) days of detection OR
 - Repair on the following schedule (XVII.F.7.a)
 - » 1st Attempt within five (5) days of detection unless parts not available, then 1st attempt within fifteen (15) days of receipt of parts
 - » If shutdown if required, then repair must be made at next shutdown
 - » Good cause delay; repairs must be made within fifteen (15) days after delay ceases to exist.
 - » Re-monitoring within fifteen (15) days of repair (XVII.F.7.b).
 - » Leaks discovered will not be subject to enforcement unless operator fails to repair in accordance with the regulation (XVII.F.7.c).

Regulation No. 7

- **Leak Detection and Repair (LDAR) (XVII.F)**
 - Recordkeeping (XVII.F.8);
 - Similar to other LDAR recordkeeping requirements
 - » Date/site information
 - » List of leaking components and monitoring methods
 - » Date of 1st repair attempt and additional attempts
 - » Date of repair
 - » Date of re-monitoring
 - » Delayed repair list
 - » Difficult, unsafe and inaccessible list w/ explanation and plan for next monitoring
 - » Records must be kept for two (2) years
 - Reporting(XVII.F.9).
 - » Single annual report due May 31st of following year with a certification from a Responsible Official.

Regulation No. 7

- **Other Aspects of the Rule**

- Other requirements effective January 1, 2015;

- Each open-ended line (OEL) must be equipped with a cap, blind flange, plug, or a second valve that seals the open end at all times except during operations requiring process fluid flow through the open-ended valve or line (XVII.B.3.a).

- OEL's associated with emergency shutdowns or process upset are exempt

- Alternatively the OEL can be monitored under the LDAR requirements

- Uncontrolled actual hydrocarbon emissions from wet seal fluid degassing systems on wet seal centrifugal compressors must be reduced by at least 95%, unless the centrifugal compressor is subject to 40 C.F.R. Part 60, Subpart OOOO on that date or thereafter (XVII.B.3.b).

Regulation No. 7

- **Other Aspects of the Rule**

- Other requirements effective January 1, 2015;
 - The rod packing on any reciprocating compressor located at a natural gas compressor station must be replaced every 26,000 hours of operation or every thirty six (36) months, unless the reciprocating compressor is subject to 40 C.F.R. Part 60, Subpart OOOO on that date or thereafter. The measurement of accumulated hours of operation (26,000) or months elapsed (36) begins on January 1, 2015 (XVII.B.3.c).
- Control of Emissions from Well Production Facilities (XVII.G)
 - On or after August 1, 2014 gas coming off a separator during normal operation of any new, hydraulically fractured, or recompleted oil and gas well, must be either routed to a gathering line or controlled from first date of production to at least 95%.

Regulation No. 7

- **Other Aspects of the Rule**

- Venting during downhole maintenance and liquids unloading events (XVII.H)
 - Beginning May 1, 2014 (XVII.H.1);
 - Owner/operators must use best management practices to minimize hydrocarbon emissions, unless venting is necessary for safety (XVII.H.1).
 - Owner/operator will be present on-site during any planned well maintenance or liquids unloading event (XVII.H.1.b).
 - Any mean of creating differential pressure must be attempted to unload liquids from the well before the well may be vented to the atmosphere to create the differential pressure (XVII.H.1.a).
 - Records must be kept for period of two (2) years (XVII.H.1.c).

Regulation No. 7

- **Other Aspects of the Rule**

- Glycol Natural Gas Dehydrators (XVII.D)
 - Constructed on or after May 1, 2015 (XVII.D.4);
 - Uncontrolled VOC emissions of two (2) tpy or greater must be controlled to 95%
 - Constructed before May 1, 2015 (XVII.D.4):
 - Uncontrolled VOC emissions of six (6) tpy or greater must be controlled to 95% OR
 - Two (2) tpy if located within 1,320 feet (1/4 mile) of a building unit or designated outside activity area.

Other Resources

- Colorado Air Quality Control Commission Regulations:
 - www.colorado.gov/cdphe/aqcc-regs
- Permit Section Guidance Memos
 - www.colorado.gov/cdphe/psmemos
- APCD General Permits:
 - www.colorado.gov/cdphe/generalpermits

Company Profile

A pioneer in groundbreaking scientific and engineering developments since 1969, TRC is a national engineering, consulting and construction management firm that provides integrated services to three primary markets:

Energy | **Environmental** | **Infrastructure**



- Expert problem solvers
- 100+ U.S. offices
London office
- 3,000+ employees
- NYSE: TRR

Thank you

Questions?

Matthew J. Hazleton

Denver Air Quality Manager

P: 303.395.4043 | E: Mhazleton@TRCSolutions.com

www.trcsolutions.com

© 2014 TRC Companies, Inc. All rights reserved. No part of this document may be copied or reproduced or stored in any form of retrieval system, or transmitted in any form or by any electronic, mechanical, photographic, or other means without the prior written permission of TRC Companies, Inc. ("TRC"). TRC does not authorize copying of this document or the information contained herein. The unauthorized reproduction or distribution of this copyrighted work is illegal. Copyright infringement, including infringement without monetary gain, is subject to civil and criminal liability.

The information and material in this presentation is for informational purposes only and is not intended to be construed or used as any general technical advice. Please contact the author if you have questions regarding this information and material. The author has made a good faith effort to present the material accurately. However, no one should rely on the information or material presented here, and each reader or recipient of this presentation should seek the advice of a professional engineer.

New Mexico Environment Department
Air Quality Bureau
Permitting Program

Ted Schooley
Permit Programs Manager
(505) 476-4334
ted.schooley@state.nm.us



1

Production Facilities & Tank Batteries

Permitting Mechanisms for
Limiting Potential To Emit (PTE) below

NSPS OOOO thresholds

These sources often require an NOI prior to construction.

2

Relying on 20.2.38 NMAC to limit PTE is **not** a viable option

20.2.38 NMAC Hydrocarbon Storage Facilities

As written, 20.2.38 NMAC is not practically enforceable by the state or federal government. In order for 20.2.38 NMAC to be considered a practically enforceable regulation, the regulation would need to be revised to include appropriate operating, monitoring, recordkeeping and reporting requirements.

3

Relying on 20.2.73 NMAC to limit PTE is **not** a viable option

20.2.73 NMAC Notice of Intent (NOI) & Emissions Inventory

20.2.73 NMAC does not provide a mechanism to limit the PTE of a facility or storage vessel because 20.2.73 NMAC does not establish allowable emission limits and is neither federally or state enforceable. Emission limits and conditions to demonstrate compliance are essential to the practical enforceability of any method of limiting PTE.

4

Option 1
GCP-6
Oil & Gas Storage Vessels

The GCP-6 is a voluntary permit in the sense that there is no regulatory requirement to obtain a GCP-6.

The Air Quality Bureau specifically developed the GCP-6 for the oil and gas industry to limit the PTE of storage vessels below the 6 tpy/storage vessel thresholds established in NSPS OOOO. Facilities may use this GCP by itself or in conjunction with another permit at the facility.

5

Option 2
GCP-4
Combustion Sources & Related Equipment

In the GCP-4 application, facilities can request a limit for its storage vessels to a limit below 6 tpy.

This wasn't the original intent of the GCP-4, but the GCP-4 establishes an allowable VOC emission limit for storage vessels in the permit application and therefore can limit a facility's PTE to below NSPS OOOO applicability.

6

Option 3
Part 72 NMAC
Construction Permit

If a facility has the time and requires a Part 72 permit anyway, the storage vessel(s) PTE can be limited by a construction permit.

This likely does not suit the needs for most O&G production facilities and tank batteries for the following:

- Time (up to 120 days)
- Expense (application fee typically around \$8,000-\$10,000 + annual fee)
- Complexity

7

Option 4
Part 73 NMAC
Process vs. Control Determination

A facility may elect to use a closed looped system to capture and reroute VOC to a sales gas pipeline and use the NOI application to obtain a NMED determination that this design is part of the process and not a control device.

Doing so has the **possibility** of reducing storage vessel PTE to below NSPS OOOO applicability thresholds.

- If total VOC emissions (including maintenance) are less than 6 tpy
- If the Process vs Control determination is approved
- If the VRU meets the cover and closed loop system requirements at 60.5411(b) and (c)

8

Typical Application Mistakes Observed by the Department

- 1) Failure to incorporate a closed loop design
- 2) Failure to make a proper "Process vs. Control" analysis.
- 3) Failure to include SSM emissions in the PTE calculations.
- 4) Failure to incorporate reasonable down time in calculations.
- 5) Failure to submit a new application when the closed loop system compressor is removed due to low wellhead pressure or decreases in well production.

9

Questions?

Liz Bisbey-Kuehn
Minor Source Program Manager
elizabeth.kuehn@state.nm.us
505-476-4338

Ted Schooley
Permit Programs Manager
ted.schooley@state.nm.us
505-476-4334



10

CONSTRUCTION PERMIT NO: GCP-6

GENERAL PERMIT CATEGORY: Storage Vessels

ISSUED BY: New Mexico Environment Department



MICHAEL VONDERHEIDE
Director
Environmental Protection Division



Date

Air Quality Permit GCP-6 for Storage Vessel Facilities (“Permit”) is issued by the Air Quality Bureau (AQB) of the New Mexico Environment Department (Department) under Title 20 Chapter 2 Part 72 of the New Mexico Administrative Code. [20.2.72 NMAC – *Construction Permits*, Section 220 – *General Permits*] The Department issues general permits in order to register groups of sources that have similar operations, processes, and emissions and that are subject to the same or substantially similar requirements. [20.2.72.220.A(1) NMAC] General permits provide an additional permitting option for specific types of sources that can meet the predetermined permit requirements. [20.2.72.220.C(1) NMAC]

This Permit authorizes an owner or operator to construct, modify, and operate a Storage Vessel Facility (Facility) in New Mexico (excluding Bernalillo County, Tribal lands, and city of Sunland Park) under the conditions set forth herein as long as all conditions of the Permit are continually met.

An owner or operator that registers for and receives approval to construct under this Permit will have satisfied the State of New Mexico’s requirement for obtaining an air quality permit prior to constructing, modifying, or operating a source of air pollutants. However, other federal, state, or local agencies may have additional requirements such as zoning restrictions.

All terms written with initial capital letters are defined in Section D102 of this Permit. Regulatory authority, if applicable, is cited in brackets. Please refer to the guidance document for this Permit for details, descriptions, and registration instructions. Questions regarding eligibility for this Permit can be directed to the Air Quality Bureau of the New Mexico Environment Department at (505) 476-4300, or visit the New Mexico Environment Department’s website at <http://www.nmenv.state.nm.us/AQB>.

TABLE OF CONTENTS

Part A	FACILITY SPECIFIC REQUIREMENTS	3
A100	Description.....	3
A101	Applicability	4
A102	Allowable Equipment and Allowable VOC Emission Limits for Storage Vessels	4
A103	Allowable Annual Facility VOC Emission Limit.....	6
A104	Malfunction Emissions	6
A105	Storage Vessels	7
A106	Truck Loading – Hydrocarbon Loadout	10
A107	Vapor Recovery Unit (VRU) or Ultra-Low Pressure Separator (ULPS) and Compressor	11
A108	Flare	12
A109	Thermal Oxidizer.....	13
A110	Carbon Adsorption.....	14
A111	Condenser	15
A112	Fuel Sulfur Requirements	15
A113	20.2.61 NMAC Opacity.....	16
Part B	GENERAL CONDITIONS	16
B100	Introduction.....	16
B101	Legal	16
B102	Authority.....	17
B103	Fees	18
B104	Appeal Procedures	18
B105	Submittal of Reports and Certifications.....	19
B106	NSPS and/or MACT Startup, Shutdown, and Malfunction Operations	19
B107	Startup, Shutdown, and Maintenance Operations.....	19
B108	General Monitoring Requirements	20
B109	General Recordkeeping Requirements	21
B110	General Reporting Requirements.....	22
B111	Compliance	23
B112	Permit Cancellation and Revocation.....	24
B113	Notification to Subsequent Owners	24
B114	Asbestos Demolition.....	25
Part C	REGISTRATION PROCESSES	25
C100	Application Forms	25
C101	Revision Processes.....	26
Part D	MISCELLANEOUS	27
D100	Supporting On-Line Documents.....	27
D101	Definitions.....	28
D102	Acronyms.....	31

PART A FACILITY SPECIFIC REQUIREMENTS**A100 Description**

- A. The function of the Facility is to accumulate liquids in Storage Vessels, as defined in Section D101, located in the oil and natural gas production segment, natural gas processing segment, or natural gas transmission and storage segment [SIC 1311, 1321, and 4922].
- B. This Facility is authorized for continuous operation. No monitoring, recordkeeping, and reporting are required to demonstrate compliance with continuous hours of operation.
- C. The term of this permit is permanent unless withdrawn or cancelled by the Department.
- D. The allowable VOC emissions from each Storage Vessel, including fugitive, startup, shutdown, and maintenance emissions, shall not exceed the total requested allowable emissions in the current Application Form (registration form).
- E. The potential emission rate (PER) of the permitted Facility, including fugitive sources of emissions and excluding exempt sources or activities, shall not exceed the total potential emission rates in Table 100.A and Table 100.B. The potential emission rate of the permitted Facility shall exclude emissions from exempt sources and/or activities under 20.2.72.202 NMAC. Any Facility with a PER greater than the amounts in Table 100.A or Table 100.B does not qualify for GCP-6.

Table 100.A: Potential Emission Rate (PER) of the Facility

Pollutant*	Emissions (pounds per hour)	Emissions (tons per year)
Nitrogen Oxides (NO _x)	less than 10	less than 25
Carbon Monoxide (CO)	less than 10	less than 25
Volatile Organic Compounds (VOCs) from Storage Vessels or Truck Loading	**	No PER Limit
Sulfur Dioxide (SO ₂)	less than 10	less than 25
Total Suspended Particulates (TSP)	less than 2.5	less than 25
Particulate Matter less than 10 microns (PM ₁₀)	less than 2.5	less than 25
Particulate Matter less than 2.5 microns (PM _{2.5})	less than 2.5	less than 25
Hydrogen Sulfide (H ₂ S)	less than 0.5	less than 5
Lead	less than 10	less than 5

* PER of pollutants includes emissions from Fugitives and SSM events

** lb/hr limits are not appropriate for this pollutant

Table 100.B: Total Potential HAPs Emissions

Pollutant	Emissions (tons per year)
Any one (1) Hazardous Air Pollutant (HAP)*	less than 10
Total HAPs	less than 25

* HAP emissions are already included in the VOC emission total in Table 102.A.

A101 Applicability

- A. All sources for which the Department has approved an Application Form under GCP-6 are subject to GCP-6 terms and conditions. No source may operate under GCP-6 unless the Department has approved its Application Form. No source may operate under GCP-6 unless such operation meets all the requirements of GCP-6.
- B. The owner or operator may apply for registration of a Facility under this Permit if:
 - (1) The Facility can comply with all of the requirements of this Permit; and
 - (2) The Facility includes any combination of the emissions units listed in Table 102.A and Table 102.B.
- C. The Department shall deny an Application Form if:
 - (1) The Application Form is not complete;
 - (2) The source as proposed is not qualified to register for GCP-6;
 - (3) The source, as proposed, cannot continuously meet the terms and conditions of GCP-6 as determined by the review of the registration application(s);
 - (4) The Facility is in a nonattainment area [defined by 20.2.79 NMAC] or the city of Sunland Park;
 - (5) The public notice performed for the Facility is inadequate to meet the requirements in Condition C100.B – *Public Notification*; or
 - (6) Any criteria listed in 20.2.72.208 NMAC are applicable.

A102 Allowable Equipment and Allowable VOC Emission Limits for Storage Vessels

- A. Table 102.A and Table 102.B list the units authorized for this Facility.

Table 102.A: Allowable Equipment List and Allowable Annual Total VOC Emission Limits

Source Description¹	Allowable Annual Total VOC Emission Limits
---------------------------------------	---

Source Description ¹	Allowable Annual Total VOC Emission Limits
Storage Vessel ²	Less than 6 tpy per Storage Vessel. The actual requested allowable emission limit for each Storage Vessel is established in the current Application Form ³ .
Facility	<p>Less than 79 tpy for the combined total VOC allowable emission rate from all Storage Vessels and truck loading³.</p> <p>If the applicant selects 10 tpy of Malfunction emissions in the Application Form, the 79 tpy limit includes 10 tpy of Malfunction.</p> <p>The actual requested allowable emission limit is established in the current Application Form.</p>
Malfunction (if selected by the permittee)	10 tpy

¹ All units must be evaluated for applicability to NSPS and NESHAP requirements.

² Unless specifically requested by the permittee in the Application Form, allowable VOC emission limits are only established for Storage Vessels with a PER of 6 or more VOC tpy.

³ Allowable VOC total includes emissions from Fugitives and SSM.

Table 102.B: Allowable Methods of Reducing VOC Emissions

Source Description
Vapor Recovery Unit (VRU) (as defined in Section D101, including but not limited to, flash tower and compressor)
Ultra-Low Pressure Separator (ULPS) and Compressor
Flare (as defined in Section D101)
Thermal Oxidizer (as defined in Section D101)
Carbon Adsorption System
Condenser
Other equivalent Allowable Methods of Reducing VOC Emissions listed on the Air Quality Bureau website as approved by the Department

Table 102.C: Minimum Height and Velocity Requirements for Selected Methods of Reduction

Source Description ¹	Minimum Height	Minimum Velocity
Flare	40 feet	NA

Source Description ¹	Minimum Height	Minimum Velocity
Thermal Oxidizer	30 feet	10 ft/sec

A103 Allowable Annual Facility VOC Emission Limit

A. Allowable Annual Facility VOC Emission Limit

<p>Requirement: Compliance with the allowable annual Facility VOC emission limit in Table 102.A shall be demonstrated on a monthly rolling 12-month total basis. See Section D101 for a definition of “monthly rolling”.</p>
<p>Monitoring: Monthly, the permittee shall calculate the monthly rolling 12-month Facility total VOC emission in tons per year to demonstrate compliance with the allowable Facility VOC emission limit in Table 102.A. Calculations shall include:</p> <ol style="list-style-type: none"> 1) results of Storage Vessel calculations in accordance with Condition A105.C, 2) results of truck loading emission calculations or LACT unit emission calculations (if selected) in accordance with Conditions A106.A and A106.B, 3) results of malfunction emission calculations (if selected) in accordance with Condition A104.A., and 4) the total emissions from the methods of reduction as represented in the current Application Form.
<p>Recordkeeping: Monthly, the permittee shall record the monthly rolling 12-month Facility total VOC emissions in tpy.</p> <p>The permittee shall record in accordance with Condition B109.</p>
<p>Reporting: The permittee shall report in accordance with Section B110.</p>

A104 Malfunction Emissions

A. Allowable VOC Malfunction Emissions

<p>Requirement: By selecting the Malfunction Emissions Option in the Application Form, the permittee has requested a federally enforceable VOC malfunction emission limit. For these Facilities, the permittee shall annually perform a representative hydrocarbon analysis of material being produced at the Facility. The permittee shall complete the following monitoring and recordkeeping to demonstrate compliance with the 10 tpy VOC malfunction emission limit in Table 102.A.</p>
<p>Monitoring: The permittee shall monitor all malfunction events that result in VOC emissions including the identification of the equipment or activity that is the source of emissions.</p>
<p>Recordkeeping: Compliance with the malfunction emission limit in Table 102.A shall be demonstrated each month by calculating and recording the monthly rolling 12-month total VOC malfunction emissions. During the first 12 months, the 12-month total shall be the cumulative total of emissions and thereafter, shall be the monthly rolling 12-month total of VOC malfunction emissions.</p>

Records shall also be kept of the representative hydrocarbon analysis, the percent VOC of the gas based on the most recent gas analysis, the volume of total gas vented in MMscf used to calculate the VOC emissions, and whether the emissions resulting from the event will be used toward the permitted malfunction emission limit or whether the event is reported under 20.2.7 NMAC.

The permittee shall maintain records in accordance with Condition B109.

Reporting: The permittee shall report in accordance with Section B110.

A105 Storage Vessels

A. Reducing VOC Emissions (Regulated Storage Vessels as Identified in the Application Form)

Requirement: For each Storage Vessel with a PER of 6 or more tpy VOC, the permittee shall install at least one of the allowable methods of reducing VOC emissions from Table 102.B. Additionally, the permittee shall ensure that the selected method meets the minimum height and velocity requirements of Table 102.C, as appropriate.

The permittee may also choose to establish annual total allowable VOC emission limits for other Storage Vessels with a PER of less than 6 tpy VOC by identifying the Storage Vessels in the Application Form.

The emission reduction method selected may reduce VOC emissions from multiple Storage Vessels. The permittee shall comply with the specific conditions for each method, as required by this permit.

Monitoring: The permittee shall monitor the date of installation for each Storage Vessel and its method(s) of reducing VOC emissions.

Recordkeeping: The permittee shall record the date of installation for each Storage Vessel and its method(s) of reducing VOC emissions.

If a method of reducing VOC emissions is replaced by another method, the permittee shall record:

- 1) the new method of reducing VOC emissions,
- 2) the date of replacement, and
- 3) the manufacturer, serial number, and make/model of the new method of reducing VOC emissions.

Records shall be maintained in accordance with Section B109.

Reporting: None.

B. Redundancy for VOC Emissions Reduction Method

Requirement: By selecting the Redundancy Option in the Application Form, the permittee

has requested a federally enforceable redundant method of reducing VOC emissions during maintenance or malfunction events for units listed in the Application Form. For these Facilities, each Storage Vessel requesting to have a method of reducing VOC emissions shall have a backup method of reducing VOC emissions as listed in the Application from the options listed in Table 102.B. The backup method shall be capable of operating immediately, without manual intervention, to reduce emissions from the Storage Vessel during maintenance or malfunction events.

For each backup method, the permittee shall also comply with the specific conditions for that method, as required by this permit.

Monitoring: The permittee shall monitor the date, start time, and end time of the use of any alternative method.

Recordkeeping: The permittee shall record the date, start time, and end time of the use of any alternative method.

The permittee shall maintain records in accordance with Section B109.

Reporting: The permittee shall report in accordance with Section B110.

C. Compliance Demonstration for Each Storage Vessel With an Emissions Reduction Method

Requirement: To demonstrate compliance with the allowable emission limit for each Storage Vessel with an emissions reduction method in the current Application Form, the permittee shall calculate the monthly rolling 12-month total hydrocarbon throughput to the unit, the monthly rolling 12-month average separator pressure, and calculate the monthly rolling 12-month total VOC emissions for each unit.

For Storage Vessels manifolded together, the permittee may divide the total emissions from the Storage Vessels by the number of Storage Vessels manifolded together.

The emissions calculated under this condition shall be added to the emissions calculated in Condition A105.D to demonstrate compliance for each Storage Vessel requested allowable emission limit.

Monitoring: The permittee shall monitor the monthly total throughput and the upstream separator pressure once per month.

Recordkeeping: The permittee shall record:

- 1) the monthly total throughput of liquids, and
- 2) the monthly separator pressure.

Each month, the permittee shall use these values to calculate and record:

- 3) during the first 12 months of monitoring, the cumulative total liquid throughput and after the first 12 months of monitoring, the monthly rolling 12-month total liquid throughput,

- 4) during the first 12 months of monitoring, the average separator pressure for each month, and after the first 12 months of monitoring, the monthly rolling 12-month average separator pressure, and
- 5) the monthly rolling 12-month total VOC emissions for each unit.

Storage Vessel breathing, working, and flashing emissions shall be calculated using Department approved programs and VOC reduction efficiencies. This calculation shall include emissions from startup, shutdown, and maintenance events from each unit, as calculated in Condition A105.D. This calculation shall also include the VOC content based on the results of the annual hydrocarbon analysis as required by Condition A105.D. Emission rates computed using the same parameters, but with different Department approved algorithms that exceed these values will not be deemed non-compliance with this permit.

Records shall be maintained in accordance with Section B109.

Reporting: The permittee shall report in accordance with Section B110.

D. Startup, Shutdown, and Maintenance Emissions

Requirement: The permittee shall annually perform a representative hydrocarbon analysis of material being produced at the Facility. The permittee shall complete the following recordkeeping to demonstrate compliance with the routine and predictable startup, shutdown, and maintenance emission limit in the current Application Form. Since startup and shutdown emissions are not expected to be above steady state emissions, compliance is demonstrated by monitoring and recording maintenance events.

Monitoring: The permittee shall monitor all maintenance events that result in VOC emissions including the identification of the equipment or activity that is the source of emissions.

Recordkeeping: The permittee shall record a description of the equipment or activity that is the source of emissions.

The permittee shall calculate the maintenance emissions each month. Records shall be kept of the cumulative total of VOC maintenance emissions for each unit during the first 12 months and, thereafter of the monthly rolling 12-month total of VOC maintenance emissions for each unit.

Records shall also be kept of the representative hydrocarbon analysis, the percent VOC of the gas based on the most recent gas analysis, and of the volume of total gas vented in MMscf used to calculate the VOC emissions.

The permittee shall record the demonstrated compliance in accordance with Condition B109.

Reporting: The permittee shall report in accordance with Section B110.

A106 Truck Loading – Hydrocarbon Loadout**A. Operation**

Requirement: By selecting the Truck Loading Option in the Application Form, the permittee has requested a federally enforceable condition for reducing emissions during truck loading. For these Facilities, all emissions from truck loading operations shall be routed to at least one of the allowable methods of reducing VOC emissions from Table 102.B. The reduced emissions from truck loading shall be counted toward the allowable annual Facility VOC emission limit.

If the Truck Loading Option is not selected in the Application Form, all unreduced truck loading emissions shall be counted toward the allowable annual Facility VOC emission limit.

Monitoring: Monthly, the permittee shall perform a maintenance check on the loading rack piping to the VOC emission reduction method to ensure there are no defects that could result in emissions venting to atmosphere. Defects include, but are not limited to, visible cracks, holes, or gaps; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

Recordkeeping: The permittee shall record the following information for each maintenance check: the name of the company official, date, and results of the maintenance check indicating the results of the check. In the event that a leak or defect is detected, the permittee shall repair the leak or defect as soon as practicable and in a manner that minimizes VOC emissions to the atmosphere.

Records shall also be maintained in accordance with Section B109.

Reporting: The permittee shall report in accordance with Section B110.

B. Lease Automatic Custody Transfer (LACT) Unit to Pipeline

Requirement: By selecting the LACT Unit Option in the Application Form, there shall be no emissions vented to the atmosphere under normal operation of the LACT unit. If the pipeline is unavailable and hydrocarbon liquids are temporarily loaded on trucks, emissions from truck loading operations are not required to be routed to a method of reducing VOC emissions, but these LACT unit truck loading emissions shall be monitored and recorded. Routine and predictable truck loading emissions that occur when the LACT unit is not operating shall be counted toward the allowable annual Facility VOC emission limit.

Monitoring: The permittee shall monitor the date, start time, and end time of truck loading when the pipeline is unavailable for the LACT unit to pipe hydrocarbon liquids off-site.

Recordkeeping: The permittee shall record the date, start time, and end time of truck loading when the pipeline is unavailable for the LACT unit to pipe liquid hydrocarbons off-site. These truck loading emissions shall be calculated and included in the VOC malfunction emission limit in Table 102.A.

Records shall also be maintained in accordance with Section B109.

Reporting: The permittee shall report in accordance with Section B110.

A107 Vapor Recovery Unit (VRU) or Ultra-Low Pressure Separator (ULPS) and Compressor

A. Operation

Requirement: If a VRU or Ultra-Low Pressure Separator (ULPS) and Compressor is installed as a method of reducing or capturing VOCs prior to or after the Storage Vessel, emissions shall be routed at all times to the VRU or Ultra-Low Pressure Separator (ULPS) and Compressor. The VOC emissions shall be captured and routed via a closed loop system back to the process stream such that no emissions are vented to the atmosphere.
--

Monitoring: The permittee shall conduct the following monitoring on a monthly basis:

- | |
|---|
| <ol style="list-style-type: none"> 1) inspect for proper routing to the VRU or Ultra-Low Pressure Separator (ULPS) and Compressor, 2) inspect each Storage Vessel, VRU or Ultra-Low Pressure Separator (ULPS) and Compressor, and associated piping for defects that could result in emissions. Defects include, but are not limited to, visible cracks, holes, or gaps; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices, and 3) monitor for proper operation per manufacturer's specifications. |
|---|

Recordkeeping: The permittee shall record the name of the person conducting the inspection and the results of all monthly equipment inspections, contemporaneously noting any maintenance or repairs needed to bring the Storage Vessel and/or VRU or Ultra-Low Pressure Separator (ULPS) and Compressor into compliance with permit conditions.

Reporting: The permittee shall report in accordance with Section B110.

B. Maintenance and Repair

Requirement: The VRU or Ultra-Low Pressure Separator (ULPS) and Compressor shall be installed, operated, and maintained according to manufacturer's specifications. Any emissions resulting from the VRU or Ultra-Low Pressure Separator (ULPS) and Compressor downtime shall be submitted in accordance with 20.2.7 NMAC, or counted toward the SSM or the malfunction emission limit, as applicable. In the event that a leak or defect is detected, the permittee shall repair the leak or defect as soon as practicable, not to exceed thirty days, and in a manner that minimizes VOC emissions to the atmosphere.
--

Monitoring: The permittee shall monitor the date, start time, and end time of any downtime and/or maintenance of the VRU or Ultra-Low Pressure Separator (ULPS) and Compressor.
--

Recordkeeping: The permittee shall keep manufacturer's documentation for the VRU or Ultra-Low Pressure Separator (ULPS) and Compressor on site or at the permittee's local business office. The permittee shall record the date, start time, and end time of any downtime and/or maintenance of the VRU or Ultra-Low Pressure Separator (ULPS) and Compressor, and whether the associated emissions are counted toward the SSM or the malfunction emission limit.
--

Reporting: The permittee shall report in accordance with Section B110.

A108 Flare

A. Operation

Requirement:

- | |
|---|
| <ol style="list-style-type: none"> 1) If a flare is installed as a method of reducing VOC emissions, the emissions from the Storage Vessel shall be routed at all times to the flare. 2) The permittee shall determine the minimum volume and BTU content of the gas necessary to ensure combustion of the gases. If necessary to ensure adequate combustion, the permittee shall add sufficient gas to make the gases combustible. 3) The flare shall be operated such that no visible emissions are observed, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours. 4) The flare shall be equipped with a system to ensure that it is operated with a flame present at all times. |
|---|

Monitoring: The permittee shall continuously monitor the presence of the flare pilot flame using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame, or any other equivalent device approved by the Department.
--

Annually, the permittee shall perform a Method 22 to certify compliance with the visible emission requirements. The observation period shall be two hours.

The permittee shall monitor for proper operation per manufacturer's specifications.

Recordkeeping: The permittee shall record all instances of alarm activation, including the date and cause of alarm activation, actions taken to bring the flare into normal operating conditions, and maintenance activities.
--

The results of Method 22 shall be recorded.

The permittee shall maintain a copy of the manufacturer's specification sheet onsite.

Reporting: The permittee shall report in accordance with Section B110.

B. Maintenance and Repair

Requirement: The flare shall be installed, operated, and maintained according to manufacturer's specifications. Any emissions resulting from flare downtime shall be submitted in accordance with 20.2.7 NMAC, or counted toward the SSM or the malfunction emission limit, as applicable. In the event that a defect is detected, the permittee shall repair the defect as soon as practicable, not to exceed thirty days, and in a manner that minimizes VOC emissions to the atmosphere.
--

Monitoring: The permittee shall monitor scheduled maintenance activities of the flare and the date, start time, and end time of any downtime of the flare.

Recordkeeping: The permittee shall keep manufacturer's documentation for the flare on site or at the permittee's local business office. The permittee shall record maintenance activities performed on the flare and the date, start time, and end time of any downtime of the flare, and whether the associated emissions are counted toward the SSM or the malfunction emission limit.

Reporting: The permittee shall report in accordance with Section B110.

A109 Thermal Oxidizer

A. Operation

Requirement:

- | |
|---|
| <ol style="list-style-type: none"> 1) If a thermal oxidizer is installed as a method of reducing VOCs, emissions from the Storage Vessel shall be routed at all times to the thermal oxidizer. 2) The thermal oxidizer shall be operated such that no visible emissions are observed, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours. 3) The permittee shall determine the minimum temperature and residence time necessary for proper operation of the thermal oxidizer based on the manufacturer's specification sheet for that unit. The permittee shall operate the thermal oxidizer above the established minimum temperature and ensure the residence time is sufficient for proper operation of the unit. |
|---|

Monitoring: The permittee shall conduct the following monitoring on a monthly basis:

- | |
|--|
| <ol style="list-style-type: none"> 1) inspect each Storage Vessel vent for proper routing to the thermal oxidizer and inspect the Storage Vessel and thermal oxidizer for defects. Defects include, but are not limited to, visible cracks, holes, or gaps; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices. 2) Annually, the permittee shall perform a Method 22 to certify compliance with the visible emission requirements. The observation period shall be two hours. 3) The permittee shall monitor for proper operation per manufacturer's specifications and continuously record the operating temperature of the thermal oxidizer. |
|--|

Recordkeeping:

- | |
|--|
| <ol style="list-style-type: none"> 1) The permittee shall record the name of the person conducting the inspection and the results of all monthly equipment inspections, contemporaneously noting any maintenance or repairs needed to bring the Storage Vessel and/or thermal oxidizer into compliance with permit conditions. 2) The results of Method 22 shall be recorded. 3) The results of the operating temperature monitoring shall be recorded. |
|--|

Reporting: The permittee shall report in accordance with Section B110.

B. Maintenance and Repair

Requirement: The thermal oxidizer shall be installed, operated, and maintained according to manufacturer's specifications. Any emissions resulting from thermal oxidizer downtime shall be submitted in accordance with 20.2.7 NMAC, or counted toward the SSM or the malfunction emission limit, as applicable. In the event that a leak or defect is detected, the permittee shall repair the leak or defect as soon as practicable, not to exceed thirty days, and in a manner that minimizes VOC emissions to the atmosphere.
--

Monitoring: The permittee shall monitor the date, start time, and end time of any downtime and/or maintenance of the thermal oxidizer.

Recordkeeping: The permittee shall keep manufacturer's documentation for the thermal

oxidizer on site or at the permittee's local business office. The permittee shall record the date, start time, and end time of any downtime and/or maintenance of the thermal oxidizer, and whether the associated emissions are counted toward the SSM or the malfunction emission limit.

Reporting: The permittee shall report in accordance with Section B110.

A110 Carbon Adsorption

A. Operation

Requirement: If a carbon adsorption system is installed as a method of reducing or capturing VOCs, emissions from the Storage Vessel shall be routed at all times to the carbon adsorption system.

Monitoring: The permittee shall conduct the following monitoring on a monthly basis:

- 1) inspect for proper routing to the carbon adsorption system,
- 2) inspect each Storage Vessel and carbon adsorption system for defects that could result in emissions. Defects include, but are not limited to, visible cracks, holes, or gaps; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices, and
- 3) monitor the pressure between the carbon vessels and proper operation per manufacturer's specifications.

Recordkeeping: The permittee shall record the name of the person conducting the inspection or monitoring and the results of all monthly equipment inspections and pressure readings between carbon vessels, contemporaneously noting any maintenance or repairs needed to bring the Storage Vessel and/or carbon adsorption system into compliance with permit conditions.

Reporting: The permittee shall report in accordance with Section B110.

B. Maintenance and Repair

Requirement: The carbon adsorption system shall be installed, operated, and maintained according to manufacturer's specifications. Any emissions resulting from the carbon adsorption system downtime shall be submitted in accordance with 20.2.7 NMAC, or counted toward the SSM or the malfunction emission limit, as applicable. In the event that a leak or defect is detected, the permittee shall repair the leak or defect as soon as practicable, not to exceed thirty days, and in a manner that minimizes VOC emissions to the atmosphere.

Monitoring: The permittee shall monitor the date, start time, and end time of any downtime and/or maintenance of the carbon adsorption system.

Recordkeeping: The permittee shall keep manufacturer's documentation for the carbon adsorption system on site or at the permittee's local business office. The permittee shall record the date, start time, and end time of any downtime and/or maintenance of the carbon adsorption system, and whether the associated emissions are counted toward the SSM or the malfunction emission limit.

Reporting: The permittee shall report in accordance with Section B110.

A111 Condenser**A. Operation**

Requirement: If a condenser is installed as a method of reducing or capturing VOCs prior to or after the Storage Vessel, emissions shall be routed at all times to the condenser. The VOC emissions shall be captured and routed via a closed loop system back to the process stream such that no emissions are vented to the atmosphere.

Monitoring: The permittee shall conduct the following monitoring on a monthly basis:

- 1) inspect for proper routing to the condenser and back to the process stream,
- 2) inspect each Storage Vessel, condenser, and associated piping for defects that could result in emissions. Defects include, but are not limited to, visible cracks, holes, or gaps; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices, and
- 3) monitor for proper operation per manufacturer's specifications.

Recordkeeping: The permittee shall record the name of the person conducting the inspection and the results of all monthly equipment inspections, contemporaneously noting any maintenance or repairs needed to bring the Storage Vessel and/or condenser into compliance with permit conditions.

Reporting: The permittee shall report in accordance with Section B110.

B. Maintenance and Repair

Requirement: The condenser shall be installed, operated, and maintained according to manufacturer's specifications. Any emissions resulting from the condenser downtime shall be submitted in accordance with 20.2.7 NMAC, or counted toward the SSM or the malfunction emission limit, as applicable. In the event that a leak or defect is detected, the permittee shall repair the leak or defect as soon as practicable, not to exceed thirty days, and in a manner that minimizes VOC emissions to the atmosphere.

Monitoring: The permittee shall monitor the date, start time, and end time of any downtime and/or maintenance of the condenser.

Recordkeeping: The permittee shall keep manufacturer's documentation for the condenser on site or at the permittee's local business office. The permittee shall record the date, start time, and end time of any downtime and/or maintenance of the condenser, and whether the associated emissions are counted toward the SSM or the malfunction emission limit.

Reporting: The permittee shall report in accordance with Section B110.

A112 Fuel Sulfur Requirements**A. Fuel Sulfur Requirements**

Requirement: All combustion emission units shall combust only natural gas as defined in this permit.

Monitoring: None

Recordkeeping: The permittee shall demonstrate compliance with the natural gas limit on total

sulfur content by maintaining records of a current, valid fuel gas analysis, purchase contract, tariff sheet, or transportation contract, specifying the allowable limit or less.

Reporting: The permittee shall report in accordance with Section B110.

A113 20.2.61 NMAC Opacity

A. 20.2.61 NMAC Opacity Limit

Requirement: Visible emissions from all stationary combustion emission stacks shall not equal or exceed an opacity of 20 percent.
--

Monitoring: Use of natural gas fuel constitutes compliance with 20.2.61 NMAC unless opacity equals or exceeds 20% averaged over a 10-minute period. When any visible emissions are observed during steady state operation, opacity shall be measured over a 10-minute period, in accordance with the procedures at 40 CFR 60, Appendix A, Method 9 as required by 20.2.61.114 NMAC.
--

Recordkeeping: The permittee shall record dates of any opacity measures and the corresponding opacity readings.
--

Reporting: The permittee shall report in accordance with Section B110.

PART B GENERAL CONDITIONS

B100 Introduction

- A. The Department has reviewed the permit application for the proposed construction/modification/revision and has determined that the provisions of the Act and ambient air quality standards will be met. Conditions have been imposed in this permit to assure continued compliance. 20.2.72.210.D NMAC, states that any term or condition imposed by the Department on a permit is enforceable to the same extent as a regulation of the Environmental Improvement Board.

B101 Legal

- A. The contents of a permit application specifically identified by the Department shall become the terms and conditions of the permit or permit revision. Unless modified by conditions of this permit, the permittee shall construct or modify and operate the Facility in accordance with all representations of the current application and supplemental submittals that the Department relied upon to determine compliance with applicable regulations and ambient air quality standards. If the Department relied on air quality modeling to issue this permit, any change in the parameters used for this modeling shall be submitted to the Department for review. Upon the Department's request, the permittee shall submit additional modeling for review by

the Department. Results of that review may require a permit modification. (20.2.72.210.A NMAC)

- B. Unless otherwise specified in Part A or Part C of this permit, any future physical changes, changes in the method of operation, or changes in the restricted area may constitute a modification as defined by 20.2.72 NMAC, Construction Permits. Unless the source or activity is exempt under 20.2.72.202 NMAC, no modification shall begin prior to issuance of a permit. (20.2.72 NMAC Sections 200.A.2 and E, and 210.B.4)
- C. Unless otherwise specified in Part A or Part C of this permit, changes in plans, specifications, and other representations stated in the application documents shall not be made if they cause a change in the method of control of emissions or in the character of emissions, will increase the discharge of emissions or affect modeling results. Unless otherwise specified in Part A or Part C of this permit, any such proposed changes shall be submitted as a revision or modification. (20.2.72 NMAC Sections 200.A.2 and E, and 210.B.4)
- D. Applications which require notification under Condition C101.A or Condition C101.B for permit revisions and modifications shall be submitted to:

Program Manager, Permits Section
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez, Suite 1
Santa Fe, New Mexico 87505-1816
- E. At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate the source including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. (20.2.7.109, 20.2.72.210.A, 20.2.72.210.B, 20.2.72.210.C, 20.2.72.210.E NMAC) The establishment of allowable malfunction emission limits does not supersede this requirement.

B102 Authority

- A. This permit is issued pursuant to the Air Quality Control Act (Act) and regulations adopted pursuant to the Act including Title 20, Chapter 2, Part 72 of the New Mexico Administrative Code (NMAC), (20.2.72 NMAC), Construction Permits and is enforceable pursuant to the Act and the air quality control regulations applicable to this source.

- B. The Department is the Administrator for 40 CFR Parts 60, 61, and 63 pursuant to the delegation and exceptions of Section 10 of 20.2.77 NMAC (NSPS), 20.2.78 NMAC (NESHAP), and 20.2.82 NMAC (MACT).

B103 Fees

- A. Each Application Form shall include a certified check or money order for permit fees required pursuant to 20.2.75 NMAC – *Construction Permit Fees*.
- B. The Department will assess an annual fee for this Facility. The regulation 20.2.75 NMAC set the fee amount at \$1,500 through 2004 and requires it to be adjusted annually for the Consumer Price Index on January 1. The current fee amount is available by contacting the Department or can be found on the Department’s website. The AQB will invoice the permittee for the annual fee amount at the beginning of each calendar year. This fee does not apply to sources which are assessed an annual fee in accordance with 20.2.71 NMAC. For sources that satisfy the definition of “small business” in 20.2.75.7.F NMAC, this annual fee will be divided by two. (20.2.75.11 NMAC)
- C. All fees shall be remitted in the form of a corporate check, certified check, or money order made payable to the “NM Environment Department, AQB” mailed to the address shown on the invoice and shall be accompanied by the remittance slip attached to the invoice.

B104 Appeal Procedures

- A. Any person who participated in a permitting action before the Department and who is adversely affected by such permitting action, may file a petition for hearing before the Environmental Improvement Board. The petition shall be made in writing to the Environmental Improvement Board within thirty (30) days from the date notice is given of the Department's action and shall specify the portions of the permitting action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered and attach a copy of the permitting action for which review is sought. Unless a timely request for hearing is made, the decision of the Department shall be final. The petition shall be copied simultaneously to the Department upon receipt of the appeal notice. If the petitioner is not the applicant or permittee, the petitioner shall mail or hand-deliver a copy of the petition to the applicant or permittee. The Department shall certify the administrative record to the board. Petitions for a hearing shall be sent to: (20.2.72.207.F NMAC)

Secretary, New Mexico Environmental Improvement Board
1190 St. Francis Drive, Runnels Bldg. Rm. N2153
Santa Fe, New Mexico 87502

B105 Submittal of Reports and Certifications

- A. Stack Test Protocols and Stack Test Reports shall be submitted electronically to Stacktest.AQB@state.nm.us.
- B. Excess Emission Reports shall be submitted electronically to eereports.aqb@state.nm.us. (20.2.7.110 NMAC)
- C. Regularly scheduled reports shall be submitted to:
Manager, Compliance and Enforcement Section
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez, Suite 1
Santa Fe, New Mexico 87505-1816

B106 NSPS and/or MACT Startup, Shutdown, and Malfunction Operations

- A. If a facility is subject to a NSPS standard in 40 CFR 60, each owner or operator that installs and operates a continuous monitoring device required by a NSPS regulation shall comply with the excess emissions reporting requirements in accordance with 40 CFR 60.7(c), unless specifically exempted in the applicable subpart.
- B. If a facility is subject to a NSPS standard in 40 CFR 60, then in accordance with 40 CFR 60.8(c), emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction shall not be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard.
- C. If a facility is subject to a MACT standard in 40 CFR 63, then the facility is subject to the requirement for a Startup, Shutdown and Malfunction Plan (SSM) under 40 CFR 63.6(e)(3), unless specifically exempted in the applicable subpart.

B107 Startup, Shutdown, and Maintenance Operations

- A. The establishment of permitted startup, shutdown, and maintenance (SSM) emission limits does not supersede the requirements of 20.2.7.14.A NMAC. Except for operations or equipment subject to Condition B106, the permittee shall establish and implement a plan to minimize emissions during routine or predictable start up, shut down, and scheduled maintenance (SSM work practice plan) and shall operate in accordance with the procedures set forth in the plan. (SSM work practice plan) (20.2.7.14.A NMAC)

B108 General Monitoring Requirements

- A. These requirements do not supersede or relax requirements of federal regulations.
- B. The following monitoring requirements shall be used to determine compliance with applicable requirements and emission limits. Any sampling, whether by portable analyzer or EPA reference method, that measures an emission rate over the applicable averaging period greater than an emission limit in this permit constitutes noncompliance with this permit. The Department may require, at its discretion, additional tests pursuant to EPA Reference Methods at any time, including when sampling by portable analyzer measures an emission rate greater than an emission limit in this permit; but such requirement shall not be construed as a determination that the sampling by portable analyzer does not establish noncompliance with this permit and shall not stay enforcement of such noncompliance based on the sampling by portable analyzer.
- C. If the emission unit is shutdown at the time when periodic monitoring is due to be accomplished, the permittee is not required to restart the unit for the sole purpose of performing the monitoring. Using electronic or written mail, the permittee shall notify the Department's Compliance and Enforcement Section of a delay in emission tests prior to the deadline for accomplishing the tests. Upon recommencing operation, the permittee shall submit any pertinent pre-test notification requirements set forth in the current version of the Department's Standard Operating Procedures For Use Of Portable Analyzers in Performance Test, and shall accomplish the monitoring.
- D. The requirement for monitoring during any monitoring period is based on the percentage of time that the unit has operated. However, to invoke the monitoring period exemption at B108.D(2), hours of operation shall be monitored and recorded.
 - (1) If the emission unit has operated for more than 25% of a monitoring period, then the permittee shall conduct monitoring during that period.
 - (2) If the emission unit has operated for 25% or less of a monitoring period then the monitoring is not required. After two successive periods without monitoring, the permittee shall conduct monitoring during the next period regardless of the time operated during that period, except that for any monitoring period in which a unit has operated for less than 10% of the monitoring period, the period will not be considered as one of the two successive periods.
 - (3) If invoking the monitoring **period** exemption in B108.D(2), the actual operating time of a unit shall not exceed the monitoring period required by this permit before the required monitoring is performed. For example, if the monitoring period is annual, the operating hours of the unit shall not exceed 8760 hours before monitoring is conducted. Regardless of the time that a unit actually operates, a

minimum of one of each type of monitoring activity shall be conducted during any five-year period.

- E. For all periodic monitoring events, except when a federal or state regulation is more stringent, three test runs shall be conducted at 90% or greater of the unit's capacity as stated in this permit, or in the permit application if not in the permit, and at additional loads when requested by the Department. If the 90% capacity cannot be achieved, the monitoring will be conducted at the maximum achievable load under prevailing operating conditions except when a federal or state regulation requires more restrictive test conditions. The load and the parameters used to calculate it shall be recorded to document operating conditions and shall be included with the monitoring report.
- F. When requested by the Department, the permittee shall provide schedules of testing and monitoring activities. Compliance tests from previous NSR and Title V permits may be re-imposed if it is deemed necessary by the Department to determine whether the source is in compliance with applicable regulations or permit conditions.
- G. If monitoring is new or is in addition to monitoring imposed by an existing applicable requirement, it shall become effective 120 days after the date of permit issuance. For emission units that have not commenced operation, the associated new or additional monitoring shall not apply until 120 days after the units commence operation. All pre-existing monitoring requirements incorporated in this permit shall continue to apply from the date of permit issuance.

B109 General Recordkeeping Requirements

- A. The permittee shall maintain records to assure and verify compliance with the terms and conditions of this permit and any other applicable requirements that become effective after permit issuance. The minimum information to be included in these records is:
 - (1) equipment identification (include make, model and serial number for all tested equipment and emission controls);
 - (2) date(s) and time(s) of sampling or measurements;
 - (3) date(s) analyses were performed;
 - (4) the qualified entity that performed the analyses;
 - (5) analytical or test methods used;
 - (6) results of analyses or tests; and
 - (7) operating conditions existing at the time of sampling or measurement.

- B. Except as provided in the Specific Conditions, electronic records shall be maintained on-site or if unmanned, at the permittee's local business office for a minimum of two (2) years from the time of recording and shall be made available to Department personnel upon request.
- C. Malfunction emissions and routine and predictable emissions during startup, shutdown, and scheduled maintenance (SSM):
 - (1) The permittee shall keep records of all events subject to the plan to minimize emissions during routine or predictable SSM. (20.2.7.14.A NMAC)
 - (2) If the facility has allowable SSM emission limits in this permit, the permittee shall record all SSM events, including the date, the start time, the end time, and a description of the event. This record also shall include a copy of the manufacturer's, or equivalent, documentation showing that any maintenance qualified as scheduled. Scheduled maintenance is an activity that occurs at an established frequency pursuant to a written protocol published by the manufacturer or other reliable source. The authorization of allowable SSM emissions does not supersede any applicable federal or state standard. The most stringent requirement applies.
 - (3) If the facility has allowable malfunction emission limits in this permit, the permittee shall record all malfunction events to be applied against these limits, including the date, the start time, the end time, and a description of the event. **Malfunction means** any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions. (40 CFR 63.2, 20.2.7.7.E NMAC) The authorization of allowable malfunction emissions does not supersede any applicable federal or state standard. The most stringent requirement applies. This authorization only allows the permittee to avoid submitting reports under 20.2.7 NMAC for total annual emissions that are below the authorized limit.

B110 General Reporting Requirements

(20.2.72 NMAC Sections 210 and 212)

- A. Records and reports shall be maintained on-site or at the permittee's local business office unless specifically required to be submitted to the Department or EPA by another condition of this permit or by a state or federal regulation.
- B. The permittee shall notify the Department's Compliance Reporting Section using the current Submittal Form posted to NMED's Air Quality web site under Compliance

and Enforcement/Submittal Forms in writing of, or provide the Department with (20.2.72.212.A and B):

- (1) the anticipated date of initial startup of each new or modified source not less than thirty (30) days prior to the date. Notification may occur prior to issuance of the permit, but actual startup shall not occur earlier than the permit issuance date;
 - (2) after receiving authority to construct, the equipment serial number as provided by the manufacturer or permanently affixed if shop-built and the actual date of initial startup of each new or modified source within fifteen (15) days after the startup date; and
 - (3) the date when each new or modified emission source reaches the maximum production rate at which it will operate within fifteen (15) days after that date.
- C. Unless otherwise specified in Parts A or C of this permit, the permittee shall notify the Department's Permitting Program Manager, in writing of, or provide the Department with (20.2.72.212.C and D):
- (1) any change of operators or any equipment substitutions within fifteen (15) days of such change;
 - (2) any necessary update or correction no more than sixty (60) days after the operator knows or should have known of the condition necessitating the update or correction of the permit.
- D. Results of emission tests and monitoring for each pollutant (except opacity) shall be reported in pounds per hour (unless otherwise specified) and tons per year. Opacity shall be reported in percent. The number of significant figures corresponding to the full accuracy inherent in the testing instrument or Method test used to obtain the data shall be used to calculate and report test results in accordance with 20.2.1.116.B and C NMAC. Upon request by the Department, CEMS and other tabular data shall be submitted in editable, MS Excel format.
- E. The permittee shall submit reports of excess emissions in accordance with 20.2.7.110.A NMAC.

B111 Compliance

- A. The Department shall be given the right to enter the facility at all reasonable times to verify the terms and conditions of this permit. Required records shall be organized by date and subject matter and shall at all times be readily available for inspection. The permittee, upon verbal or written request from an authorized representative of the Department who appears at the facility, shall immediately produce for inspection or copying any records required to be maintained at the facility. Upon written request at other times, the permittee shall deliver to the

Department paper or electronic copies of any and all required records maintained on site or at an off-site location. Requested records shall be copied and delivered at the permittee's expense within three business days from receipt of request unless the Department allows additional time. Required records may include records required by permit and other information necessary to demonstrate compliance with terms and conditions of this permit. (NMSA 1978, Section 74-2-13)

- B. A copy of the most recent Application Form, the Department's approval letter(s), and permit(s) issued by the Department shall be kept at the permitted facility or (for unmanned sites) at the nearest company office and shall be made available to Department personnel for inspection upon request. (20.2.72.210.B.4 NMAC)

B112 Permit Cancellation and Revocation

- A. The Department may revoke this permit if the applicant or permittee has knowingly and willfully misrepresented a material fact in the application for the permit. Revocation will be made in writing, and an administrative appeal may be taken to the Secretary of the Department within thirty (30) days. Appeals will be handled in accordance with the Department's Rules Governing Appeals From Compliance Orders.
- B. The Department shall automatically cancel any permit for any source which ceases operation for five (5) years or more, or permanently. Reactivation of any source after the five (5) year period shall require a new permit. (20.2.72 NMAC)
- C. The Department may cancel a permit if the construction or modification is not commenced within two (2) years from the date of issuance or if, during the construction or modification, work is suspended for a total of one (1) year. (20.2.72 NMAC)

B113 Notification to Subsequent Owners

- A. The permit and conditions apply in the event of any change in control or ownership of the Facility. No permit modification is required in such case. However, in the event of any such change in control or ownership, the permittee shall notify the succeeding owner of the permit and conditions and shall notify the Department's Program Manager, Permits Section of the change in ownership within fifteen (15) days of that change. (20.2.72.212.C NMAC)
- B. Any new owner or operator shall notify the Department's Program Manager, Permits Section, within thirty (30) days of assuming ownership, of the new owner's or operator's name and address. (20.2.73.200.E.3 NMAC)

B114 Asbestos Demolition

- A. Before any asbestos demolition or renovation work, the permittee shall determine whether 40 CFR 61 Subpart M, National Emissions Standards for Asbestos applies. If required, the permittee shall notify the Department's Program Manager, Compliance and Enforcement Section using forms furnished by the Department.

PART C REGISTRATION PROCESSES**C100 Application Forms****A. General Requirements**

- (1) The owner or operator of a Facility to be registered under GCP-6 shall complete the following steps. All submittals shall be made on current forms provided by the Department. The owner or operator shall:
- (a) Complete public notice requirements for the proposed Facility and location at least 15 days prior to the commencement of construction or installation of a source. The above 15 day requirement to complete the public notice requirements before commencement of construction does not apply to existing, constructed sources that are voluntarily requesting an emission limit on Storage Vessels. However, the public notice requirements must still be completed, and proof of public notice must be submitted as part of the Application Form. See Condition C100.B for details;
 - (b) Submit a complete GCP-6 Application Form, including proof of Public Notice and a payment of 10 fee points as required by 20.2.75 NMAC, to the Department;
- (2) The owner or operator shall, at a minimum, complete the following sections of the GCP-6 Application Form:
- (a) Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15.
- (3) Within thirty (30) calendar days of receiving an Application Form under GCP-6, the Department shall review the application and shall approve or deny the registration. The approval of an Application Form shall not become effective until Department approval or fifteen (15) days after Public Notice has been published and posted, whichever is later. Approval or denial, once effective, of an Application Form is a determination by the Department of whether or not the source qualifies to register for coverage under GCP-6. The Department shall notify the owner or operator of its decision by certified mail.

B. Public Notification

- (1) The applicant's public notice requirements shall be completed at least 15 days prior to the commencement of construction or installation of a source. The above 15 day requirement to complete the public notice requirements before commencement of construction does not apply to existing, constructed sources that are voluntarily requesting an emission limit on Storage Vessels. However, the public notice requirements must still be completed, and proof of public notice must be submitted as part of the Application Form.
- (2) In accordance with 20.2.72.220.A(2)(b)ii NMAC, the applicant's public notice requirements include:
 - (a) a notice published once in the legal notices section of a newspaper in general circulation in the county or counties in which the property on which the Facility is proposed to be constructed or operated is located. The applicant's legal notice may include up to 10 separate facilities if required location information for each facility is included in the notice; and
 - (b) a notice posted at the proposed or existing Facility entrance in a publicly accessible and conspicuous place on the property on which the Facility is, or is proposed to be, located, until the general permit registration is granted or denied.
- (3) In accordance with 20.2.72.220.C(2) NMAC, the Department shall not grant the registration until at least fifteen (15) days after the date the applicant's public notice was initiated.

C101 Revision Processes**A. Administrative Changes that Require Notification**

- (1) Owners or operators shall, at a minimum, submit Sections 1 and 15 of the Application Form to the Department for the following change(s). The notification shall include all information required by the Department to review the request and shall be submitted within fifteen (15) calendar days of the change(s):
 - (a) Change of owner/operator or
 - (b) Change of contact information for any person identified in the Application Form.
- (2) No public notification is required.
- (3) No filing fees or permit fees under 20.2.75 NMAC apply.

B. Modifications that Increase PER and Require Notification

- (1) Prior to modification, as defined in Section D101, of a source, the owner or operator shall, at a minimum, submit Sections 1, 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, and 15 of the Application Form to the Department.
 - (2) The owner or operator shall maintain the current Application Form on-site or at the permittee's local business office.
 - (3) No public notification is required.
 - (4) No filing fees or permit fees under 20.2.75 NMAC apply.
- C. Changes that Do Not Increase the PER and Do Not Require Notification
- (1) Owners or operators shall complete the following steps for any change(s) other than those in Condition C101.A and Condition C101.B that alter information on the Application Form while meeting the terms and conditions of GCP-6:
 - (a) Record any modification of equipment, including but not limited to like-kind replacements, by completing a new Application Form;
 - (b) Record any modification of operation, including but not limited to changes in throughput, by completing a new Application Form; and
 - (c) Maintain the current Application Form on-site or at the permittee's local business office.
 - (2) The revised Application Form information, such as lb/hr emission limits of new or altered emissions units, becomes part of the registration and enforceable.
 - (3) No public notification is required.
 - (4) No filing fees or permit fees under 20.2.75 NMAC apply.
- D. Changes that Prevent Meeting General Permit Limits
- (1) Changes or equipment additions that prevent the Facility from meeting the requirements of GCP-6 shall not occur before the owner or operator applies for and is issued an individual construction permit under 20.2.72.200 NMAC. [20.2.72.220.D(2) NMAC]

PART D MISCELLANEOUS

D100 Supporting On-Line Documents

- A. Copies of the following documents can be downloaded from NMED's web site under Compliance and Enforcement or requested from the Bureau.
 - (1) Excess Emission Form (for reporting deviations and emergencies)

- (2) Universal Stack Test Notification, Protocol and Report Form and Instructions
- (3) SOP for Use of Portable Analyzers in Performance Tests

D101 Definitions

- A. **“Condensate”** means hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature, pressure, or both, and remains liquid at standard conditions.
- B. **“Daylight”** is defined as the time period between sunrise and sunset, as defined by the Astronomical Applications Department of the U.S. Naval Observatory. (Data for one day or a table of sunrise/sunset for an entire year can be obtained at <http://aa.usno.navy.mil/>. Alternatively, these times can be obtained from a Farmer’s Almanac or from <http://www.almanac.com/rise/>).
- C. **“Exempt Sources”** and **“Exempt Activities”** is defined as those sources or activities that are exempted in accordance with 20.2.72.202 NMAC. Note; exemptions are only valid for most 20.2.72 NMAC permitting actions.
- D. **“Flare”** means a direct combustion device in which air and all combustible gases react at the burner with the objective of complete and instantaneous oxidation of the combustible gases.
- E. **“Fugitive Emission”** means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- F. **“Insignificant Activities”** means those activities which have been listed by the department and approved by the administrator as insignificant on the basis of size, emissions or production rate. Note; insignificant activities are only valid for 20.2.70 NMAC permitting actions.
- G. **“Intermediate Hydrocarbon Liquid”** means any naturally occurring, unrefined petroleum liquid.
- H. **“Malfunction”** is defined as any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner which causes, or has the potential to cause, the emission limitations in an applicable standard to be exceeded. Failures that are caused in part by poor maintenance or careless operation are not malfunctions. (40 CFR 63.2, 20.2.7.7.E NMAC)
- I. **“Modification”** means any physical change in, or change in the method of operation of, a stationary source which results in an increase in the potential emission rate of

any regulated air contaminant emitted by the source or which results in the emission of any regulated air contaminant not previously emitted, but does not include:

- (1) a change in ownership of the source;
 - (2) routine maintenance, repair or replacement;
 - (3) installation of air pollution control equipment, and all related process equipment and materials necessary for its operation, undertaken for the purpose of complying with regulations adopted by the board or pursuant to the Federal Act; or
 - (4) unless previously limited by enforceable permit conditions:
 - (a) an increase in the production rate, if such increase does not exceed the operating design capacity of the source;
 - (b) an increase in the hours of operation; or
 - (c) use of an alternative fuel or raw material if, prior to January 6, 1975, the source was capable of accommodating such fuel or raw material, or if use of an alternate fuel or raw material is caused by any natural gas curtailment or emergency allocation or any other lack of supply of natural gas.
- J. **“Monthly Rolling”** is a concept of incorporating a month’s worth of emissions data into a 12-month period. A monthly rolling 12-month total is a period of 12 consecutive months determined on a monthly rolling basis with a new 12-month period beginning on the first day of each calendar month. As each new month’s data is incorporated into the 12-month total the last month’s data (or the 13th month’s data in a list of months) is removed from the total.
- K. **“Natural Gas”** is defined as a naturally occurring fluid mixture of hydrocarbons that contains 20.0 grains or less of total sulfur per 100 standard cubic feet (SCF) and is either composed of at least 70% methane by volume or has a gross calorific value of between 950 and 1100 Btu per standard cubic foot. (40 CFR 60.631)
- L. **“Natural Gas Liquids”** means the hydrocarbons, such as ethane, propane, butane, and pentane that are extracted from field gas. (40 CFR 60.631)
- M. **“National Ambient air Quality Standards”** means, unless otherwise modified, the primary (health-related) and secondary (welfare-based) federal ambient air quality standards promulgated by the US EPA pursuant to Section 109 of the Federal Act.
- N. **“Night”** is the time period between sunset and sunrise, as defined by the Astronomical Applications Department of the U.S. Naval Observatory. (Data for one day or a table of sunrise/sunset for an entire year can be obtained at

<http://aa.usno.navy.mil/>. Alternatively, these times can be obtained from a Farmer's Almanac or from <http://www.almanac.com/rise/>).

- O. **“Night Operation or Operation at Night”** is operating a source of emissions at night.
- P. **“NO₂”** or "Nitrogen dioxide" means the chemical compound containing one atom of nitrogen and two atoms of oxygen, for the purposes of ambient determinations. The term **"nitrogen dioxide,"** for the purposes of stack emissions monitoring, shall include nitrogen dioxide (the chemical compound containing one atom of nitrogen and two atoms of oxygen), nitric oxide (the chemical compound containing one atom of nitrogen and one atom of oxygen), and other oxides of nitrogen which may test as nitrogen dioxide and is sometimes referred to as NO_x or NO₂. (20.2.2 NMAC)
- Q. **“NO_x”** see NO₂
- R. **“Potential Emission Rate”** or “PER” means the emission rate of a source at its maximum capacity to emit a regulated air contaminant under its physical and operational design, provided any physical or operational limitation on the capacity of the source to emit a regulated air contaminant, 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 physical and operational design only if the limitation or the effect it would have on emissions is enforceable by the department pursuant to the Air Quality Control Act or the federal Act.
- S. **“Produced Water”** means water that is extracted from the earth from an oil or natural gas production well, or that is separated from crude oil, condensate, or natural gas after extraction.
- T. **“Property Boundary”** means the outside edge of the property, which includes all the equipment, registered under this Permit. The property may consist of one or more continuous and adjacent properties if they are owned, leased, or under direct control of the owner or operator.
- U. **“Restricted Area”** is an area to which public entry is effectively precluded. Effective barriers include continuous fencing, continuous walls, or other continuous barriers approved by the Department, such as rugged physical terrain with a steep grade that would require special equipment to traverse. If a large property is completely enclosed by fencing, a restricted area within the property may be identified with signage only. Public roads cannot be part of a Restricted Area.
- V. **"Shutdown"**, for requirements under 20.2.72 NMAC, means the cessation of operation of any air pollution control equipment, process equipment or process for any purpose, except routine phasing out of batch process units.

- W. **“Small Business”**, for requirements under 20.2.75 NMAC, means a company that employs no more than ten (10) employees at any time during the calendar year. Employees include part-time, temporary, or limited service workers. For new sources, the responsible company official shall certify that the source does not expect to employ any more than ten (10) employees in the first year of operations. In addition, "small business" does not include (1) any source which may emit more than fifty (50) tons per year of any regulated air contaminant for which there is a national or New Mexico ambient air quality standard, or seventy-five (75) tons per year of all regulated air contaminants for which there are national or New Mexico ambient air quality standards; and (2) any major source for hazardous air pollutants under 20.2.70 NMAC.
- X. **“SSM”**, for requirements under 20.2.7 NMAC, means routine or predictable startup, shutdown, or scheduled maintenance.
- (1) **“Shutdown”**, for requirements under 20.2.7 NMAC, means the cessation of operation of any air pollution control equipment or process equipment.
- (2) **“Startup”**, for requirements under 20.2.7 NMAC, means the setting into operation of any air pollution control equipment or process equipment.
- Y. **“Startup”**, for requirements under 20.2.72 NMAC, means the setting into operation of any air pollution control equipment, process equipment or process for any purpose, except routine phasing in of batch process units.
- Z. **“Storage Vessel”** means a tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of nonferrous materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support.
- AA. **“Thermal Oxidizer”** means a combustion device that eliminates VOC, CO, and volatile HAP emissions by combusting them to carbon dioxide (CO₂) and water. The device maintains a minimum temperature in the combustion chamber to eliminate pollutants.
- BB. **“Vapor Recovery Unit (VRU)”** means a unit capable of collecting hydrocarbon vapors and gases and routing such hydrocarbon vapors and gases back into the process or to a sales pipeline.

D102 Acronyms

2SLB	2-stroke lean burn
4SLB	4-stroke lean burn
4SRB	4-stroke rich burn

acfm.....	actual cubic feet per minute
AFR.....	air fuel ratio
AP-42.....	EPA Air Pollutant Emission Factors
AQB.....	Air Quality Bureau
AQCR.....	Air Quality Control Region
ASTM.....	American Society for Testing and Materials
BTU.....	British Thermal Unit
CAA.....	Clean Air Act of 1970 and 1990 Amendments
CEM.....	continuous emissions monitoring
cfh.....	cubic feet per hour
cfm.....	cubic feet per minute
CFR.....	Code of Federal Regulation
CI.....	compression ignition
CO.....	carbon monoxides
COMS.....	continuous opacity monitoring system
EIB.....	Environmental Improvement Board
EPA.....	United States Environmental Protection Agency
gr./100 cf.....	grains per one hundred cubic feet
gr./dscf.....	grains per dry standard cubic foot
GRI.....	Gas Research Institute
HAP.....	hazardous air pollutant
hp.....	horsepower
H ₂ S.....	hydrogen sulfide
IC.....	internal combustion
KW/hr.....	kilowatts per hour
lb/hr.....	pounds per hour
lb/MMBtu.....	pounds per million British Thermal Unit
MACT.....	Maximum Achievable Control Technology
MMcf/hr.....	million cubic feet per hour
MMscf.....	million standard cubic feet
N/A.....	not applicable
NAAQS.....	National Ambient Air Quality Standards
NESHAP.....	National Emission Standards for Hazardous Air Pollutants
NG.....	natural gas
NGL.....	natural gas liquids
NMAAQs.....	New Mexico Ambient Air Quality Standards
NMAC.....	New Mexico Administrative Code
NMED.....	New Mexico Environment Department
NMSA.....	New Mexico Statutes Annotated
NO _x	nitrogen oxides
NSCR.....	non-selective catalytic reduction
NSPS.....	New Source Performance Standard
NSR.....	New Source Review

PEM	parametric emissions monitoring
PM	particulate matter (equivalent to TSP, total suspended particulate)
PM ₁₀	particulate matter 10 microns and less in diameter
PM _{2.5}	particulate matter 2.5 microns and less in diameter
pph	pounds per hour
ppmv	parts per million by volume
PSD	Prevention of Significant Deterioration
RATA	Relative Accuracy Test Assessment
RICE	reciprocating internal combustion engine
rpm	revolutions per minute
scfm	standard cubic feet per minute
SI	spark ignition
SO ₂	sulfur dioxide
SSM	Startup Shutdown Maintenance (see SSM definition)
TAP	Toxic Air Pollutant
TBD	to be determined
THC	total hydrocarbons
TSP	Total Suspended Particulates
tpy	tons per year
ULSD	ultra low sulfur diesel
USEPA	United States Environmental Protection Agency
UTM	Universal Transverse Mercator Coordinate system
UTMH	Universal Transverse Mercator Horizontal
UTMV	Universal Transverse Mercator Vertical
VHAP	volatile hazardous air pollutant
VOC	volatile organic compounds
VRU	vapor recovery unit

Presentation material for Ted Schooley, NMED Permitting Section Chief

Topic: Permitting mechanisms to limit the PTE from production facilities and tank batteries

The Bureau is receiving an increasing number of Notice of Intent or NOI applications for oil and gas production facilities and tank batteries. As many of the facilities are small production sites and VOC only sources, the majority of these sites have not required permits to construct but typically require a NOI prior to construction.

NOI applications are being submitted by both large and small oil and gas companies with varied level of experience with air quality regulations. Permitting staff are assisting these companies new to operating in the State in understanding the state and federal regulations and, in particular, how to calculate the potential to emit from a facility.

Many of these NOI applications request to register existing sites and are part of a company's environmental audit or corrective action with the Department. For future self-disclosure proceedings, we request that companies and consultants continue to coordinate with Bureau permitting managers about the timing of the submittal of multiple applications. Doing so helps coordinate these multiple application submittals and assists the Bureau with monitoring staff workloads ensuring an efficient and organized review of applications.

With the promulgation of the federal rule, NSPS OOOO, many companies have questions on the rule's applicability, control requirements, and how to limit a facility's PTE from storage vessels to below NSPS OOOO applicability thresholds.

As written, 20.2.38 NMAC is not practically enforceable by the state or federal government. In order for 20.2.38 NMAC to be considered a practically enforceable regulation, the regulation would need to be revised to include appropriate operating, monitoring, recordkeeping and reporting requirements. The Bureau is currently reviewing this regulation to determine if the regulation may be revised to incorporate new language to make the rule practically enforceable. A regular NSR permit which incorporates the requirements of this regulation would contain correct conditions and make this regulation enforceable.

Similar to 20.2.38 NMAC, the Notice of Intent regulation, 20.2.73 NMAC, does not provide a mechanism to limit the PTE of a facility or storage vessel because 20.2.73 NMAC does not establish allowable emission limits and is neither federally or state enforceable. 20.2.73 NMAC does not contain the legal provisions to allow the Bureau to establish emission limits or the operating, monitoring, recordkeeping, and reporting requirements that are required to establish demonstration of compliance. The ability of the Bureau to establish emission limits and conditions to demonstrate compliance is essential to the practical enforceability of a registration with the Department.

There are a number of permitting options available to companies to limit a facility's PTE under the federal regulation.

1) GCP-6 Permit:

The first option is the voluntary GCP-6 permit, which the Bureau specifically developed for the oil and gas industry to limit the PTE of storage vessels to below the thresholds established in the federal regulation. This general permit provides the most effective solution to operators as it provides a variety of control options to implement at a source, establishes federally enforceable emission limits of less than 6 tpy per storage vessel, which is the applicability threshold for certain storage vessels constructed after the applicability date of the regulation.

2) GCP-4 Permit:

The second option is to obtain a GCP-4 permit by the Department. The GCP-4 establishes an allowable VOC emission limit for storage vessels in the permit application and therefore can limit a facility's PTE to below NSPS OOOO applicability.

3) Part 72 Permit:

The third option is to obtain a regular NSR permit customized for a specific site. This option has a longer issuance timeline but is customizable to the specific operations of a single facility.

4) State Enforceable Regulation:

The fourth option to limit the PTE of storage vessels can be found in the EPA's discussions with the API regarding the PTE calculation under NSPS OOOO. In the EPA's written response to API, dated September 28, 2012, EPA responded to the API's question, "Did EPA intend the 6 tpy threshold to be based on federally enforceable PTE?" by stating, "Yes, only storage vessels with the potential to emit (PTE) of at least 6 tons per year (tpy) of VOC would be regulated under the NSPS. In determining the PTE, the source can take into account emission limits from a legally and practically enforceable state rule, operating permit or other mechanism."

For calculating the PTE under NSPS OOOO, the Bureau considers only 20.2.72 NMAC to be legally and practically enforceable.

5) Recovery Methods:

The final option available to limit the PTE from storage vessels is provided in the NSPS OOOO regulation and includes the consideration of process equipment that recovers product and reroutes the product back into the process. NSPS OOOO authorizes companies to take credit for these reductions if they meet certain requirements in the regulation. Relevant parts of NSPS OOOO, as they relate to storage vessels and recovery equipment, are excerpted below.

Excerpt from NSPS OOOO:

§60.5365 Am I subject to this subpart?

(e) Each storage vessel affected facility, which is a single storage vessel located in the oil and natural gas production segment, natural gas processing segment or natural gas transmission and storage segment, and has the potential for VOC emissions equal to or greater than 6 tpy as determined according to this section by October 15, 2013 for Group 1 storage vessels and by April 15, 2014, or 30 days after startup (whichever is later) for Group 2 storage vessels. A storage vessel affected facility that subsequently has its potential for VOC emissions decrease to less than 6 tpy shall remain an affected facility under this subpart. The potential for VOC emissions must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to the applicable emission determination deadline specified in this section. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority. Any vapor from the storage vessel that is recovered and routed to a process through a VRU designed and operated as specified in this section is not required to be included in the determination of VOC potential to emit for purposes of determining affected facility status, provided you comply with the requirements in paragraphs (e)(1) through (4) of this section.

(1) You meet the cover requirements specified in §60.5411(b).

(2) You meet the closed vent system requirements specified in §60.5411(c).

(3) You maintain records that document compliance with paragraphs (e)(1) and (2) of this section.

(4) In the event of removal of apparatus that recovers and routes vapor to a process, or operation that is inconsistent with the conditions specified in paragraphs (e)(1) and (2) of this section, you must determine the storage vessel's potential for VOC emissions according to this section within 30 days of such removal or operation. §60.5411

§60.5411 What additional requirements must I meet to determine initial compliance for my covers and closed vent systems routing materials from storage vessels and centrifugal compressor wet seal degassing systems?

You must meet the applicable requirements of this section for each cover and closed vent system used to comply with the emission standards for your storage vessel or centrifugal compressor affected facility.

(a) Closed vent system requirements for centrifugal compressor wet seal degassing systems. (1) You must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the wet seal fluid degassing system to a control device or to a process that meets the requirements specified in §60.5412(a) through (c).

(2) You must design and operate the closed vent system with no detectable emissions as demonstrated by §60.5416(b).

(3) You must meet the requirements specified in paragraphs (a)(3)(i) and (ii) of this section if the closed vent system contains one or more bypass devices that could be used to divert all or a portion of the gases, vapors, or fumes from entering the control device.

(i) Except as provided in paragraph (a)(3)(ii) of this section, you must comply with either paragraph (a)(3)(i)(A) or (B) of this section for each bypass device.

(A) You must properly install, calibrate, maintain, and operate a flow indicator at the inlet to the bypass device that could divert the stream away from the control device or process to the atmosphere that is capable of taking periodic readings as specified in §60.5416(a)(4) and sounds an alarm when the bypass device is open such that the stream is being, or could be, diverted away from the control device or process to the atmosphere.

(B) You must secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using a car-seal or a lock-and-key type configuration.

(ii) Low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and safety devices are not subject to the requirements of paragraph (a)(3)(i) of this section.

(b) Cover requirements for storage vessels and centrifugal compressor wet seal degassing systems. (1) The cover and all openings on the cover (e.g., access hatches, sampling ports, pressure relief valves and gauge wells) shall form a continuous impermeable barrier over the entire surface area of the liquid in the storage vessel or wet seal fluid degassing system.

(2) Each cover opening shall be secured in a closed, sealed position (e.g., covered by a gasketed lid or cap) whenever material is in the unit on which the cover is installed except during those times when it is necessary to use an opening as follows:

(i) To add material to, or remove material from the unit (this includes openings necessary to equalize or balance the internal pressure of the unit following changes in the level of the material in the unit);

(ii) To inspect or sample the material in the unit;

(iii) To inspect, maintain, repair, or replace equipment located inside the unit; or

(iv) To vent liquids, gases, or fumes from the unit through a closed-vent system designed and operated in accordance with the requirements of paragraph (a) or (c) of this section to a control device or to a process.

(3) Each storage vessel thief hatch shall be weighted and properly seated. You must select gasket material for the hatch based on composition of the fluid in the storage vessel and weather conditions.

(c) Closed vent system requirements for storage vessel affected facilities using a control device or routing emissions to a process. (1) You must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the storage vessel to a control device that meets the requirements specified in §60.5412(c) and (d), or to a process.

(2) You must design and operate a closed vent system with no detectable emissions, as determined using olfactory, visual and auditory inspections. Each closed vent system that routes emissions to a process must be operational 95 percent of the year or greater.

(3) You must meet the requirements specified in paragraphs (c)(3)(i) and (ii) of this section if the closed vent system contains one or more bypass devices that could be used to divert all or a portion of the gases, vapors, or fumes from entering the control device or to a process.

(i) Except as provided in paragraph (c)(3)(ii) of this section, you must comply with either paragraph (c)(3)(i)(A) or (B) of this section for each bypass device.

(A) You must properly install, calibrate, maintain, and operate a flow indicator at the inlet to the bypass device that could divert the stream away from the control device or process to the atmosphere that sounds an alarm, or, initiates notification via remote alarm to the nearest field office, when the bypass device is open such that the stream is being, or could be, diverted away from the control device or process to the atmosphere.

(B) You must secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using a car-seal or a lock-and-key type configuration.

(ii) Low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and safety devices are not subject to the requirements of paragraph (c)(3)(i) of this section.

REVISING AQB'S AUDIT POLICY

Sandra Ely

AQB Compliance and Enforcement Section
Chief

June 3, 2014

Audit Policy

Purpose of Policy: To encourage regulated entities to voluntarily discover, disclose, correct and prevent violations.

Incentives:

- Provides up to 100% reduction in gravity based penalties if all conditions are met. (Any economic benefit from non compliance will still be assessed.)
- Provides up to 75% reduction in gravity based penalties if all conditions are met except systematic discovery.

Revision Process

- Current policy does not meet Bureau or industry needs. Established in 1999.
- Began taking comments on the current policy in March. We are still taking comments.
- Anticipate releasing a draft policy for public comment this summer.
- Anticipate final policy sometime this fall.

General Provisions

Considering Applicability: Air Quality Bureau only.

Considering Written Notice: Before initiating an audit, written notice will be provided to the Bureau identifying the scope of the audit and the timeframe for conducting the audit.

Considering Applicability to Compliance History: Violations discovered during an environmental audit will not be used when evaluating a company's compliance history.

Definitions

Current: Environmental Audit means a systematic, documented, periodic and objective review by regulated entities of facility operations and practices related to meeting environmental requirements.

Input: How does the agency assess “periodic”?

Considering: Remove “periodic.”

Condition 1 : Systematic Discovery

Current : The violation was discovered through an environmental audit or a systematic procedure or practice that reflects the regulated entity's due diligence in preventing, detecting, and correcting violations

Input: None

Considering: No Change

Condition 2: Voluntary Discovery

Current: The violation was identified voluntarily, and not through a legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement

Input: None

Considering: No Change

Condition 3: Prompt Disclosure

Current: The regulated entity voluntarily and fully discloses a specific violation within ten (10) days after it has discovered that the violation has occurred, or may have occurred, in writing to NMED and all appropriate federal, state and local agencies

Input:

- Provide more time to disclose (21-30 days)
- Allow audit findings to be finalized before disclosure
- Specify who to notify within the agency
- Do other agencies really need to be notified?

Condition 3: Prompt Disclosure

Considering:

- Providing more time to disclose (21 calendar days consistent with EPA policy)
- If violations are discovered through an environmental audit, and the Bureau was notified of the audit before it was initiated, the time frame for submitting findings will start when the audit is finalized.
- If violations are *not* discovered through an environmental audit, the time frame for disclosure starts after discovery occurred or may have occurred.
- We will specify who needs to be notified.
- No other agencies will need to be notified.

Condition 3a: Discovery and Disclosure

Current: (The violation was disclosed) prior to (a) the commencement of a federal, state or local agency inspection, investigation or information request; (b) notice of a citizen suit; (c) the filing of a complaint by a third party; or (d) the regulated entity's knowledge that the discovery of the violation by NMED or a third person or entity was imminent

Input: None

Considering: Separating this condition from the prompt disclosure condition.

Condition 4: Prompt Correction and Remediation

Current: The regulated entity corrects the violation expeditiously and in no event later than within sixty (60) days, certifies in writing that violations have been corrected, and takes appropriate prompt measures as determined by NMED to remedy any environmental or human harm due to the violation

Input:

- Clarify when the 60 day clock starts
- 60 day clock should start when agency notified, not when violation discovered.

Considering: Clarifying that clock starts when the violation is discovered.

Condition 5: Remediation of Imminent and Substantial Endangerment

Current: The regulated entity immediately remedies any condition that has created or may create an imminent and substantial endangerment to human health or the environment

Input: Clarify what is meant by “imminent and substantial endangerment.”

Considering: We will clarify and provide examples.

Condition 6: Prevention of Recurrence

Current: The regulated entity implements appropriate measures to prevent a recurrence of the violation, which may include improvements to its environmental auditing or due diligence efforts. The implementation of measures should be completed within a reasonable amount of time given the nature of the violation and type of measure

Input: How does the agency expect an audit to impact recurrence of violations?

Response: Once a violation is identified, we expect the company to implement strategies to prevent recurrence of that violation.

Condition 7: No Repeat Violations

Current: The specific violation, by type not location, has not occurred previously within the past three years at the same facility or is not part of a series of federal, state or local violations by the facility's parent organization, which have occurred within the past five years

Input:

- Remove “not location” from first sentence.
- Clarify what we mean by “type of violation” and give examples.
- How will NMED determine violations by parent organization?

Condition 7: No Repeat Violations

Considering:

- Providing more clarity by removing “not location” and stating what we mean by “type of violation.”
- When evaluating violations by the parent organization, we generally just look at air quality violations in NM.

Condition 8: Cooperation

- **Current:** The regulated entity cooperates and provides such information as is reasonably necessary and required by NMED to determine the applicability of this policy. Cooperation includes, at a minimum, providing all requested documents and access to employees and assistance in any further investigations into the violation and other related compliance problems of the regulated entity;
- **Input:** None
- **Considering:** No Change

Condition 9: Written Agreement

- **Current:** Where appropriate, NMED may require that to satisfy any of these conditions, a regulated entity must enter into a written agreement, stipulated final order, administrative consent order or judicial consent decree, particularly where compliance or remedial measures are complex or a lengthy schedule for attaining and maintaining compliance or remediating harm is required
- **Input:** None
- **Considering:** No Change

Condition 10: Excluded Violations

- **Current:** The violation is not one which (i) resulted in serious actual harm, or may have presented an imminent and substantial endangerment to human health or the environment, or (ii) violates the specific terms of any judicial or Administrative order, or consent agreement.
- **Input:** None
- **Considering:** No Change

No Criminal Recommendations

Current: NMED may not recommend to the Attorney General or USEPA that criminal charges be brought against a regulated entity where NMED determines that Conditions I through 9 in Section D above for reduction of civil penalties are met.....

Input:

- Be more definitive on when criminal referrals will be made
- Condition 1 (Systematic Discovery) should not be required to avoid criminal case referrals

Considering: Not applying the policy to criminal activities.

Other Input

Develop FAQs with examples.

- Great idea.

Do not be more restrictive than federal EPA policy.

- We are considering being more restrictive by not applying the policy to criminal activity.

Incorporate EPA's *Interim Approach to Applying the Audit Policy to New Owners*.

- We will consider this.

Sandra Ely
AQB Compliance and Enforcement
Section Chief

(505) 476-4373 (office)

(505) 690-0624 (cell)

sandra.ely@state.nm.us

APPENDIX D: VOLUNTARY ENVIRONMENTAL SELF-EVALUATION POLICY

A. **PURPOSE.** This policy sets forth internal guidelines designed to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of state environmental laws. This policy restates the New Mexico Environment Department's (NMED) long-standing practice of not requesting voluntary self audit reports to trigger enforcement investigations. This policy amends, but does not supersede, NMED's penalty policies to assist NMED personnel in proposing appropriate penalties or negotiating settlements in administrative and judicial enforcement actions involving voluntary self-evaluation, disclosure, correction and prevention.

B. **APPLICABILITY.** This policy is applicable to all NMED programs that utilize a penalty policy to serve NMED personnel in proposing penalties and negotiating settlements in administrative and judicial enforcement actions, with the exception of the Occupational Health and Safety Bureau. This policy may be applied at NMED's discretion to the settlement of administrative and judicial enforcement actions instituted prior to, but not yet resolved, as of the effective date of this policy. This policy is not a final agency action, and is intended as guidance. It does not create any rights, duties or obligations, or defenses, implied or otherwise, in any third parties.

C. **DEFINITIONS.**

For purposes of this policy, the following definitions apply:

1. **Environmental audit** means a systematic, documented, periodic and objective review by regulated entities of facility operations and practices related to meeting environmental requirements.

2. **Due diligence** means the regulated entity's systematic efforts, appropriate to the size and nature of its business, to prevent, detect and correct violations through all of the following:

- a. Compliance policies, standards and procedures that identify how employees and agents are to meet the requirements of laws, regulations, permits and other sources of authority for environmental requirements;
- b. Assignment of overall responsibility for overseeing compliance with policies, standards, and procedures, and assignment of specific responsibility for assuring compliance at each facility or operation;
- c. Mechanisms for systematically assuring that compliance policies, standards and procedures are being carried out, including monitoring and auditing systems reasonably designed to be effective to detect and correct violations, periodic evaluation of the

overall performance of the compliance management system, and a means for employees or agents to report violations of environmental requirements without fear of retaliation;

d. Efforts to communicate effectively the regulated entity's standards and procedures to all employees and other agents;

e. Appropriate incentives to managers and employees to perform in accordance with the compliance policies, standards, including consistent enforcement through appropriate disciplinary mechanisms; and

f. Procedures for the prompt and appropriate corrections of any violations, and any necessary modifications to the regulated entity's program to prevent future violations.

3. **Regulated entity** means any entity, including a federal, state, and municipal facility, regulated under state environmental laws.

4. **Violation** means noncompliance with a requirement of a statute, regulation or permit including a reportable discharge.

5. **Voluntary** means an act or action not required by statute, regulation, permit, order or agreement.

D. **CONDITIONS.** The conditions for reducing civil penalties and not making criminal referrals in accordance with Sections E and F of this policy are as follows:

1. **Systematic Discovery.** The violation was discovered through an environmental audit or a systematic procedure or practice that reflects the regulated entity's due diligence in preventing, detecting, and correcting violations;

2. **Voluntary Discovery.** The violation was identified voluntarily, and not through a legally mandated monitoring or sampling requirement prescribed by statute, regulation, permit, judicial or administrative order, or consent agreement;

3. **Prompt Disclosure.** The regulated entity voluntarily and fully discloses a specific violation within ten (10) days (or such shorter period provided by law) after it has discovered that the violation has occurred, or may have occurred, in writing to NMED and all appropriate federal, state and local agencies, and prior to (a) the commencement of a federal, state or local agency inspection, investigation or information request; (b) notice of a citizen suit; (c) the filing of a complaint by a third party; or (d) the regulated entity's knowledge that the discovery of the violation by NMED or a third person or entity was imminent;

4. **Prompt Correction and Remediation.** The regulated entity corrects the violation

expeditiously and in no event later than within sixty (60) days, certifies in writing that violations have been corrected, and takes appropriate prompt measures as determined by NMED to remedy any environmental or human harm due to the violation. If more than sixty (60) days will be needed to correct the violation(s), the regulated entity must notify NMED in writing before the 60-day period has passed;

5. Remediation of Imminent and Substantial Endangerment. The regulated entity immediately remedies any condition that has created or may create an imminent and substantial endangerment to human health or the environment;

6. Prevention of Recurrence. The regulated entity implements appropriate measures to prevent a recurrence of the violation, which may include improvements to its environmental auditing or due diligence efforts. The implementation of measures should be completed within a reasonable amount of time given the nature of the violation and type of measure;

7. No Repeat Violations. The specific violation, by type not location, has not occurred previously within the past three years at the same facility or is not part of a series of federal, state or local violations by the facility's parent organization, which have occurred within the past five years. For purposes of this section, a "violation" includes:

(a) any violation of a federal, state or local environmental law identified in a civil or administrative order, consent agreement, stipulated final order, conviction or plea agreement, except for violations which are determined to be without basis by a court or administrative entity with competent jurisdiction; or

(b) any act or omission for which the regulated entity has previously received penalty mitigation from the EPA or NMED;

8. Cooperation. The regulated entity cooperates and provides such information as is reasonably necessary and required by NMED to determine the applicability of this policy. Cooperation includes, at a minimum, providing all requested documents and access to employees and assistance in any further investigations into the violation and other related compliance problems of the regulated entity;

9. Written Agreement. "Where appropriate, NMED may require that to satisfy any of these conditions, a regulated entity must enter into a written agreement, stipulated final order, administrative consent order or judicial consent decree, particularly where compliance or remedial measures are complex or a lengthy schedule for attaining and maintaining compliance or remediating harm is required; and

10. Excluded Violations. The violation is not one which (i) resulted in serious actual harm, or may have presented an imminent and substantial endangerment to human health or the environment, or (ii) violates the specific terms of any judicial or

administrative order, or consent agreement.

E. REDUCTION OF CIVIL PENALTIES. Regulated entities will be eligible for the following reductions in civil penalties:

1. **Elimination of Gravity-Based Penalties.** If a regulated entity satisfies all of the conditions of Section D, NMED will eliminate the gravity component from the penalty policy.

2. **Reduction of Gravity-Based Penalties.** NMED may reduce by 75% of the gravity-based component of the penalty in cases in which all of the conditions in Section D 2 through 10 are met.

F. NO CRIMINAL RECOMMENDATIONS.

1. NMED may not recommend to the Attorney General or USEPA that criminal charges be brought against a regulated entity where NMED determines that Conditions I through 9 in Section D above for reduction of civil penalties are met, and the violation does not demonstrate or involve:

- a. a prevalent management philosophy or practice that concealed or condoned environmental violations; or
- b. high-level officials' or managers' conscious involvement in or willful blindness to the violation.

2. This policy does not apply to criminal acts of individual officials, managers or employees.

3. Where NMED determines pursuant to this Section that criminal referral to the Attorney General or the United States Protection Agency is unwarranted, NMED may nonetheless proceed with civil enforcement in accordance with Section D of this policy or other applicable enforcement response and penalty policies.

G. ECONOMIC BENEFIT. NMED retains its full discretion to recover any economic benefit gained as a result of noncompliance to preserve a "level playing field" in which violators do not gain a competitive advantage through noncompliance.

H. NO ROUTINE REQUESTS FOR AUDITS.

1. NMED will not request a voluntary environmental audit report to trigger a civil or criminal investigation. For example, NMED will not request an audit in routine inspections. If NMED has independent reason to believe a violation has occurred, NMED may seek any information relevant to identifying violations or determining liability or extent of harm including any existing audits.

2. With respect to federal, state or municipal facilities, although governmental facility environmental audit reports may be accessible to the public under the federal Freedom of Information Act (FOIA) or the state Inspection of Public Records Act in certain circumstances, NMED will not utilize FOIA or the State Inspection of Public Records Act to request information from governmental agencies. NMED will apply this policy on requests for audit reports to federal, state and municipal facilities the same as it does for other regulated entities.

I. PUBLIC PROCESS.

NMED recognizes that achieving compliance also requires the cooperation of regulated entities subject to environmental requirements. This policy incorporates public comment received by NMED and may, at the Secretary's discretion, be reviewed three years from the effective date of the policy.