United States Environmental Protection Agency **Region 10** **Office of Air Quality** **1200 Sixth Avenue** Seattle, Washington 98101	

Air Pollution Control
Title V Permit to Operate

Statement of Basis for FINAL Permit No. R10-T5-WA-03

Pace International, L.L.C.

Wapato, Washington
Yakama Reservation

Permit Issuance Date: Final April 23, 2004
Permit Effective Date: June 9, 2004
Permit Expiration Date: June 9, 2009

Company Mailing Address:	**Plant Mailing Address**:
Pace International, L.L.C. 1101 Western Ave., Suite 807 Seattle, WA 98104	5661 Branch Road Wapato, WA 98951

Plant Location:
5661 Branch Road (Main Facility) Latitude: 46.405 Longitude: 120.498
3800 Branch Road ("Cascade" Facility) Latitude: 46.405 Longitude: 120.458
Wapato, Washington, **Yakama Reservation**

AFS Plant Identification Number: 53-077-00075

SIC Codes:	2874	Manufacturing phosphatic fertilizer materials. (AgroTech Leffingwell® Products (foliar nutrients))
	2899	Manufacturing miscellaneous chemical preparations, not elsewhere classified. (Shield-Brite® Products (post harvest))
	2879	Formulation and preparation of ready-to-use agricultural and household pest control chemicals from technical chemicals or concentrates. (Deadline® and other products)

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Abbreviations and Acronyms

bf	Board foot (one “board foot” equals lumber that is 12 inches by 12 inches by 1 inch)
Btu	British thermal units
C	Celsius degrees
CAA	Clean Air Act [42 U.S.C. section 7401 et seq.]
CAM	Compliance assurance monitoring
CFR	Code of Federal Regulations
CO	Carbon monoxide
EIP	Economic Incentives Programs
EPA	United States Environmental Protection Agency (also U.S. EPA)
FR	Federal Register
gal	Gallon
gr/dscf	Grains per dry standard cubic foot (7,000 grains = 1 pound)
HAP	Hazardous air pollutant
hp	Horsepower
hr	Hour
I.D. No.	Identification number
K	Kelvin degrees
kg	Kilogram
kPa	KiloPascal
lb	Pound
m	One thousand
MACT	Maximum Achievable Control Technology
Mg	Megagram
mm	One million
mo	Month
MSDS	Material safety data sheet
msf	Thousand square feet
MVAC	Motor vehicle air conditioner
ng/J	nanograms per joule
NESHAP	National Emission Standards for Hazardous Air Pollutants (Title 40 CFR Parts 61 and 63)
NOx	Nitrogen oxides
NSPS	New Source Performance Standard (Title 40 CFR Part 60)
NSR	New source review
PAL	Plantwide Applicability Limitation
PM	Particulate matter
PM10	Particulate matter less than or equal to 10 microns in aerodynamic diameter
ppm	Parts per million
PSD	Prevention of significant deterioration
psia	Pounds per square inch absolute
PTE	Potential to emit
RMP	Risk management plan
SNAP	Significant New Alternatives Program
SO2	Sulfur dioxide
tpy	Tons per year
VMT	Vehicle miles traveled
VOC	Volatile organic compound
VOL	Volatile organic liquid

I. The Air Operating Permit and the Statement of Basis

Title 40 Code of Federal Regulations Part 71 establishes a comprehensive air operating permit program under the authority of Title V of the 1990 amendments to the federal Clean Air Act. The air operating permit is an enforceable compilation of all of the applicable air pollution requirements that apply to an existing affected air emissions source. The permit is developed via a public process, may contain additional new requirements to improve monitoring of existing requirements, and contains procedural and prohibitory requirements related to the permit program itself. The permit is valid for 5 years and may be renewed.

This document, the Statement of Basis, summarizes the legal and factual basis for the permit conditions in the initial final air operating permit issued to Pace International, L.L.C. Wapato Facility (referred to herein as Pace Wapato, Pace, facility, source, or permittee). Unlike the air operating permit, this document is not legally enforceable. This Statement of Basis summarizes the emitting processes at the facility, air emissions, permitting and compliance history, the statutory or regulatory provisions that relate to the subject facility, and the steps taken to provide opportunities for public review of the permit. The permittee is obligated to follow the terms of the permit. Any errors or omissions in the summaries provided here do not excuse the permittee from the requirements of the permit.

II. Requirement for Part 71 Permit

A. Applicability Criteria

Title 40 Code of Federal Regulations (CFR) Parts 70 and 71 require certain air pollution sources to obtain an air operating permit. The subject facility is required to obtain an operating permit because it is a major source of sulfur dioxide emissions.

B. Indian Country

The subject facility is located within the exterior boundaries of the Yakama Reservation. The Yakama Reservation was established by the Camp Stevens Treaty of June 9, 1855 in (currently) south-central Washington State and is a federally recognized Indian Tribe. The Yakama Reservation is considered to be Indian Country, as defined in 40 CFR Part 71.

C. EPA Authority

On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR Part 71 setting forth the procedures and terms under which the Agency would administer a federal operating permit program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing federal operating permits to covered stationary sources in Indian Country.

As described in 40 CFR § 71.4(a), EPA will implement a Part 71 program in areas where a state, local, or Tribal government has not developed an approved Part 70 operating permit program. A Tribal Part 70 program has not yet been established on the Yakama Reservation. State and local air agencies do not have jurisdiction on tribal reservations. EPA is therefore issuing the Pace facility Part 71 air operating permit.

III. General Background Information

A. Location

The main Pace facility is located at 5661 Branch Road. A smaller satellite processing unit (Cascade Facility) is located at 3800 Branch Road. Both facilities are in Wapato, Washington.

B. The Confederated Tribes and Bands of the Yakama Indian Nation

The Yakama Nation is a federally recognized Nation pursuant to the Treaty of 1855 (12 Stat. 951). The

Tribe's interests on the Reservation and surrounding areas are protected by the Treaty of 1855 (12 Stat. 951), federal law, and policies governing government-to-government collaboration and consultation. The Yakama Nation has reserved lands rights in ceded lands covering over twenty million acres throughout what are now the states of Washington and Oregon. The Yakama Reservation encompasses 1.4 million acres on which approximately 31,600 people reside of which 23% are Native Americans.

The Yakama Nation is governed by 14 elected Tribal Council members, an Executive Board, and eight standing committees. On behalf of the Tribal Council, any member of the Executive Board is authorized to sign approved agreements, contracts and all other pertinent documents on behalf of the Yakama Tribal Council. The governing body upholds and protects the Treaty of 1855 on behalf of the People of the Yakama Nation.

C. Local Air Quality and Attainment Status

The northern portion of the reservation is designated as a PM-10 nonattainment area. The rest of the reservation is in attainment with the national ambient air quality standards or is unclassifiable. The subject facility is not located in a designated non-attainment area. With respect to prevention of significant deterioration (40 CFR Part 52) impact evaluation, the majority of the reservation is classified as Class II lands, but the section containing Mount Taylor is designated as Class I.

D. Description of Process

Pace Wapato is an agricultural chemical formulation facility owned by Pace International, L.L.C. (corporate headquarters in Seattle, WA). The Pace Wapato manufacturing facility employs approximately 40 people. The Pace Wapato facility currently produces three distinct product lines. The product lines are:

1) Leffingwell® Plant Nutrition (foliar (leaf) fertilizer)
2) Shield-Brite® Post Harvest (soaps, waxes, sunshields)
3) Plant Protection (snail and slug bait)

Liquid and powdered raw materials for these products are processed (e.g. spray dried), blended, and packaged to produce the final products. All processes are operated in a batch mode. No chemical synthesis reactions are involved in the manufacturing process at the Pace facility. With the exception of the slug/snail bait produced at the Cascade (satellite) Facility which uses metaldehyde, none of the processes at Pace currently produce regulated pesticides.

The facility may be considered organized into several operational areas and support areas:

Operation:

1) Agrotech Foliar Nutrients (processing wet intermediates to spray dried products)
2) Liquid Mixing Area (wet mixing of raw materials to liquid products)
3) Shield-Brite® Liquid Mixing (mixing to produce post harvest food-grade fruit coatings)
4) Cascade Facility (3800 Branch Rd.) (dry mixing of slug/snail bait)
5) Packaging and Warehouse facilities

Support:

1) Boilers (600 hp and 700 hp oil fired for process heating and room heating)
2) Evaporation Ponds (north, east, & west ponds for wastewater disposal)
3) Warehouse, Laboratory, & Maintenance areas

The Agrotech foliar nutrients section is used primarily to produce dry Leffingwell Plant Nutrition products. Fixed roof storage tanks in a tank farm outside the building store liquid raw materials, which are fed to mixing tanks where additional trace amendments are added. After the correct formulation is achieved, excess water is decanted and the wet slurry is dried in a propane gas fired spray dryer to produce the powdered product. The maximum heat input capacity of the spray dryer is approximately 1.16 MMBtu/hr. Dried product is recovered from the spray drying process by a multiclone cyclone followed by a fabric filter. The recovered solids are

routed to totes for shipment, further blending, and/or packaging in bags. This section of the plant also has a centerline dry mixing ribbon blender machine used to produce a variety of dry blended products.

The liquid mixing area has a storage tank farm, mixing tanks, and liquid product packaging equipment. The Shieldbrite liquid mixing area is functionally similar, but is isolated from the rest of the plant to reduce the possibility of contamination of the food grade products produced there.

The Cascade Facility is devoted to production of slug and snail bait through the use of dry mixing and pelletizing equipment. Dust from this process is collected and controlled by a fabric filter.

The two boilers at the facility are 700 hp and 600 hp capacity manufactured in 1976 and 1969, respectively. According to plant personnel the boiler output capacity is in excess of the steam usage of the current operation. Therefore, the boilers typically operate at relatively low steam demand rates. Until early 2001 they burned primarily #5 fuel oil. At that time the fuel metering and injector systems were adjusted to combust #2 diesel oil. Plant personnel indicate that this fuel switch has resulted in greater efficiency and less maintenance cost.

The three evaporation ponds receive all liquid waste from manufacturing at the facility. Aerators and spray devices are used to assist evaporation and prevent anoxic conditions. Chlorine bleach is added periodically to reduce odor production. Wastewater builds up over the winter months and is evaporated over the summer months. Periodically each pond is taken out of service for removal of built up sludge. The removed sludge is allowed to dry before shipment from the facility.

E. Emission Units and Emission Generating Activities

Table III-1 Emissions Units

EU ID #	Emission Unit Description	Control Device
WAP-1	Propane fired spray dryer: 1.16 MMBtu/hr maximum heat input capacity	Product recovery multiclone & fabric filter
WAP-B6	600 hp oil-fired boiler: manufactured by Ray Burner in 1969, serial #NB27104, model # 600, max. design heat input 27 MMBtu/hr	none
WAP-B7	700 hp oil-fired boiler: manufactured by Continental in 1976, serial #753726436A, model #B700DW, max design heat input capacity 31.5 MMBtu/hr	none
WAP-2	Evaporation/Sedimentation Ponds (3)	none
WAP-3a	Volatile organic liquid (VOL) storage and mix tanks (see Table V-2)	none
WAP-3b	VOL storage & mix tanks subject to NSPS Kb (SBS-13 and SBS-14)	none
WAP-4	Cascade Facility dry mix process ventilation system	Fabric filter
WE	Paved and unpaved roads emissions from vehicle traffic	none

40 CFR § 71.5 (c)(11)(ii)(A) and (B) allows sources to separately list in the permit application such units or activities that qualify as insignificant (referred to as insignificant emission units (IEU)). IEUs may be defined categorically, or by emission rate. The IEU emission thresholds are: 1) potential emissions below two tons/year for all regulated pollutants that are not listed as hazardous air pollutants (HAP) under Section 112(b); and, 2) potential emissions below 1000 lbs/year or the de minimus level established under Section 112(g), whichever is lower, for HAPs. Pace listed the evaporation/sediment ponds, the Shieldbrite mixing tanks and other storage

tanks, and the Leffingwell baghouse as insignificant emission units because Pace estimates them to emit less than the IEU emission thresholds. This designation is not granted because these units may have the potential to emit (PTE) at rates above the thresholds and Pace has not provided definitive information establishing the PTE of those units. The Pace air operating permit application did not indicate any categorical IEUs.

F. Permitting, Construction, and Compliance History

Pace International LLC commenced operation at the present Wapato location in 1993 after moving from Kirkland, WA. Prior to usage by Pace, the location was used to process fruit into juice concentrates. The juice concentrate manufacturing facility was constructed in the 1970s. Pace installed the dry mixing machinery and the spray dryer, and modified the tankage systems. The boilers were not changed. There are no records in the EPA files indicating that any preconstruction approval order was issued for the subject facility by the USEPA or by the Yakama Nation Environmental Program.

Pace submitted an air operating permit application to the EPA on November 26, 1999. The application was updated in January and April 2001.

EPA records indicate that in 1998 there were numerous nuisance and other environmental-related complaints from the neighboring public regarding the facility. EPA conducted a multimedia site inspection and requested submittal of extensive information regarding environmental-related aspects of the facility in 1998. The nuisance issues were resolved. Yakama Nation Environmental Program staff indicate that there have been no recent nuisance issues regarding the facility.

The satellite Cascade Facility operated by Pace at 3800 Branch Road in Wapato is considered to be part of the same source as the main Pace facility located at 5661 Branch Road for purposes of Section 112 of the CAA because they are adjacent and are owned by the same company. The two operating locations are also considered to be part of the same source for purposes of Title V and PSD because they are adjacent, are owned by the same company, and they have the same two digit standard industrial classification code.

The existing equipment at the subject facility does not trigger any applicable emission standards under the federal New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAPS) programs. EPA records indicate periodic facility inspections performed by EPA staff. There is no record of any violations issued to Pace by EPA or by the Yakama Nation Environmental Program.

IV. Emission Inventories and Fee Payment

A. Emission Inventory

An emission inventory is an estimate of the quantity of air pollution emitted by a source, and can be calculated as either the actual or potential emissions from the source. Actual annual emissions are based on actual operation of the facility. Potential facility emissions, referred to as potential to emit (PTE), represent the maximum capacity of a source to emit a pollutant under its physical and operational design, taking into consideration enforceable regulatory restrictions and required control devices. PTE is used to determine the applicability of certain regulatory requirements. For example, an air pollution source with the potential to emit more than 100 tons per year of any regulated air pollutant is considered a “major source” under the Title V program and must apply for and obtain a Part 71 or Part 70 operating permit. (Note that certain other sources are also required to obtain Part 71 or Part 70 operating permits. See 40 CFR §§ 71.2 and 71.3). Actual facility emissions are used for some regulatory applicability determinations and for annual operating permit fee calculation purposes.

Emissions caused by industrial facilities can be broken into two categories: point and fugitive. Fugitive emissions are those which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. Point sources of emissions include any emissions that are not fugitive. Examples of fugitive emissions are roads, piles that are not normally enclosed, wind blown dust from open areas, and those

operations that are normally performed outside buildings. Examples of point sources would be exhaust stacks for boilers and heaters, process vents, and building vents.

B. Emission Inventory for the Pace Facility

As described below, emissions from the Pace facility are generated from combustion of fuel in the boilers and spray dryer, working and breathing losses from the volatile organic liquid storage/mix tanks, evaporation form the waste ponds, product escaping from the spray dryer recovery devices, dust from the Cascades Facility dry mix facility, and vehicle traffic in the yard. The majority of the emissions from the Pace facility come from combustion in the boilers. Pace submitted inventories of actual and potential emissions with the original Title V permit application. Pace also submitted actual emission inventories with their operating permit fee. EPA reviewed Pace's emissions unit lists and emission inventories in connection with drafting the permit.

This section describes emission estimation techniques for the Pace facility that were relied on by EPA in preparing the draft permit. In some instances, EPA revised the emission estimates and established more detail than what was provided by Pace in their application and subsequent submittals to more accurately reflect the emissions from the facility. To estimate PTE of particulate matter from the Cascade dry mix facility, EPA applied an emission factor developed for grain handling activities. This emission factor and some other factors used were obtained from the EPA reference document AP-42. Pace did not address the Cascade dry mix facility in their emission inventory submittals. EPA also added notation of an emission calculation technique for fugitive emissions from vehicle traffic. Pace did not provide estimates for this emissions source. Note that fugitive (non-HAP) emissions are not counted in calculations for fee purposes. EPA specified usage of the EPA Tanks software for calculating emissions from storage/mixing tanks at the facility. Pace used a similar, but more simplified, tank emissions estimation approach in their submittals. EPA used the maximum steam production rate using 2 % sulfur content fuel oil for boiler PTE estimates. Pace used a mixture of 0.5 % and 2 % sulfur content fuel in their PTE estimate. Using 2 % sulfur content in the emission estimate more accurately reflects PTE when there is no regulatory restriction on fuel sulfur content.

The emission factors for non-combustion PM from the spray dryer, tank breathing/working losses, volatilization from the evaporation ponds, and, roads must be calculated using site-specific information. See the reference documents for those estimation techniques (cited in Table IV-1) for a more complete description. For those estimation techniques that require substantial site-specific parameter tracking, emissions associated with a defined operational rate (amount produced in a year) can be estimated to establish a set ratio that can be used to multiply by the actual operational rate in future years, significantly simplifying the annual inventory effort. All of the techniques and site-specific parameters and assumptions should be reviewed each year before estimating emissions to be sure they remain appropriate.

It is EPA's expectation that Pace will use the emission estimating techniques set forth in this section, unless Pace has other information showing why another technique more accurately represents its emissions. To the extent Pace relies on any type of emission control technique (e.g. fuel sulfur content) to estimate emissions used to determine annual fees or the applicability of a regulatory program, use of the technique must be fully documented and verifiable. Emissions factors for the boilers are based on heat input (fuel) to the boiler. If steam production records are used to estimate boiler heat input for the purposes of emission inventory, then the efficiency factor applied to convert steam production to heat input should be based on the latest site specific boiler tuning data or else a default efficiency factor that is acceptable to EPA may be used.

Table IV-1 Emission Factors (EF) for Use in Emission Inventories				
EU ID #	Pollutant	EF	Units	Reference (Source of Emission Factor)
WAP-1 spray dryer	SO2	0.1S	lb/10^3 gallon	AP-42 (10/96) Table 1.5-1 (S=grains sulfur/100 ft^3 gas vapor; assume S=15 gr./100ft^3 for propane)
	CO	1.9	lb/10^3 gallon	AP-42 (10/96) Table 1.5-1
	NOx	14	lb/10^3 gallon	AP-42 (10/96) Table 1.5-1
	PM (combustion)	0.4	lb/10^3 gallon	AP-42 (10/96) Table 1.5-1
	PM10 (combustion)	0.4	lb/10^3 gallon	AP-42 (10/96) Table 1.5-1
	VOC (NMTOC)[2]	0.3	lb/10^3 gallon	AP-42 (10/96) Table 1.5-1
	PM and PM10 (non-combustion)	1.1	lb/ton material recovered	AP-42 (7/93) Table 6.8-1 (spray dried soaps and detergents) (with fabric filter)
Boilers WAP-B6 and B7 (#2 distillate fuel oil)[1]	SO2	2S	lb/10^3 gallon	AP-42 (9/98) Table 1.3-1; (#2 distillate fuel oil fired boilers <100 mmBtu/hr input capacity; S=wt. % sulfur; assume S=0.05%)
	CO	5	lb/10^3 gallon	AP-42 (9/98) Table 1.3-1; #2 distillate fuel oil fired boilers <100 mmBtu/hr input capacity
	NOx	20	lb/10^3 gallon	AP-42 (9/98) Table 1.3-1; #2 distillate fuel oil fired boilers <100 mmBtu/hr input capacity
	PM	2	lb/10^3 gallon	AP-42 (9/98) Table 1.3-7; Distillate fuel oil fired commercial boilers
	PM10	1.08	lb/10^3 gallon	AP-42 (9/98) Table 1.3-7; Distillate fuel oil fired commercial boilers
	VOC (NMTOC)[2]	0.2	lb/10^3 gallon	AP-42 (9/98) Table 1.3-3; Distillate fuel oil fired industrial boilers
Boilers WAP-B6 and B7 (#5 residual fuel oil) [1]	NOx	55	lb/10^3 gallon	AP-42 (9/98) Table 1.3-1 (#5 fuel oil <100mmBtu capacity
	CO	5	lb/10^3 gallon	AP-42 (9/98) Table 1.3-1 (#5 fuel oil <100mmBtu capacity
	SO2	157S	lb/10^3 gallon	AP-42 (9/98) Table 1.3-1 (#5 fuel oil <100mmBtu capacity; S=wt. % sulfur; assume S=2%)
	PM	8.34A	lb/10^3 gallon	AP-42 (9/98) Table 1.3-7 (residual oil; A=1.2 for #5 fuel oil)
	PM10	5.17A	lb/10^3 gallon	AP-42 (9/98) Table 1.3-7 (residual oil; A=1.2 for #5 fuel oil)
	VOC (NMTOC)[2]	0.28	lb/10^3 gallon	AP-42 (9/98) Table 1.3-3 (#5 residual fuel oil industrial boilers)

Table IV-1 Emission Factors (EF) for Use in Emission Inventories				
EU ID #	Pollutant	EF	Units	Reference (Source of Emission Factor)
Boilers WAP-B6 and B7 (#5 fuel oil and distillate)[1]	Benzene	2.14E-04	lb/10^3 gallon	AP-42 (9/98) Table 1.3-9
	Ethylbenzene	6.36E-05		
	Formaldehyde	3.30E-02		
	Naphthalene	1.13E-03		
	1,1,1-Trichloroethane	2.36E-04		
	Toluene	6.20E-03		
	o-Xylene	1.09E-04		
	Acenaphthene	2.11E-05		
	Acenaphthylene	2.53E-07		
	Anthracene	1.22E-06		
	Benz(a)anthracene	4.01E-06		
	Benzo(b,k)fluoran-thene	1.48E-06		
	Benzo(g,h,I)pery-lene	2.26E-06		
	Chrysene	2.38E-06		
	Dibenzo(a,h) anthracene	1.67E-06		
	Fluoranthene	4.84E-06		
	Fluorene	4.47E-06		
	Indo(1,2,3-cd)pyrene	2.14E-06		
	Phenanthrene	1.05E-05		
	Pyrene	4.25E-06		
	OCDD	3.10E-09		
	Antimony	5.25E-03		
	Arsenic	1.32E-03		
	Barium	2.57E-03		
	Beryllium	2.78E-05		
	Cadmium	3.98E-04		
	Chloride	3.47E-01		
	Chromium	8.45E-04		
	Chromium IV	2.48E-04		
	Cobalt	6.02E-03		
	Copper	1.76E-03		
	Fluoride	3.73E-02		
	Lead	1.51E-03		
	Manganese	3.00E-03		
	Mercury	1.13E-04		
	Molybdenum	7.87E-04		
	Nickel	8.45E-02		
	Phosphorous	9.46E-03		
	Selenium	6.83E-04		
	Vanadium	3.18E-02		
	Zinc	2.91E-02		
WAP-2 evap/sed ponds	VOC/HAPs	calculated		Material Balance
WAP-3a & b-VOL storage/	VOC/HAPs	calculated		EPA Tanks Software

Table IV-1 Emission Factors (EF) for Use in Emission Inventories				
EU ID #	Pollutant	EF	Units	Reference (Source of Emission Factor)
mix tanks				
WAP-4 Cascade dry mix	PM & PM10	0.061	lb/ton	AP42 (3/03) Table 9.9.1-1 Grain elevators headhouse and grain handling
WE-paved roads	PM	Calculated	lb/vmt (vehicle miles traveled)	AP42 (10/02) Section 13.2.1, Equation (2)
	PM10	Calculated	lb/vmt (vehicle miles traveled)	AP42 (10/02) Section 13.2.1, Equation (2)
WE-unpaved roads	PM	Calculated	lb/vmt (vehicle miles traveled)	AP42 (9/98) Section 13.2.2, Equation (2); includes unpaved roads and yard traffic
	PM10	Calculated	lb/vmt (vehicle miles traveled)	AP42 (9/98) Section 13.2.2, Equation (2); includes unpaved roads and yard traffic

Notes

1- If steam production records are used to estimate Btu inputs to the boilers, then the permittee should use boiler efficiency data from the most recent boiler tuning in the conversion calculation.

2- Volatile organic compound emissions shall be reported as total summed VOC.

C. Potential to Emit (PTE) for Pace

Pace's potential to emit (PTE) air pollutants is based on information in their original application and on EPA review of the Pace emission inventory. Pace's estimated PTE for point source emissions is presented below in Table IV-2 and reflects the emission factors presented in Table IV-1 and data provided by Pace.

PTE means the maximum capacity of Pace to emit any air pollutant (criteria or HAPs) under its physical and operational design. Any physical or operational limitation on the maximum capacity of Pace to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, may be treated as part of its design if the limitation or the effect it would have on emissions is enforceable by EPA. PTE is meant to be a worst case emissions calculation and is used in many, though not all, cases to determine the applicability of federal requirements. Actual emissions may be much lower than PTE. For example, all of the emission estimates in Table IV-2 are based on 24-hours per day operation of the facility whereas the Pace facility does not normally operate 24 hours per day. Facility PTE estimates for the spray dryer are based on a reported maximum fuel consumption rate of 12.7 gallons LPG per hour, extrapolations of product throughput, and usage of particulate (product) capture devices (cyclone) as an integral part of the unit. Usage of the fabric filter on the spray dryer (WAP-1) is not considered when calculating PTE for the spray dryer because the fabric filter is not required to be operated by regulation, or regulatory order, and it is not a required process design element. Facility PTE estimates for the storage/mix tanks and evaporation ponds are based on extrapolation of the reported maximum production rate. PTE estimates for the boilers are based on maximum design heat input capacity (total maximum design heat input capacity = 44 mmBtu/hr) and usage of #5 fuel oil. PTE for the Cascades Facility dry mix operation is based on a reported capacity to process up to 27,000 pounds of product in each shift. Extrapolations of reported process unit production to annual potential production rates is a reasonable approach to estimating PTE, however, it may underestimate PTE if the reported production rates were not based on utilization of the process unit at maximum capacity.

The PTE emission inventory Pace submitted with their operating permit application indicates that the facility is presently a minor source with respect to HAP emissions. This conclusion is reasonable after evaluation of the available data via published emission factors, and use of reasonable assumptions concerning facility processes and production patterns. However, the products and raw materials involved in the manufacturing processes at Pace appear to be variable and complex. It is possible that a process change could result in the facility becoming a major HAP source. It is Pace's responsibility to evaluate the facility status with respect to air pollution regulations and programs. Process changes, including new usage or expanded usage of a material that may contain a HAP, should be accompanied by re-evaluation of minor source status and consultation with EPA permitting staff.

Table IV-2Facility Potential to Emit for PSD , Title V, and MACT in Tons Per Year[1, 2]

EU ID #	Air Pollutants NOx - oxides of nitrogen; VOC - volatile organic compounds; SO2 - sulfur dioxide; PM - particulate matter; PM10 - particulate matter with diameter 10 microns or less; CO - carbon monoxide; Pb - lead; HAP - hazardous air pollutants [see Clean Air Act, Section 112(b)]							
	NOx	VOC	SO2	PM	PM10	CO	Pb	HAP
WAP B6 & B7	87	<1	499	16	10	8	<1	1
WAP-1	<1	<1	<1	36.8	36.8	<1	<1	<1
WAP-3	<1	<1	<1	<1	<1	<1	<1	<1[2]
WAP-4	<1	<1	<1	<1	<1	<1	<1	<1
TOTAL	87	1	499	52	47	8	<1	1

Notes 1- Fugitive HAP emissions are counted toward PTE; only point source criteria pollutants are counted toward PTE for this source category.
2- Changes to product formulations may result in HAP emissions greater than this estimate. Any changes contemplated should be discussed with the EPA.

D. Fee Payments Based on Actual Annual Emissions

Pace is required to pay fees annually based on an emissions inventory of its actual emissions for the preceding calendar year (See permit terms VIII and IX). As discussed above, EPA has documented methods, techniques, and assumptions that EPA believes provide the most accurate basis for estimating emissions from the facility, including actual emissions for fee purposes. The techniques in Section IV-B above should be used to calculate annual emissions for fee purposes, unless Pace has other information showing why another technique more accurately represents its emissions.

EPA notes that Pace has an ongoing obligation to assure that all data in its application is correct and to notify EPA of any errors or omissions (See permit term X.A.2). Moreover, Pace is required to certify to the accuracy and completeness of all data submitted to EPA, including the accuracy of its annual emission inventory for fee purposes.

V. Applicable Requirements and Permit Contents

A. Summary

The permit must contain all applicable air pollution requirements (e.g. emissions and work practice standards), and monitoring/recordkeeping/reporting (MRR), procedural, administrative, and prohibitory requirements established by the Part 71 air operating permit regulation and other applicable regulations and regulatory orders.

EPA relied on information provided in the operating permit application and information gathered during an EPA site visit on August 28, 2003 to determine the requirements that are applicable to the subject facility. The basis for the applicable requirements and a brief discussion is provided below. As discussed further below, the existing emissions units at the Pace facility operate, at this time, largely free from applicable regulations due to their size, age, and manufacturing process characteristics. There are no permits issued for the subject facility. Select requirements that may potentially apply to the Pace facility are also discussed along with the reasons why they are inapplicable at this time.

The permit is organized as follows:

I Source identification (discussed above)
II Requirements for Specific Units
III Facility-Wide Requirements
IV-VI General Testing/Recordkeeeping/Reporting Requirements
VII Compliance Requirements
VIII Payment of Fees
IX Annual Emissions Inventory
X Standard Terms and Conditions
XI Permit Changes
XII Permit Shield

B. Section II- Requirements for Specific Emission Units

1) NSPS – 40 CFR Part 60 Subpart Kb: Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984

Tanks greater than 10,566 gallons (40 m^3) storing volatile organic liquids and built (or modified) after July 23, 1984 are subject to NSPS Subpart Kb. There are three organic liquid storage tanks at the facility with capacity greater than 10,566 gallons. Table V-1, below indicates applicability of Subpart Kb.

Table V-1 NSPS Subpart Kb Applicability (tanks > 10,566 gallons)

Tank #	Capacity	Content	Subpart Kb requirement	Note
SBS-13	15,903 gal. 60.2 m^3	polysorbate/diphenyl amine blend	keep design records accessible for the life of the source	capacity > 10,566 gallons (§60.110b(b))
SBS-14	21,785 gal. 82.5 m^3	15% diphenylamine in cottonseed oil, polysorbate, isopropyl alcohol		contents vapor pressure < 15.0 kPa (§60.110b(c)) §60.116b(a) & (b); §60.110b(a) & (b)
S-00	25,335 gal. 95.9 m^3	Fuel Oil	none N/A	not constructed, reconstructed or modified after 7/23/84

Under subpart Kb (§60.110b), smaller volatile organic liquid (VOL) storage tanks (<75 m^3) and tanks greater than 75 m^3 but less than 151 m^3 capacity containing liquids with lower vapor pressures (< 15 kPa) do not have any emission control requirements but must only keep records of dimensions and storage capacity. Section II.A. of the operating permit requires the Subpart Kb recordkeeping requirements for tanks SBS-13 and SBS-14. Note that if the materials contained in the tanks at the subject facility change, then subpart Kb applicability would have to be re-evaluated. Table V-2 lists tanks at the facility.

Table V-2 Tanks List

Tank #	Volume-gallons	Volume- m3	Chemical	NSPS Applicability	Notes
LS-38	1217	4.6	Empty	No	<40m3
LS-39	4706	17.8	Empty	No	<40m3
LS-40	2970	11.2	Tallow ME Ester	No	<40m3
LS-41	10479	39.7	StopIt Overfill	No	<40m3
LS-42	1983	7.5	Empty	No	<40m3
LS-43	4763	18.0	Phos Acid FG	No	<40m3; not VOL
LS-44	2070	7.8	Caustic Potash	No	<40m3; not VOL
LS-45	6188	23.4	Empty	No	<40m3
LS-47	6096	23.1	Sorbitol	No	<40m3
LS-48	3163	12.0	Empty	No	<40m3
LS-49	4936	18.7	Zinc Sulfate	No	<40m3; not VOL
LS-50	6272	23.7	Mixed Fatty Acids	No	<40m3
LS-51	9434	35.7	Empty	No	<40m3
LS-52	2130	8.1	Empty	No	<40m3
LS-53	5321	20.1	Empty	No	<40m3
LS-46	3098	11.7	Empty	No	<40m3
LS-37	4754	18.0	Isopropanol	No	<40m3
SBS-8	3273	12.4	Propylene Glycol	No	<40m3
SBS-9	4888	18.5	Isopropanol	No	<40m3
SBS-10	3143	11.9	Morpholine	No	<40m3
SBS-11	4441	16.8	T-41 Methyl Ester	No	<40m3
SBS-12	7385	28.0	Tween 80, PolySorbate	No	<40m3
SBS-13	15903	60.2	Tween 80, DPA Blend	records only	contents vapor pressure < 15.0 kPa (§60.110b(c))
SBS-14	21785	82.5	15% DPA	records only	contents vapor pressure < 15.0 kPa (§60.110b(c))
S-00	25335	95.9	Low Sulfur Diesel - Boilers	No	built prior to 7/23/84
LS-36	3148	11.9		No	<40m3
SBS-7	3760	14.2		No	<40m3
ATS-85	18612	70.5	Phosc Acid 75%	No	not VOL
ATS-86	9401	35.6	Zinc Sulfate Soln 12%	No	<40m3; not VOL
ATS-88	9401	35.6	Empty	No	<40m3
ATS-89	9401	35.6	Caustic Potash 45%	No	<40m3; not VOL
ATS-90	4512	17.1	Empty	No	<40m3
ATS-91	4512	17.1	Empty	No	<40m3
S-95	3046	11.5	Empty	No	<40m3
SBM-3	1200	4.5	Batch Mixing - Steam Coils	No	<40m3
SBM-4	2000	7.6	Batch Mixing - Steam Jacket	No	<40m3
SBM-5	4500	17.0	Packaging Storage	No	<40m3

Table V-2 Tanks List					
Tank #	Volume-gallons	Volume- m3	Chemical	NSPS Applicability	Notes
SBM-6	4700	17.8	Batch Mixing	No	<40m3
ATM-80	8960	33.9	Slurry Mixing Tank	No	<40m3
ATM-81	8960	33.9	Slurry Mixing Tank	No	<40m3
ATM-82	8960	33.9	Spray Dryer Feed Tank	No	<40m3
ATM-83	8960	33.9	Slurry Mixing Tank	No	<40m3

2) NSPS 40 CFR Part 60, Subpart Dc: Standards of Performance for Small Steam Generating Units
The two oil-fired boilers at the source were constructed prior to June 19, 1984, the applicability date of this standard. Pace asserts that no known modification or reconstruction of the boilers, as those terms are defined in 40 CFR § 60.2, occurred after June 19, 1984. Based on this information (i.e., that the subject boilers were built before the applicability date and were not modified after the applicability date), EPA is not including the requirements of this standard in the permit.

3) Prevention of Significant Deterioration (PSD):
PSD requires major new or modified sources, built after 1978, to go through a rigorous pre-construction review and approval process. Pace is a major source for PSD purposes because its potential to emit one or more pollutants is greater than 250 tons per year (see Table IV-2). The original juice concentrate manufacturing facility was built before the 1978 applicability date for PSD, so initial construction of the facility was not reviewed under PSD. Because Pace is an existing major PSD source, it will become subject to PSD permit requirements if any physical change or change in the method of operation of the facility increases the actual emissions, as defined in 40 CFR § 52.21, of any pollutant greater than the significant levels given below in Table V-3. A source seeking a determination of non-applicability of PSD permitting requirements would need to provide EPA with detailed information regarding each change at the facility. Pace has not done so and no enforcement or permit shield is implied or granted for past PSD compliance. Had Pace requested and EPA granted the shield for specific requirements, they would be listed in the permit. Pace has not requested a shield for any requirements.

Fuel changes may be considered to be modifications under PSD. If Pace begins using a fuel that results in greater emissions than the fuel presently being used, then that change must be evaluated with respect to the applicability criteria of PSD.

Table V-3 Prevention of Significant Deterioration Emission Rate Increases for Existing Major Sources	
Pollutant	Pollutant Rate in Tons per Year
Particulate Matter (PM)	25
Fine Particulate (PM10)	15
Sulfur Dioxide (SO2)	40
Nitrogen Oxide (NOx)	40
Volatile Organic Compounds (VOC)	40
Carbon Monoxide (CO)	100
Lead	0.6
Fluorides	3
Sulfuric Acid Mist	7
Hydrogen Sulfide (H2S)	10
Total Reduced Sulfur Compounds (TRS) - including H2S	10
Municipal Waste Combustor (MWC) acid gases	40

Table V-3 Prevention of Significant Deterioration Emission Rate Increases for Existing Major Sources	
Pollutant	Pollutant Rate in Tons per Year
MWC metals	15
MWC organics	3.5 X 10-6
Municipal Solid Waste Landfills - Non-Methane Organic Compounds	50
Chlorofluorocarbons (CFCs) and Halos	(any emission rate)

4) Compliance Assurance Monitoring - 40 CFR Part 64:
CAM applies to emission units subject to an emission limit and with a pre-control potential to emit greater than the major source threshold as defined in 40 CFR Part 71. None of the emission units at the facility with pre control potential to emit greater than the major source threshold are also subject to an emission limit. Therefore, none of the emission units are subject to CAM at this time and EPA is not including the requirements of this standard in the permit.

5) Federal Air Rules for Reservations:
EPA recognizes that, in some cases, sources of air pollution located in Indian Country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in nonattainment areas and of minor sources in both attainment and nonattainment areas. These programs will establish, where appropriate, control requirements for sources that would be incorporated into Part 71 permits. To establish additional applicable, federally-enforceable emission limits, EPA Region 10, in consultation with Tribes and other stakeholders, has drafted a Federal Implementation Plan (FIP) that, once finalized, will establish federal requirements for sources in Indian Country within Region 10. (See 67 Federal register 51802 (August 2, 2002); 67 Federal register 11748 (March 15, 2002)) EPA hopes to take final action on the proposal within the next year. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved Tribal Implementation Plan. This regulation is not finalized yet and does not apply to the Pace facility at this time.

6) MACT NESHAP - 40 CFR Part 63, Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants (HAP) from Industrial, Commercial and Institutional Boilers and Process Heaters:
This standard was proposed on January 13, 2003 (68FR6060) and was signed on February 26, 2004. When it is promulgated through publication in the Federal Register, the rule will apply to industrial, commercial, and institutional boilers and process heaters located at major hazardous air pollutant (HAP) sources. Major HAP sources are sources that have the potential to emit (PTE) more than 10 tpy of any one HAP or more than 25 tpy as an aggregate of all HAPs. The Pace boilers will be subject to this rule if the facility is a major HAP source on the future compliance date of the rule - that is if the facility has the potential to emit more than 10 tpy of any one HAP or more than 25 tpy as an aggregate of all HAPs. The PTE emission inventory submitted by Pace indicates that the facility is not a major HAP source. If new information becomes available or if a change is made such that the facility becomes a major HAP source, then the facility may have requirements under Subpart DDDDD. If the facility becomes subject to Subpart DDDDD, then Pace's permit will be reopened to add the new requirement within 18 months after the effective date of the rule if there are more than 3 years remaining before permit expiration.

7) Equivalent Emission Limitation by Permit (Section 112(j) of the Federal Clean Air Act)
Under this requirement of Section 112(j) of the Federal Clean Air Act and the 40 CFR Part 63 Subpart B, if EPA misses a scheduled promulgation date for a Section 112(d) NESHAP standard (known as a Maximum Achievable Control Technology Standard (MACT)) by 18 months, major sources in that category must submit to the Title V permitting authority a permit application to obtain a source-specific case-by-case MACT determination. EPA missed the scheduled promulgation date for 40 CFR Part 63, Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants (HAP) from Industrial, Commercial and Institutional Boilers

and Process Heaters. However, the PTE emission inventory provided by Pace in their operating permit application indicates that the facility is not a major source for HAPs and is therefore not required to provide an application pursuant to Section 112(j).

C. Section III- Facility-Wide Requirements:

1) Chemical Accident Prevention Program - 40 CFR Part 68:

The Chemical Accident Prevention Program requires sources that use or store regulated substances above a certain threshold to develop plans to prevent accidental releases. Based on information in their application, Pace has no regulated substances above the threshold quantities in this rule and therefore is not currently subject to the requirement to develop and submit a risk management plan. However, this requirement is included in the permit as an applicable requirement because Pace has an ongoing responsibility to submit a risk management plan IF a substance is listed that Pace has in quantities over the threshold amount or IF Pace ever increases the amount of any regulated substance above the threshold quantity. Including this term in the permit minimizes the need to reopen the permit if Pace becomes subject to the requirement to submit a risk management plan. Distillate fuel stored on-site is not subject to Part 68 risk management plan requirements (See 40 CFR § 68.126).

2) Stratospheric Ozone and Climate Protection - 40 CFR Part 82:

The stratospheric ozone and climate protection program requires sources that handle regulated materials to meet certain procedural and certification requirements. Based on information in their application, Pace has equipment that use or contain chlorofluorocarbons (CFCs) and other materials regulated under this program. All air conditioning and refrigeration units must be maintained by certified individuals, and according to their application, Pace uses certified contractors.

3) NESHAP - 40 CFR Part 61, Subpart M - Demolition or Renovation Activity:

The asbestos demolition and renovation program requires sources that handle asbestos-containing materials to follow specific procedures. Pace is not currently engaged in the activities regulated under this provision; however, IF Pace conducts any demolition or renovation activity, Pace must assure that the project is in compliance with the federal rules governing asbestos including the requirement to conduct an inspection for the presence of asbestos. This requirement is in the permit to address any demolition or renovation activity at the facility.

4) Modification Exempt from PSD Review via 40 CFR § 52.21(a)(2)(iv)(c) Actual to Projected Actual Test:

The PSD regulation applicability test for modifications was changed in December 2002. The rule change resulted in a new applicable requirement for PSD major sources. Since Pace is a PSD major source, this term is established in the operating permit. In summary, when the permittee considers a project to be exempt from PSD via the method specified in 40 CFR § 52.21(b)(41)(ii)(a-c) and there is a reasonable possibility that there will be a significant emissions increase resulting from the project, then the permittee must fulfill specified requirements related to documentation, monitoring, and notification. This term will be relevant to Pace only when the permittee is contemplating making physical or operational changes to the facility. In those instances it is recommended that the permittee contact the EPA to discuss their plans.

D. Sections IV through XII- General/Standard Permit Terms

1) Section IV- General Testing Requirements:

Consistent with the requirements of 40 CFR §§ 71.6(a)(3)(i) and 71.6(c)(i), this section includes conditions that apply to any testing that may be required by EPA. The conditions reflect minimum procedural standards that help to ensure testing is conducted in a verifiable and repeatable manner.

2) Section V- General Recordkeeping Requirements:

This section includes the general recordkeeping requirements of 40 CFR 71.6(a)(3)(ii). It notes the types of information that must be recorded when the permittee records monitoring data and requires that all monitoring

records must be retained for at least five years. Note that this five-year requirement supercedes language from some NSPS standards that require records to be kept for two years.

3) Section VI- General Reporting Requirements:
This section includes the general reporting requirements of 40 CFR § 71.6(a)(3)(iii). It also includes the requirement that all notices, reports and other documents submitted under the Title V permit must be certified as provided in 40 CFR §§ 71.5(d), 71.6(c)(1) and 71.9(h)(2).

Under section VI of the permit, the permittee must provide to EPA semiannual monitoring reports and prompt reports of deviations from permit conditions. Note that any failure to meet any permit term or condition, including emission standards, is considered a deviation. Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations. See paragraph VII.A.3 of the permit. All documents and reports provided pursuant to the operating permit must be certified for truth and accuracy by a responsible official of the company.
There is currently no monitoring required by the permit. Pace must provide an annual compliance certification, and semiannual monitoring/deviation reports.

4) Section VII- Compliance Requirements:
This section includes generic compliance terms that are required in all Title V permits, including a requirement that the permittee submit an annual compliance certification that contains specific elements. The compliance certification must be signed by a responsible official and must be postmarked not later than January 30 of each year. The permit also includes a provision under the authority of 40 CFR §§ 71.6(a)(9) clarifying that the permittee is not required to conduct monitoring for emission units that are shut down, as long as certain requirements are met.

5) Sections VIII and IX- Payment of Fees and Annual Emissions Inventory:
These sections include the fee payment and emissions inventory requirements of 40 CFR § 71.9. Note that the permittee must estimate actual annual air pollutant emissions from the facility. Actual emissions must be calculated using methods required by the permit for determining compliance and, where the permit does not include methods, should follow federally recognized procedures. The emissions inventory data are then used to estimate fees, which are due no later than November 15th of each year. The per-ton fee rate varies each year so the permittee should contact the EPA to obtain the current rate.

UU6) Section X- Standard Terms and Conditions:
This section includes standard terms relating to permit administration and the duties of the permittee that must be in the permit pursuant to 40 CFR Part 71. Notable in this section is the obligation for the permittee to provide information to the EPA when requested and to correct inaccuracies and omissions in the operating permit application.

7) Section XI- Permit Changes:
This section includes procedures that must be followed when making changes to the subject facility or the Title V permit and when the permit is to be renewed. Before making a change to the facility, the permittee should carefully review the requirements of Section XI to determine if notice of the change and/or a permit revision is required. EPA may re-open the permit for cause under specified circumstances. Note that a complete renewal application must be provided to EPA at least six months prior to the expiration of the permit.

8) XII- Permit Shield:
This section includes the permit shield provisions of 40 CFR § 71.6(f). Pace has not requested a shield for any requirements.

VI. Endangered Species Act (ESA) Impacts

Under Section 7 of the ESA, 16 U.S.C. §1531 et seq., EPA is obligated to consider the impact that a project may have on listed species or critical habitats. It is EPA's conclusion that the issuance of this Title V permit for Pace will not affect a listed specie or critical habitat because it does not authorize new emissions units or impose any new emission limits or work practice requirements. Therefore, no additional requirements will be added to this permit for ESA reasons. EPA' no effect determination concludes EPA's obligations under Section 7 of the ESA. (See Endangered Species Consultation Handbook: Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act, FWS and NMFS, March 1998, Figure 1).

VII. Use of All Credible Evidence

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations. See paragraph VII.A.3 of the permit.

VIII. Public Participation

A. Public Notice.

As described in 40 CFR 71.11(a)(5), all Part 71 draft operating permits shall be publicly noticed and made available for public comment. The public notice of permit actions and public comment period is described in 40 CFR 71.11(d). There was a 30 day public comment period for actions pertaining to the draft permit from March 10, 2004 to April 12, 2004.

Public notice was given for the draft permit by mailing a copy of the notice to the permit applicant, the affected state, the Tribal, city and county executives, and the local emergency planning authorities which have jurisdiction over the area where the source is located. A copy of the notice was also provided to all persons who have submitted a written request to be included on the EPA air operating permits mailing list. Public notice was published in newspapers of general circulation in the area affected by this source. Public notice was provided in the Washington State Permit Register.

Copies of the draft permit prepared by EPA, the draft permit statement of basis, the permit application, and all supporting materials submitted by the source were made available during the public comment period at:

Yakima Valley Regional Library Wapato Branch 119 East 3rd Street Wapato, WA 98901 (509) 877-2882	Yakama Nation Library Yakama Nation Cultural Center Hwy 97 at Fort Road Toppenish, WA 98948 (509) 865-2800, Ext 6

Copies of the permit and statement of basis were available on EPA's web site **[www.epa.gov/r10earth/ (once there, click on "Air")].** Copies of the draft permit and supporting materials were made available at the EPA Region 10 Office during the comment period.

B. Comments

Comments regarding the draft permit were received from the Yakima Regional Clean Air Authority (YRCAA) (an affected state per 40 CFR part 71). No other party submitted comments. No party requested a hearing. EPA declined to change the permit on the basis of comments received from YRCAA. The comments and our response is provided below in Appendix A.

Appendix A

Draft Title V Permit to Operate No. R10-T5-WA-03
Response to Comments
April 22, 2004

A. Provisions of the Draft Permit Changed in the Final Permit and Reason for the Change

1. In the final permit and statement of basis, at the request of Pace International, LLC (Pace) before the close of the public comment period, EPA changed the suite number for the corporate office in Seattle to reflect a physical move of the company that occurred after their submittal of the air operating permit application. Had the permit already been issued, this is a change that would have been made by administrative amendment pursuant to 40 CFR 71.26(c).

2. EPA has deleted Paragraph VI.C (PSD Equipment Replacement Provision-Capital Cost Basis Notice Required) and the corresponding discussion of this provision in the Statement of Basis. On December 24, 2003, the United States Court of Appeals for the DC Circuit granted a stay of the Equipment Replacement rule that was published in the Federal Register on October 27, 2003 (68 FR 61248). Therefore, 40 CFR 52.21(cc) is not an applicable requirement at this time.

B. Response to Comments Raised During the Public Comment Period

EPA received public comments from the Yakima Regional Clean Air Authority (YRCAA) which is an "affected State" as defined in 40 CFR part 71. EPA must notify any affected State in writing of any refusal by EPA to accept all recommendations for the draft permit that the affected State submitted during the public or affected State review period. The notice shall include the EPA's reasons for not accepting any such recommendation. The EPA is not required to accept recommendations that are not based on applicable requirements or the requirements of part 71. This response to comments constitutes EPA's notification to the affected State of any refusal by EPA to accept all recommendations.

The complete text of YRCAA's written comments is available in the docket at EPA Region 10. Following is a summary of the comments submitted by YRCAA, followed by EPA's response:

<u>Comment 1</u>. This facility which is not owned by enrolled members of a federally recognized Indian Tribe shall remain under certain state and local regulations.

<u>Comment 2</u>. Provisions of the Federal Clean Air Act allow state regulations to be more stringent than federal. Similar provisions of the Washington Clean Air Act allow local regulations to be more stringent than State, thus Federal Rules.

<u>Comment 3</u>. We find no provisions where federal rules preempt all State or local rules. We respect the special standing of federal lands, tribal lands held in trust by federal agencies and enrolled members of federally recognized Indian Tribes. We fully understand EPA's questions over applicability of certain State and local rules.

Comment 4. All persons, land and activities not meeting 3, above, may be Constitutionally regulated by the State and its statutory subdivisions, such as YRCAA. We do not challenge EPA jurisdiction over Pace's Engineering Air Operating Permit, at this time.

EPA's Response (combined for comments 1 through 4): As indicated in comment 4 of YRCAA's comments, YRCAA is not at this time contesting EPA's authority to issue a part 71 air operating permit to Pace. In addition, YRCCA's comments acknowledge that YRCAA fully understands EPA's questions over applicability of State and federal rules to facilities in Indian Country.

Section 70.8(b) makes clear that EPA is not required to accept recommendations from affected States that are not based on applicable requirements or the requirements of part 71. A part 71 permit is required to include terms and conditions necessary to assure compliance with all "applicable requirements" and the requirements of part 71. See Clean Air Act section 504(a); 40 CFR 71.6; 40 CFR 71.8(b). The term "applicable requirement" is limited to standards and requirements that have been promulgated or approved by EPA or terms and conditions in permits issued by EPA or under EPA-approved programs. See 40 CFR 71.2.

The State and local rules to which YRCAA refers are not approved by EPA as applying in Indian Country. When EPA reviews for approval under the Clean Air Act implementation plans and other air programs submitted by State and local air pollution control agencies in Washington, EPA has clearly limited the programs it is approving as not extending into Indian country.[1] See 69 FR 7135, 7137 (February 13, 2004) (Delegation of Authority for New Source Performance Standards to Washington Air Agencies); 66 FR 16, 21 (January 2, 2001) (Clean Air Act Full Approval of Operating Permits Program in Washington, Direct Final Rule); 63 FR 5270 (February 2, 1998) (Approval and Promulgation of State Implementation Plans; Washington, Final Rule). Even where the EPA approval did not expressly address Indian country, EPA has clarified its past approvals of State programs as not extending to Indian country unless EPA has explicitly approved the State program in such area. See 67 FR 11748, 11752 (March 15, 2002); 64 FR 8248, 8252-8253 (February 19, 1999). In short, EPA has not approved any State or local regulations under the Clean Air Act as applying in any part of the Yakama Reservation. Therefore, even if any State and local regulations do apply to the Pace facility, they are not "applicable requirements" or requirements of part 71 and, therefore, will not be included in the part 71 air operating permit issued to Pace.

Although EPA does not generally recognize State or local air regulations as being effective within Indian country for purposes of the Clean Air Act, EPA is specifically not addressing the validity of State and local law and regulations with respect to sources in Indian country, or the authority of State and local agencies to regulate such sources, for purposes other than the Clean Air Act. EPA is also specifically not making a determination that the Federal Clean Air Act rules override or preempt any other laws that have been established.

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[1]The one exception is within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided State and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.