



**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY**  
**Office of the Executive Director**  
**Post Office Box 339, Window Rock, AZ 86515**  
**Telephone (928) 871-7692, Fax (928) 871-7996**



Dr. Joe Shirley, Jr.  
PRESIDENT

Ben Shelley  
VICE PRESIDENT

AUG - 3 2009

Deborah Jordan, Director  
Air Division  
US EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Subject: Final Title V Permit for ConocoPhillips Company Wingate Fractionating Plant

Dear Ms. Jordan:

Enclosed is a copy of the Final Permit and Statement of Basis for ConocoPhillips Company Wingate Fractionating Plant, located at #68 El Paso Circle, Gallup, NM 87301 on the Navajo Nation. The Navajo Nation EPA (NNEPA) intends to issue this permit in accordance with the provisions of Title V of the Clean Air Act, 40 CFR Part 71, the Navajo Nation Operating Permit Regulations, the 2004 Delegation Agreement between EPA Region IX and NNEPA, and all other applicable rules and regulations. The Permittee, EPNG – Gallup Compressor Station, is authorized to operate air emission units and to conduct other air pollutant-emitting activities in accordance with the permit conditions listed in this permit.

Notice of the draft permit was published in several local newspapers beginning on April 6, 2009 and ending on May 6, 2009. NNEPA also sent out Affected State letters to the Arizona Department of Environmental Quality, New Mexico Environment Department, Utah Department of Environmental Quality, Ute Mountain Ute Indian Tribe, Southern Ute Indian Tribe, Acoma Pueblo Tribe, Jemez Pueblo Tribe, and Laguna Pueblo Tribe. NNEPA also posted the draft permit on the NNEPA website. NNEPA received no request for public hearing and two sets of comments during this period; a copy of the comments and responses is attached.

A copy of the final permit will be on file with the Operating Permit Program and on NNEPA's website at: [www.navajonationepa.org/airqty/permits](http://www.navajonationepa.org/airqty/permits).

If you have any questions or comments regarding this action, please contact Charlene Nelson at 928-729-4247.

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

Cc: Gerardo Rios, US EPA Region IX



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**TITLE V PERMIT TO OPERATE**

<u>PERMIT #:</u> NN OP 05-011	<u>FACILITY NAME:</u> CONOCOPhillips COMPANY	<u>LOCATION:</u> GALLUP	<u>COUNTY:</u> MCKINLEY	<u>STATE:</u> NM
<u>ISSUE DATE:</u> 08/03/2009	<u>EXPIRATION DATE:</u> 08/03/2014	<u>AFS PLANT ID:</u> 35-031-84232	<u>PERMITTING AUTHORITY:</u> NNEPA	

**ACTION/STATUS:** PART 71 OPERATING PERMIT ISSUANCE

G. Lane Ayers, Plant Manager  
 ConocoPhillips Company  
 P.O. Box 217  
 Bloomfield, NM 87413

Re: Issuance of Title V Operating Permit to ConocoPhillips  
 Company- Wingate Fractionating Plant

Dear Mr. Ayers:

This Permit is being issued and administered by the Navajo Nation EPA (NNEPA) pursuant to the Delegation Agreement between EPA Region IX and NNEPA, dated October 15, 2004. This permit authorizes the Permittee, ConocoPhillips – Wingate Fractionating Plant, candlestick flare, Unit ID No. 17, to operate air pollutant-emitting activities in accordance with the permit conditions listed in this permit and the provisions of Title V of the Clean Air Act, 40 C.F.R. Part 71, Navajo Nation Operating Permit Regulations, and all other applicable rules and regulations.

Terms and conditions not otherwise defined in this permit have the same meaning as assigned to them in the referenced regulations. All terms and conditions of the permit are enforceable under the Clean Air Act by NNEPA and by U.S. EPA, as well as citizens, under either or both the Navajo Nation Clean Air Act and the Clean Air Act, as applicable.

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

\_\_\_\_\_ AUG - 3 2009 \_\_\_\_\_  
 Date

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

## Abbreviations and Acronyms

Administrator	Administrator of the U.S. EPA
AFS	AIRS Facility Subsystem
AIRS	Aerometric Information Retrieval System
AR	Acid Rain
ARP	Acid Rain Program
CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CFR	Code of Federal Regulations
EIP	Economic Incentives Program
gal	gallon
HAP	Hazardous Air Pollutant
hr	hour
Id. No.	Identification Number
J	joule
kg	kilogram
lb	pound
MACT	Maximum Achievable Control Technology
MVAC	Motor Vehicle Air Conditioner
Mg	megagram
MMBtu	million British Thermal Units
mo	month
NESHAP	National Emission Standards for Hazardous Air Pollutants
NNEPA	Navajo Nation Environmental Protection Agency
NNOPR	Navajo Nation Operating Permit Regulations
NNR	Navajo Nation Regulations
NO <sub>x</sub>	Nitrogen oxides
NSPS	New Source Performance Standards
NSR	New Source Review
PM	Particulate Matter
PM-10	Particulate matter less than 10 microns in diameter
ppm	parts per million
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
psia	pounds per square inch absolute
RMP	Risk Management Plan
SNAP	Significant New Alternatives Program
SO <sub>2</sub>	Sulfur dioxide
TSP	Total Suspended Particulate
USEPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

## TABLE OF CONTENTS

Cover Page  
Abbreviations and Acronyms

### **I. Source Identification**

### **II. Requirements for Specific Units**

- A. NSPS General Provisions
- B. NSPS General Control Device Requirements
- C. NSPS Requirements
- D. Monitoring and Testing Requirements
- E. Operational Flexibility

### **III. Facility-Wide or Generic Permit Requirements**

- A. Recordkeeping Requirements
- B. Reporting Requirements
- C. Stratospheric Ozone and Climate Protection
- D. Asbestos from Demolition and Renovation
- E. Chemical Accident Prevention
- F. Compliance Schedule

### **IV. Title V Administrative Requirements**

- A. Fee Payment
- B. Blanket Compliance Statement
- C. Compliance Certifications
- D. Duty to Provide and Supplement Information
- E. Submissions
- F. Severability Clause
- G. Permit Actions
- H. Administrative Permit Amendments
- I. Minor Permit Modifications
- J. Group Processing of Minor Permit Amendments
- K. Significant Modifications
- L. Reopening for Cause
- M. Property Rights
- N. Inspection and Entry
- O. Emergency Provisions
- P. Transfer of Ownership or Operation
- Q. Off Permit Changes
- R. Permit Expiration and Renewal
- S. Malfunction
- T. Other Applicable Regulations

Appendix A: 40 CFR Part 60, Subpart NNN  
Appendix B: 40 CFR Part 60, Subpart RRR  
Appendix C: 40 CFR Part 60, Subpart KKK

## I. Source Identification

Parent Company name: ConocoPhillips Company  
Parent Company Mailing: (Manager of SJ Plants)  
P.O. Box 217  
Bloomfield, NM 87413

Telephone: (505) 632-4954  
Facsimile: (505) 632-4930

Plant Name: Wingate Fractionating Plant – Candlestick Flare  
Plant Location: #68 El Paso Circle  
Gallup, NM 87301  
McKinley County

Plant Mailing: P. O. Box 119  
Rehoboth, NM 87322

Company Contact: Beverly Cox  
Telephone: (505) 324-6194  
Facsimile: (505) 599-4005

Plant Contact: Kim Kamps  
Telephone: (505)-863-1023  
Facsimile: (505)-863-1047

Responsible Official: G. Lane Ayers  
Telephone: (505) 632-4906  
Facsimile: (505) 632-4930

USEPA Region: 9  
USEPA Contact: Roger Kohn  
Phone: (415) 972-3973

Reservation: Navajo Nation  
Tribe: Navajo Nation

Tribal Contact: Charlene Nelson  
Phone: (928) 729-4247

Tribal Contact: Eugenia Quintana  
Phone: (928) 871-7800

SIC Code: 4925  
AFS Plant Identification Number: 35-031-84232

Description of Process: Wingate Fractionating Plant performs fractionation of natural gas liquids into different product streams. Wingate Fractionating Plant operates as authorized by NSR and Title V permits issued by New Mexico Environment Department (NMED). The only emissions source associated with Wingate Fractionating Plant that is located on the reservation of the Navajo Nation is a candlestick flare; therefore this permit only applies to that flare.

Significant Emission Units:

Emission Unit ID No.	Unit Description	Maximum Capacity	Associated Control Device	Construction Date
17	Candlestick flare, secondary control equipment	63.6 Mscf/hr 25 MMscf/yr (including safety factor)	N/A	10/23/72

## II. Requirements for Specific Units:

### II.A. NSPS General Provisions

The following requirements apply to the operation, maintenance, and testing of the candlestick flare, Unit ID No. 17, in accordance with 40 CFR Part 60, Subparts A (General Provisions), RRR (Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes), NNN (Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations), and KKK (Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants):

1. All requests, reports, applications, submittals, and other communications to the EPA Administrator pursuant to 40 CFR Part 60 shall be submitted to the EPA Region 9 office and a duplicate submitted to the NNEPA at the following addresses [40 CFR § 60.4(a)]:

Navajo Nation Environmental Protection Agency  
Air Quality Control Program  
P.O. Box 529  
Fort Defiance, AZ 86504

and

EPA Region 9  
Director, Air Division (Attn: AIR-1)  
EPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

2. Any owner or operator subject to the provisions of this part shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative [40 CFR § 60.7(b)].
3. The availability to the public of information provided to, or otherwise obtained by, the EPA Administrator under this permit shall be governed by 40 CFR § 2 (Information submitted voluntarily to the Administrator for the purposes of compliance with 40 CFR §§ 60.5 and 60.6 is governed by 40 CFR §§ 2.201 through § 2.213 and not by 40 CFR § 2.301.) [40 CFR § 60.9].
4. Compliance with the standards listed in Conditions II.B and II.C of this permit shall be determined in accordance with performance tests established by 40 CFR § 60.8, unless otherwise specified [40 CFR § 60.11(a)].

5. At all times, including periods of startup, shutdown, and malfunction, the permittee shall, to the extent practicable, maintain and operate the affected facilities including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source [40 CFR § 60.11(d)].
6. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in 40 CFR § 60, nothing in 40 CFR § 60 shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed [40 CFR § 60.11(g)].
7. No owner or operator subject to the provisions of 40 CFR § 60 shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere [40 CFR § 60.12].
8. With respect to compliance with all New Source Performance Standards (NSPS) of 40 CFR § 60, the permittee shall comply with the “General notification and reporting requirements” found in 40 CFR § 60.19 [40 CFR § 60.19].
9. The permittee shall provide written notification to NNEPA and U.S. EPA or, if acceptable to NNEPA, U.S. EPA and the permittee, electronic notification of any reconstruction of an affected facility, or any physical or operational change to an affected facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under this permit or in 40 CFR § 60.14(e), in accordance with 40 CFR § 60.7 [40 CFR § 60.7(a)].

## **II.B. NSPS General Control Device Requirements, 40 CFR § 60.18**

The Permittee shall comply with the following requirements for the candlestick flare (EU 17) in accordance with 40 CFR § 60.18 and Condition II.C of this permit

- (a)(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (d), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.

- (2) Flares shall be operated with a flame present at all times, as determined by the methods specified in paragraph (d).
- (3) An owner/operator has the choice of adhering to either the heat content specifications in paragraph (a)(3)(ii) of this section and the maximum tip velocity specifications in paragraph (a)(4) of this section, or adhering to the requirements in paragraph (a)(3)(i) of this section.

(i)(A) Flares shall be used that have a diameter of 3 inches or greater, are nonassisted, have a hydrogen content of 8.0 percent (by volume), or greater, and are designed for and operated with an exit velocity less than 37.2 m/sec (122 ft/sec) and less than the velocity,  $V_{max}$ , as determined by the following equation:

$$V_{max}=(X_{H2}-K_1)* K_2$$

Where:

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

$K_1$  = Constant, 6.0 volume-percent hydrogen.

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

$X_{H2}$  = The volume-percent of hydrogen, on a wet basis, as calculated by using the American Society for Testing and Materials (ASTM) Method D1946-77. (Incorporated by reference as specified in §60.17).

(B) The actual exit velocity of a flare shall be determined by the method specified in paragraph (d)(4) of this section.

- (ii) Flares shall be used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in paragraph (d)(3) of this section.
- (4)(i) Steam-assisted and nonassisted flares shall be designed for and operated with an exit velocity, as determined by the methods specified in paragraph (d)(4) of this section, less than 18.3 m/sec (60 ft/sec), except as provided in paragraphs (a)(4) (ii) and (iii) of this section.
- (ii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (d)(4), equal to or greater than 18.3 m/sec (60 ft/sec) but less than 122 m/sec (400 ft/sec) are allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).
- (iii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (d)(4), less than the velocity,  $V_{max}$ , as determined by the method specified in paragraph (d)(5), and less than 122 m/sec (400 ft/sec) are allowed.

- (5) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity,  $V_{max}$ , as determined by the method specified in paragraph (d)(6).
- (6) Flares used to comply with this section shall be steam-assisted, air-assisted, or nonassisted.
- (b) Owners or operators of flares used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs. Applicable subparts will provide provisions stating how owners or operators of flares shall monitor these control devices.
- (c) Flares used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.
- (d)(1) Method 22 of appendix A to this part shall be used to determine the compliance of flares with the visible emission provisions of this subpart. The observation period is 2 hours and shall be used according to Method 22.
- (2) The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.
- (3) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

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

where:

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

$$K = \text{Constant, } 1.740 \times 10^{-7} \left( \frac{1}{\text{ppm}} \right) \left( \frac{\text{g mole}}{\text{scm}} \right) \left( \frac{\text{MJ}}{\text{kcal}} \right)$$

where the standard temperature for  $\left( \frac{\text{g mole}}{\text{scm}} \right)$  is 20°C;

- $C_i$  = Concentration of sample component  $i$  in ppm on a wet basis, as measured for organics by Reference Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946–77 or 90 (Reapproved 1994) (Incorporated by reference as specified in §60.17); and
- $H_i$  = Net heat of combustion of sample component  $i$ , kcal/g mole at 25 °C and 760 mm Hg. The heats of combustion may be determined using ASTM D2382–76 or 88 or D4809–95 (incorporated by reference as specified in §60.17) if published values are not available or cannot be calculated.
- (4) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by Reference Methods 2, 2A, 2C, or 2D as appropriate; by the unobstructed (free) cross sectional area of the flare tip.
- (5) The maximum permitted velocity,  $V_{max}$ , for flares complying with paragraph (a)(4)(iii) shall be determined by the following equation.

$$\text{Log}_{10}(V_{\text{max}})=(H_{\text{T}}+28.8)/31.7$$

$V_{\text{max}}$  = Maximum permitted velocity, M/sec

28.8 = Constant

31.7 = Constant

$H_{\text{T}}$  = The net heating value as determined in paragraph (d)(3).

- (6) The maximum permitted velocity,  $V_{\text{max}}$ , for air-assisted flares shall be determined by the following equation.

$$V_{\text{max}} = 8.706+0.7084 (H_{\text{T}})$$

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

8.706 = Constant

0.7084 = Constant

$H_{\text{T}}$  = The net heating value as determined in paragraph (d)(3).

## II.C. NSPS Requirements (Unit ID No. 17 only)

### A. 40 CFR Part 60, Subpart NNN

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart NNN, included as Appendix A of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart NNN for the vapor recovery unit (Unit 11), Mega train (“B”) Depropanizer Distillation Unit and the Butamer De isobutanizer reactors regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

- (1) 40 CFR §60.660 (Applicability and designation of affected facilities)
- (2) 40 CFR §60.661 (Definitions)
- (3) 40 CFR §60.662(b) (Standards)
- (4) 40 CFR §60.663(b) Monitoring of emissions and operations)
- (5) 40 CFR §60.664(a),(d) and (e) (Test methods and procedures)
- (6) 40 CFR §60.665(b)(3) (Reporting and recordkeeping requirements)
- (7) 40 CFR §60.665(f) (Reporting and recordkeeping requirements)
- (8) 40 CFR §60.665(l)(4) (Reporting and recordkeeping requirements)
- (9) 40 CFR §60.666 (Reconstruction)
- (10) 40 CFR §60.667 (Chemicals affected by Subpart NNN)

### B. 40 CFR Part 60, Subpart RRR

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart RRR, included as Appendix B of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart RRR for the vapor recovery unit (Unit 11), isobutanizer

reactors regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

- (1) 40 CFR §60.700 (Applicability and designation of affected facility)
- (2) 40 CFR §60.701 (Definitions)
- (3) 40 CFR §60.702(b) (Standards)
- (4) 40 CFR §60.703(b) (Monitoring of emissions and operations)
- (5) 40 CFR §60.704(a),(c) and (d) (Test methods and procedures)
- (6) 40 CFR §60.705(b)(3) (Reporting and recordkeeping requirements)
- (7) 40 CFR §60.705(d) and (e) (Reporting and recordkeeping requirements)
- (8) 40 CFR §60.705(l)(3),(7) (Reporting and recordkeeping requirements)
- (9) 40 CFR §60.705(s) (Reporting and recordkeeping requirements)
- (10) 40 CFR §60.706 (Reconstruction)
- (11) 40 CFR §60.707 (Chemicals affected by subpart RRR)

C. 40 CFR Part 60, Subpart KKK

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart KKK, included as Appendix C of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart KKK for the vapor recovery unit (Unit 11), the truck rack loading system (Unit 16), and the butamer unit (Unit 18) regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

- (1) 40 CFR §60.633(g) (Exceptions)

**II.D. Monitoring and Testing Requirements** [40 CFR § 71.6(a)(3)(i)(B) and (C); 71.6(a)(3)(ii); 71.6 (c)(1)]

- A. At least once per calendar year, the Permittee shall conduct a performance test utilizing Method 22 (Smoke Emissions From Flares) in order to determine compliance with Condition II.B(a)(1) when the equipment associated with Conditions II.C.A, II.C.B or II.C.C are venting gas to the flare. The observer must be knowledgeable with respect to the general procedures for determining the presence of visible emissions. At a minimum, the observer must be trained and knowledgeable regarding the effects of background contrast, ambient lighting, observer position relative to lighting, wind, and the presence of uncombined water (condensing water vapor) on the visibility of emissions. Smoke emissions are defined as a pollutant generated by combustion in a flare and occurring immediately downstream of the flame. Smoke occurring within the flame, but not downstream of the flame, is not considered a smoke emission. The observation period shall be 2 hours.
- B. For each Method 22 observation, the observer shall record and maintain records of the following:
  - (1) the date and time of the observation and the name of the observer;
  - (2) the unit ID number;

- (3) whether or not the emission unit(s) were operating;
  - (4) statement of whether visible emissions were detected, and if so, whether they were observed continuously or intermittently; and
  - (5) the results of the Method 22 observation.
- C. The Permittee shall retain records of such compliance testing and present such records upon request.
- D. In order to demonstrate compliance with Condition II.B.(a)(2), the Permittee shall monitor the continuous presence of a flame using the method outlined in Condition II.B(d)(2).

**II.E. Operational Flexibility**

**Clean Air Act §502(b)(10) Changes [40 CFR § 71.6(a)(13)(i)]**

- A. The Permittee is allowed to make a limited class of changes under Clean Air Act § 502(b)(10) within this permitted facility that contravene the specific terms of this permit without applying for a permit revision, provided the changes do not result in exceedances of the emissions allowable under this permit (whether expressed therein as a rate of emissions or in terms of total emissions) and are not Clean Air Act Title I modifications. This class of changes does not include:
- (1) Changes that would violate applicable requirements; or
  - (2) Changes that would contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- B. The permittee is required to send a notice to EPA Region 9 and NNEPA at least 7 days in advance of any change made under this provision. The notice must describe the change, when it will occur and any change in emissions, and identify any permit terms or conditions made inapplicable as a result of the change. The permittee shall attach each notice to its copy of this permit.
- C. Any permit shield provided in this permit does not apply to changes made under this provision.

### **III. Facility-Wide or Generic Permit Requirements**

Conditions in this section of the permit (Section III) apply to all emissions units located at the facility [See 40 CFR § 71.6(a)(1)].

#### **III.A. Recordkeeping Requirements [40 CFR § 71.6 (a)(3)(ii)]**

In addition to the unit specific recordkeeping requirements derived from the applicable requirements for each individual unit and contained in Section II, the permittee shall comply with the following generally applicable recordkeeping requirements:

1. The permittee shall keep records of required monitoring information that include the following:
  - a. The date, place, and time of sampling or measurements;
  - b. The date(s) analyses were performed;
  - c. The company or entity that performed the analyses;
  - d. The analytical techniques or methods used;
  - e. The results of such analyses; and
  - f. The operating conditions as existing at the time of sampling or measurement.
2. The permittee shall retain records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit.
3. The permittee shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR Part 60 recorded in a permanent form suitable for inspection. The file shall be retained for at least five years following the date of such measurements, maintenance, reports and records [40 CFR § 71.6(a)(3)(ii), 40 CFR § 60.7(f)].

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

1. The permittee shall submit to NNEPA and U.S. EPA Region 9 reports of any monitoring required under 40 CFR § 71.6(a)(3)(i)(A), (B), or (C) each six month reporting period from January 1 to June 30 and from July 1 to December 31, except that the first reporting period shall cover the period from the effective date of this Part 71 permit through December 31, 2009. All reports shall be submitted to NNEPA and U.S. EPA and shall be postmarked by the 30<sup>th</sup> day following the end of the reporting period. All instances of deviations from permit requirements

must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Condition IV.E of this permit.

- a. A monitoring report under this section must include the following:
  - i. The company name and address.
  - ii. The beginning and ending dates of the reporting period.
  - iii. The emissions unit or activity being monitored.
  - iv. The emissions limitation or standard, including operational requirements and limitations (such as parameter ranges), specified in the permit for which compliance is being monitored.
  - v. All instances of deviations from permit requirements, including those attributable to upset conditions as defined in the permit and including exceedances as defined under 40 CFR Part 64, and the date on which each deviation occurred.
  - vi. If the permit requires continuous monitoring of an emissions limit or parameter range, the report must include the total operating time of the emissions unit during the reporting period, the total duration of excess emissions or parameter exceedances during the reporting period, and the total downtime of the continuous monitoring system during the reporting period.
  - vii. If the permit requires periodic monitoring, visual observations, work practice checks, or similar monitoring, the report shall include the total time when such monitoring was not performed during the reporting period and at the source's discretion either the total duration of deviations indicated by such monitoring or the actual records of deviations.
  - viii. All other monitoring results, data, or analyses required to be reported by the applicable requirement.
  - ix. The name, title, and signature of the responsible official who is certifying to the truth, accuracy, and completeness of the report.
- b. Any report required by an applicable requirement that provides the same information described in paragraph III.C(1)(a)(i) through (ix) above shall satisfy the requirement under III.C(1)(a).
- c. "Deviation" means any situation in which an emissions unit fails to meet a permit term or condition. A deviation is not always a violation. A

deviation can be determined by observation or through review of data obtained from any testing, monitoring, or record keeping established in accordance with 40 CFR §§ 71.6(a)(3)(i) and (a)(3)(ii). For a situation lasting more than 24 hours, each 24-hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:

- (i) A situation when emissions exceed an emission limitation or standard;
- (ii) A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met;
- (iii) A situation in which observations or data collected demonstrate noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit.
- (iv) A situation in which an exceedance, as defined in the compliance assurance plan (40 CFR Part 64), occurs.

- 2. The permittee shall promptly report to the NNEPA and U.S. EPA Region IX deviations from permit requirements, including those attributable to upset conditions as defined in this permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. "Prompt" is defined as follows:
  - a. Any definition of "Prompt" or a specific timeframe for reporting deviations provided in an underlying applicable requirement as identified in this permit;
  - b. Where the underlying applicable requirement does not define prompt or provide a timeframe for reporting deviations, reports of deviations shall be submitted based on the following schedule:
    - i. For emissions of a hazardous air pollutant or a toxic air pollutant(as identified in the applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made within 24 hours of the occurrence.
    - ii. For emissions of any regulated pollutant excluding a hazardous air pollutant or a toxic air pollutant that continue for more than two hours in excess of permit requirements, the report must be made within 48 hours of the occurrence.

- iii. For all other deviations from permit requirements, the report shall be submitted with the semi-annual monitoring report required in paragraph III.C(1) of this permit.
3. If any of the Conditions in III.C(2)(b)(i) or (ii) of this permit are met, the source must notify NNEPA and U.S. EPA by telephone, facsimile, or electronic mail sent to charlenenelson@navajo.org and r9.aeo@epa.gov, based on the timetable listed. A written notice, certified consistent with paragraph III.C(4) of this permit, must be submitted within 10 working days of the occurrence. All deviations reported under this section must also be identified in the 6-month report required under paragraph III.C(1) of this permit.
4. Any application form, report, or compliance certification required to be submitted by this permit shall contain certification by a responsible official of truth, accuracy, and completeness. All certifications shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

### **III.C. Stratospheric Ozone and Climate Protection [40 CFR Part 82]**

1. The permittee shall comply with the standards for labeling of products using ozone-depleting substances pursuant to 40 CFR Part 82, Subpart E:
  - a. All containers in which a Class I or Class II substance is stored or transported, all products containing a Class I substance, and all products directly manufactured with a Class I substance must bear the required warning statement if it is being introduced into interstate commerce pursuant to 40 CFR § 82.106.
  - b. The placement of the required warning statement must comply with the requirements pursuant to 40 CFR § 82.108.
  - c. The form of the label bearing the required warning statement must comply with the requirements pursuant to 40 CFR § 82.110.
  - d. No person may modify, remove, or interfere with the required warning statement except as described in 40 CFR § 82.112.
2. The permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 CFR Part 82, Subpart F, except as provided for motor vehicle air conditioners (MVACs) in Subpart B:
  - a. Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to 40 CFR § 82.156.

- b. Equipment used during maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to 40 CFR § 82.158.
  - c. Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to 40 CFR § 82.161.
  - d. Persons disposing of small appliances, MVACs, and MVAC-like appliances (as defined at 40 CFR § 82.152) must comply with recordkeeping requirements pursuant to 40 CFR § 82.166.
  - e. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements pursuant to 40 CFR § 82.156.
  - f. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of when the refrigerant was purchased and added to such appliances pursuant to 40 CFR § 82.166.
3. If the permittee manufactures, transforms, destroys, imports, or exports a Class I or Class II substance, the permittee is subject to all the requirements as specified in 40 CFR Part 82, Subpart A, Production and Consumption Controls.
  4. If the permittee performs a service on motor (fleet) vehicles when this service involves ozone-depleting substance refrigerant (or regulated substitute substance) in the MVAC, the permittee is subject to all the applicable requirements as specified in 40 CFR Part 82, Subpart B, Servicing of Motor Vehicle Air Conditioners. The term "motor vehicle" as used in Subpart B does not include a vehicle in which final assembly of the vehicle has not been completed. The term "MVAC" as used in Subpart B does not include the air-tight sealed refrigeration system used as refrigerated cargo, or system used on passenger buses using HCFC-22 refrigerant.
  5. The permittee shall be allowed to switch from any ozone-depleting substance to any alternative that is listed in the Significant New Alternatives Program (SNAP) promulgated pursuant to 40 CFR Part 82, Subpart G.

**III.D. Asbestos from Demolition and Renovation** [40 CFR Part 61, Subpart M]

The permittee shall comply with the requirements of Sections 61.140 through 61.157 of the National Emission Standard for Asbestos for all demolition and renovation projects [40 CFR Part 61, Subpart M].

**III.E. Chemical Accident Prevention** [Clean Air Act Sections 112(r)(1), 112(r)(3), 112(r)(7) & 40 CFR Part 68]

1. The following activities are considered essential and necessary to satisfy the general duty requirements of Section 112(r)(1) of the Act:
  - a. Identify hazards which may result from accidental releases using appropriate hazard assessment techniques.
  - b. Design, maintain, and operate a safe facility.
  - c. Minimize the consequences of accidental releases if they occur.
2. This facility is subject to 40 CFR Part 68 and shall certify annual compliance with all requirements of 40 CFR Part 68, including compliance with the risk management plan (RMP) submitted to USEPA Region IX. [40 CFR § 68.215]

**III.F. Compliance Schedule** [40 CFR § 71.5(c)(8)(iii) and § 71.6(c)(3)]

1. For applicable requirements with which the source is in compliance, the source will continue to comply with such requirements.
2. For applicable requirements that will become effective during the permit term, the source shall meet such requirements on a timely basis.

#### **IV. Title V Administrative Requirements**

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

1. The permittee shall pay an annual permit fee in accordance with the procedures outlined below. [NNOPR §§ 603(A) and (B)]
  - a. The permittee shall pay the annual permit fee by September 1 of each year.
  - b. Fee payments shall be remitted in the form of a money order or certified check made payable to the Navajo Nation Environmental Protection Agency.
  - c. The permittee shall send the fee payment to:

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

2. The permittee shall submit a fee calculation worksheet form with the annual permit fee by September 1 of each year. Calculations of actual or estimated emissions and calculation of the fees owed shall be computed on the fee calculation worksheets provided by the EPA. Fee payment of the full amount must accompany each fee calculation worksheet. [40 CFR § 71.6(a)(7) and § 71.9(e)(1)] [NNOPR § 603(A)]
3. The fee calculation worksheet shall be certified by a responsible official consistent with 40 CFR § 71.5(d). [40 CFR § 71.6(a)(7) and § 71.9(e)(3)]
4. Basis for calculating annual fee:

The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all fee pollutants emitted from the source by the applicable emissions fee (in dollars/ton) in effect at the time of calculation. Emissions of any regulated air pollutant that already are included in the fee calculation under a category of regulated pollutant, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM10, shall be counted only once in determining the source's actual emissions. [NNOPR § 602(A) and (B)(1)]

- a. "Actual emissions" means the actual rate of emissions in tpy of any fee pollutant emitted from a part 71 source over the preceding calendar year. Actual emissions shall be calculated using each emissions unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar

year. Actual emissions shall not include emissions of any one fee pollutant in excess of 4,000 TPY, or any emissions that come from insignificant activities [NNOPR § 102(5)].

- b. Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data [40 CFR § 71.6(a)(7) and § 71.9(e)(2)].
  - c. If actual emissions cannot be determined using the compliance methods in the permit, the permittee shall use other federally recognized procedures [40 CFR § 71.6(a)(7) and § 71.9(e)(2)].
  - d. The term “fee pollutant” is defined in NNOPR § 102(24).
  - e. The term “regulated air pollutant” is defined in NNOPR § 102(50), except that for purposes of this permit the term does not include any pollutant that is regulated solely pursuant to 4 N.N.C. § 1121 nor does it include any hazardous air pollutant designated by the Director pursuant to 4 N.N.C. § 1126(B).
  - f. The permittee should note that the applicable fee is revised each year to account for inflation, and it is available from NNEPA starting on March 1 of each year.
  - g. The total annual fee due shall be the greater of the applicable minimum fee and the sum of subtotal annual fees for all fee pollutants emitted from the source. [NNOPR § 602(B)(2)]
5. The permittee shall retain, in accordance with the provisions of 40 CFR § 71.6(a)(3)(ii), all fee calculation worksheets and other emissions-related data used to determine fee payment for 5 years following submittal of fee payment. Emission-related data include, for example, emissions-related forms provided by NNEPA and used by the permittee for fee calculation purposes, emissions-related spreadsheets, and records of emissions monitoring data and related support information required to be kept in accordance with 40 CFR § 71.6(a)(3)(ii) [40CFR § 71.6(a)(7) and § 71.9(i)].
  6. Failure of the permittee to pay fees in a timely manner shall subject the permittee to assessment of penalties and interest in accordance with NNOPR § 603(C).
  7. When notified by NNEPA of underpayment of fees, the Permittee shall remit full payment within 30 days of receipt of notification [40 CFR § 71.9(j)(2)].
  8. A Permittee who thinks an NNEPA assessed fee is in error and wishes to challenge such fee shall provide a written explanation of the alleged error to NNEPA along with full payment of the NNEPA assessed fee [CFR § 71.9(j)(3)].

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

1. The permittee must comply with all conditions of this Part 71 permit. Any permit noncompliance, including, but not limited to, violation of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to this part constitutes a violation of the Clean Air Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit [40 CFR § 71.6(a)(6)(i) and (ii)].
2. Determinations of deviations, continuous or intermittent compliance status, or violations of this permit are not limited to the applicable testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered in such determinations. [Clean Air Act § 113(a) and (e)(1), 40 CFR § 51.212, § 52.12, § 52.33, § 60.11(g), and § 61.12]

**IV.C. Compliance Certifications** [40 CFR § 71.6(c)(5)] [NNOPR § 302(I)]

1. The permittee shall submit to NNEPA and U.S. EPA Region 9 a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 and covering the previous calendar year, except that the first certification period shall cover the period from January 1, 2009 through December 31, 2009 and the certification shall be postmarked by January 30, 2010. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit and 40 CFR § 71.5(d) [40 CFR § 71.6(c)(5)].
2. The permittee shall submit to NNEPA a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by July 30 and covering the previous six (6) months, except that the first certification period shall cover the period from January 1, 2009 through June 30, 2009. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit. This condition is enforceable by NNEPA only [NNOPR § 302(I)].
3. The certification shall include the following:

- a. Identification of each permit term or condition that is the basis of the certification.
- b. Identification of the method(s) or other means used for determining the compliance status of each term and condition during the certification period. If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information.
- c. The compliance status of each term and condition of the permit for the period covered by the certification based on the method or means designated above. The certification shall identify each deviation and take it into account in the compliance certification.
- d. Whether compliance with each permit term was continuous or intermittent.

**IV.D. Duty to Provide and Supplement Information** [40 CFR § 71.6(a)(6)(v), 40 CFR § 71.5(b)] [NNOPR § 301(E)]

The permittee shall furnish to NNEPA and U.S. EPA Region 9, within a reasonable time, any information that NNEPA and U.S. EPA Region 9 may request in writing to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to NNEPA and U.S. EPA Region 9 copies of records that are required to be kept pursuant to the terms of the permit, including information claimed to be confidential. Information claimed to be confidential should be accompanied by a claim of confidentiality according to the provisions of 40 CFR 2, Subpart B. The permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall promptly submit such supplementary facts or corrected information. The permittee shall also provide additional information as necessary to address any requirements that become applicable to the facility after this permit is issued.

**IV.E. Submissions** [NNOPR §§ 702 and 703] [40 CFR § 71.5(d), § 71.6, and § 71.9]

Any document required to be submitted with this permit shall be certified by a responsible official as to truth, accuracy, and completeness. Such certifications shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. All documents required to be submitted, including reports, test data, monitoring data, notifications, compliance certifications, fee calculation worksheets, and applications for renewals and permit modifications shall be submitted to NNEPA and U.S. EPA Region 9:

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

and

Director, Air Division (Attn: AIR-1)  
EPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

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

The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.

**IV.G. Permit Actions** [40 CFR § 71.6(a)(6)(iii)] [NNOPR § 406]

This permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**IV.H Administrative Permit Amendments** [40 CFR § 71.7(d)] [NNOPR § 405(C)]

The permittee may request the use of administrative permit amendment procedures for a permit revision that:

1. Corrects typographical errors;
2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
3. Requires more frequent monitoring or reporting by the permittee;
4. Allows for a change in ownership or operational control of a source where the NNEPA determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the NNEPA;
5. Incorporates into the Part 71 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of 40 CFR § 71.7 and § 71.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in 40 CFR § 71.6; or

6. Incorporates any other type of change which NNEPA has determined to be similar to those listed above in subparagraphs (1) through (5).

**IV.I. Minor Permit Modifications** [40 CFR § 71.7(e)(1)] [NNOPR § 405(D)]

1. The permittee may request the use of minor permit modification procedures only for those modifications that:
  - a. Do not violate any applicable requirement.
  - b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit.
  - c. Do not require or change a case-by-case determination of an emissions limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.
  - d. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
    - i. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and
    - ii. An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act.
  - e. Are not modifications under any provision of Title I of the Clean Air Act.
  - f. Are not required to be processed as a significant modification.
2. Notwithstanding the list of changes eligible for minor permit modification procedures in paragraph (1) above, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.
3. An application requesting the use of minor permit modification procedures shall meet the requirements of 40 CFR § 71.5(c) and shall include the following:

- a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
  - b. The source's suggested draft permit;
  - c. Certification by a responsible official, consistent with 40 CFR § 71.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and
  - d. Completed forms for the permitting authority to use to notify affected States as required under 40 CFR § 71.8.
4. The permittee may make the change proposed in its minor permit modification application immediately after it files such application. After the permittee makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by 40 CFR § 71.7(e)(1)(iv)(A) through (C), the permittee must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify. However, if the permittee fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
5. The permit shield under 40 CFR § 71.6(f) shall not extend to minor permit modifications [See 40 CFR § 71.7(e)(1)(vi)].

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

1. Group processing of modifications by NNEPA may be used only for those permit modifications:
- a. That meet the criteria for minor permit modification procedures under paragraph IV.I.1 of this permit; and
  - b. That collectively are below the threshold level of 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in 40 CFR § 71.2, or 5 tons per year, whichever is least.
2. An application requesting the use of group processing procedures shall be submitted to EPA and NNEPA, shall meet the requirements of 40 CFR § 71.5(c), and shall include the following:
- a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

- b. The source's suggested draft permit.
  - c. Certification by a responsible official, consistent with 40 CFR § 71.5(d), that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.
  - d. A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under Condition IV.(J)(1)(b) above.
  - e. Completed forms for the permitting authority to use to notify affected States as required under 40 CFR § 71.8.
3. The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by 40 CFR § 71.7(e)(1)(iv)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
  4. The permit shield under 40 CFR § 71.6(f) shall not extend to group processing of minor permit modifications [See 40 CFR § 71.7(e)(1)(vi)].

**IV.K. Significant Permit Modifications** [40 CFR § 71.7(e)(3)] [NNOPR § 405(E)]

1. The permittee must request the use of significant permit modification procedures for those modifications that:
  - a. Do not qualify as minor permit modifications or as administrative amendments;
  - b. Are significant changes in existing monitoring permit terms or conditions; or
  - c. Are relaxations of reporting or recordkeeping permit terms or conditions.
2. Nothing herein shall be construed to preclude the permittee from making changes consistent with Part 71 that would render existing permit compliance terms and conditions irrelevant.

3. The permittee must meet all requirements of Part 71 for applications for significant permit modifications. For the application to be determined complete, the permittee must supply all information that is required by 40 CFR § 71.5(c) for permit issuance and renewal, but only that information that is related to the proposed change [See 40 CFR §§ 71.7(e)(3)(ii) and 40 CFR § 71.5(a)(2)].

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

NNEPA shall reopen and revise the permit prior to expiration under any of the following circumstances:

1. Additional requirements under the Act become applicable to a major Part 71 source with a remaining permit term of 3 or more years.
2. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.
3. NNEPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
4. NNEPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

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

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

**IV.N. Inspection and Entry** [40 CFR § 71.6(c)(2)] [NNOPR § 302(I)]

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized representatives from NNEPA and U.S. EPA to perform the following:

1. Enter upon the permittee's premises where a Part 71 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

4. As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

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

1. In addition to any emergency or upset provision contained in any applicable requirement, the permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, the permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;
  - b. the permitted facility was at the time being properly operated;
  - c. during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and
  - d. the permittee submitted notice of the emergency to EPA and NNEPA within 2 working days of the time when emissions limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. This notice fulfills the requirements of Condition III.C(2) of this permit.
  - e. In any enforcement proceeding the permittee attempting to establish the occurrence of an emergency has the burden of proof.
2. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emissions limitation under the permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

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

A change in ownership or operational control of this facility may be treated as an administrative permit amendment if the NNEPA determines no other change in this permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to NNEPA.

**IV.Q. Off Permit Changes** [40 CFR § 71.6(a)(12)] [NNOPR § 404(B)]

The permittee is allowed to make certain changes without a permit revision, provided that the following requirements are met:

1. Each change is not addressed or prohibited by this permit;
2. Each change must comply with all applicable requirements and may not violate any existing permit term or condition;
3. Changes under this provision may not include changes or activities subject to any requirement under Title IV or that are modifications under any provision of Title I of the Clean Air Act;
4. The permittee must provide contemporaneous written notice to NNEPA and U.S. EPA Region 9 of each change, except for changes that qualify as insignificant activities under 40 CFR § 71.5(c)(11). The written notice must describe each change, the date of the change, any change in emissions, pollutants emitted and any applicable requirements that would apply as a result of the change;
5. The permit shield does not apply to changes made under this provision; and
6. The permittee must keep a record describing all changes that result in emissions of any regulated air pollutant subject to any applicable requirement not otherwise regulated under this permit, and the emissions resulting from those changes.

**IV.R. Permit Expiration and Renewal** [40 CFR §§ 71.5(a)(1)(iii), 71.6(a)(11), 71.7(b), 71.7(c)(1)(i) and (ii), and 71.8(d)]

1. This permit shall expire upon the earlier occurrence of the following events:
  - a. up to twelve (12) years elapses from the date of issuance to a solid waste incineration unit combusting municipal waste subject to standards under section 129 of the Clean Air Act; or
  - b. for sources other than those identified in subparagraph IV.R(1)(a) above, five (5) years elapses from the date of issuance; or
  - c. the source is issued a Part 70 permit by an EPA-approved permitting authority.

2. Expiration of this permit terminates the permittee's right to operate unless a timely and complete permit renewal application has been submitted on or before a date 6 months, but not more than 18 months, prior to the date of expiration of this permit.
3. If the permittee submits a timely and complete permit application for renewal consistent with 40 CFR § 71.5(a)(2), but the permitting authority has failed to issue or deny the renewal permit, then the permit shall not expire until the renewal permit has been issued or denied and any permit shield granted pursuant to 40 CFR § 71.6(f) may extend beyond the original permit term until renewal.
4. The permittee's failure to have a Part 71 permit is not a violation of this part until NNEPA takes final action on the permit renewal application. This protection shall cease to apply if, subsequent to the completeness determination, the permittee fails to submit any additional information identified as being needed to process the application by the deadline specified in writing by NNEPA.
5. Renewal of this permit is subject to the same procedural requirements that apply to initial permit issuance, including those for public participation, affected State, and tribal review.
6. The application for renewal shall include the current permit number, description of permit revisions and off-permit changes that occurred during the permit term, any applicable requirements that were promulgated and not incorporated into the permit during the permit term, and other information required by the application form.

**The following administrative requirements apply to the candlestick flare:**

**IV.S. Malfunction**

NNEPA and US EPA Region 9 shall be notified by telephone within 48 hours following any failure of the candlestick flare to operate in a normal manner if such failure results in an increase in emissions. In addition, NNEPA and US EPA Region 9 shall be notified in writing within fifteen (15) days of any such failure. This notification shall include a description of the malfunction or abnormal operation, the date of the initial failure, the period of time of the failure, the cause of the failure, the estimated resultant emissions and the methods utilized to restore normal operations. Compliance with this malfunction notification provision shall not excuse or otherwise constitute a defense to any violations of this permit or of any law or regulations which such malfunction may cause.



**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY**

**Navajo Nation Air Quality Control Program**

Rt. 112 North/Building F004-051  
PO Box 529, Fort Defiance, AZ 86504  
Tel. (928) 729-4246; Fax (928) 729-4323



**Detail Information**

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**Permitting Authority:** Navajo Nation Environmental Protection Agency

**County:** Mc Kinley

**State:** NM

**AFS Plant ID:** 35-031-84232

**Facility:** ConocoPhillips Company (Wingate Fractionating Plant Candlestick Flare)

**Document Type:** Final Statement of Basis

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PART 71 FEDERAL OPERATING PERMIT  
STATEMENT OF BASIS  
ConocoPhillips Company Wingate Fractionating Plant

Permit No. NN OP 05-011

**1. Facility Information**

**a. Permittee**

ConocoPhillips Company

**Mailing Address:**

P.O. Box 119  
Rehoboth, NM 87322

**b. Facility location**

The Wingate Fractionating Plant is located at #68 El Paso Circle, Gallup, NM 87301. The facility is 6 miles east of Gallup, New Mexico. The plant is located on private land and is under the jurisdiction of the New Mexico Environment Department (NMED). The candlestick flare, emissions unit 17, is on the reservation of the Navajo Nation, in Section 16 of Township 15-N, Range 17-W. This permit applies only to the candlestick flare.

**c. Contact information**

Technical Contact: Beverly Cox	Telephone 505) 324-6194
Facility Contact: Kim Kamps	Telephone (505) 863-1023
Responsible Official: G. Lane Ayers	Telephone (505) 632-4906
	Facsimile: 505) 632-4930

**d. Description of operation**

ConocoPhillips Company, Wingate plant, is a natural gas fractionating plant. The majority of the plant is on private land under the jurisdiction of the State of New Mexico. However a small portion of this facility, the candlestick flare, is located on land under the jurisdiction of the Navajo Nation. This application addresses the portion of the plant that is located on tribal land, however the potential emissions

from the New Mexico Environment Department Operating Permit No.: P117-R1, issued on April 7, 2008, are referenced. The only piece of equipment located on the Navajo Nation is a candlestick flare; therefore, this permit only applies to that unit. The remainder of the facility is permitted by the New Mexico Environment Department. The facility processes natural gas liquids into different product streams. The Wingate Fractionating Plant as a whole is a major source of VOC emissions, pursuant to 40 C.F.R. Part 71, because the VOC potential to emit (“PTE”) is greater than the 100 tpy major source threshold, considering emissions from both the plant and the potential emissions from the flare. During operation the candlestick flare is a secondary control device receiving hydrocarbons from routine and non-routine activities, including failure or overload of the vapor recovery unit (VRU), which recovers hydrocarbons and directs unrecovered hydrocarbons to the boiler, unit 19, which is a control device for portions of the fractionating plant.

e. **Permitting History**

The ConocoPhillips Company Fractionator was initially constructed in 1952. The New Mexico Environment Department issued a construction permit and a number of subsequent revisions for all of the facility including the candlestick flare, which was constructed in 1972 on the reservation of the Navajo Nation. In 2000 the facility submitted an application identifying the flare (Unit 17) as a major source for VOC based upon previous calculations and data. On December 22, 2001 USEPA Region IX issued a Part 71 permit (NN-OP-00-08) to the facility that covered the candlestick flare unit. NMED also issued revised NSR and Title V permits not including the candlestick flare.

NNEPA received a Part 71 renewal application on May 23, 2005. On February 9, 2009, NNEPA received a revised Part 71 renewal application. As part of the revised Part 71 renewal application, ConocoPhillips revised the PTE of VOC from the flare to reflect maximum historic flare operations, inclusive of a safety factor, instead of an unrealistic assumption of continuous full capacity flaring and resultant product loss. While the resultant PTE of VOC at 34.1 tons per year is greater than that determined in original Part 71 Permit NN-OP-00-08 (i.e., 19.1 tons per year), this increase does not reflect a modification to the flare but is only a correction to the method of computing regulated pollutant emission rates from the flare. Emission calculations submitted by ConocoPhillips in the revised Part 71 renewal application support the revision to the method of calculating PTE of VOC from the flare (see Attachment A to this SOB for emission calculations). This request to modify the permit has been combined with the renewal application.

There are no other emission sources at this portion of the facility, with the exception of fugitive VOC emissions from equipment leaks.

**f. Permitted Emission Units and Control Equipment**

<b>Emission Unit I.D. No.</b>	<b>Unit Description</b>	<b>Maximum Capacity</b>	<b>Associated Control Device</b>	<b>Construction Date</b>
17	Candlestick process flare	63.6 Mscf/hr 25 MMscf/yr (including safety factor)	N/A	10/23/72

**g. Unpermitted Emission Units and Control Equipment**

No unpermitted emission units were found to be operating at this source during this review process.

**h. New Emission Units and Control Equipment**

There are no new emission units or pollution control equipment included in this Part 71 operating permit renewal.

**i. Insignificant Activities**

This stationary source also includes the following insignificant activities as defined in 40 CFR 71.5(c)(11)(ii):

- A. Fugitive VOC emissions from connections, flanges, open-ended lines, valves, and other components associated with the flare.

**j. Enforcement Issues**

There are no enforcement issues pending.

**k. Emission Calculations**

The calculations submitted by the applicant have been verified and found to be accurate and correct. These calculations are provided in Attachment A of this document.

**2. Potential to Emit after Issuance**

Potential to emit (PTE) means the maximum capacity of a facility to emit any air pollutant (Clean Air Act criteria pollutants or hazardous air pollutants) under its physical and operational design. Any physical or operational limitation on the maximum capacity of this plant to emit an air pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted or processed, may be treated as part of its design if the limitation is enforceable by US EPA or NNEPA. Actual emissions may be lower than PTE.

Process/Facility	Potential to Emit (tons/year)						
	PM	PM10	SO <sub>2</sub>	NO <sub>x</sub>	VOC	CO	HAPs
Unit 17 Candlestick flare	0.01	0.01	0.01	5.22	34.13	10.42	< 10 single < 25 total
NMED Op. Permit No.: P117- R1*	4.93	4.93	0.66	394.6	189.9	308.8	< 10 single < 25 total
PTE of Entire Source (NMED + NNEPA)	4.94	4.94	0.67	399.82	224.03	319.22	< 10 single < 25 total
<b>Title V (Part 71) Major Source Thresholds</b>	<b>NA</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>10 for single HAP/25 for total HAPs</b>

\*Note: Potential to emit based on NMED Operating permit No.: P117-R1, issued April 7, 2008. PM is assumed to equal PM10.

- (a) The potential to emit of NO<sub>x</sub>, VOC and CO are equal to or greater than 100 tons per year. Therefore, this source is considered a major source under 40 CFR Part 71 (Federal Operating Permit Program).
- (b) The Wingate Fractionating Plant was constructed in 1952 and the candlestick flare (Unit 17) was constructed in 1972. The Plant is located in an attainment area and it is not in one of the 28 source categories defined in 40 CFR 52.21(b)(1)(iii). The source-wide potential to emit of NO<sub>x</sub> and CO are each greater than 250 tons per year. Therefore, this source is an existing major stationary source under the Prevention of Significant Deterioration (PSD) program.

### 3. Actual Emissions from Unit 17 (candlestick flare)

The following table shows the actual emissions from the source (candlestick flare only). This information reflects the 2007 emission inventory data submitted by the Permittee.

Pollutant	Actual Emissions (tons/year)
PM	not reported
PM10	0.01
SO <sub>2</sub>	0.05
VOC	12.50
NO <sub>x</sub>	2.56
CO	not reported
n-Hexane	0.27
Benzene	0.05
Toluene	0.06
Xylenes	0.01
2,2,4 - TMP	0.03

4. **Tribe Information**

a. **General**

The reservation of the Navajo Nation is the largest Indian reservation in the country, covering more than 26,000 square miles in three states: Arizona, Utah, and New Mexico. The Navajo Nation currently is home to more than 260,000 people. Industries on the reservation include oil and natural gas production and processing, coal and uranium mining, and tourism.

b. **Local air quality and attainment status**

All areas of the Navajo Nation are currently designated as attainment or unclassifiable for all pollutants for which a National Ambient Air Quality Standard (NAAQS) has been established.

5. **Prevention of Significant Deterioration (PSD) Applicability**

ConocoPhillips Wingate Fractionating Plant was originally constructed in 1952, and the candlestick flare, located in Navajo Nation jurisdiction, was constructed in 1972. Modifications to this source are outlined in the Statement of Basis for the Title V renewal permit issued by NMED (Op. Permit No.: P117-R1). This existing source is not one of the 28 listed source categories defined in 40 CFR 52.21(b)(1)(iii) and has the potential to emit NO<sub>x</sub> and CO greater than 250 tons per year. Therefore, this source is an existing PSD major source. Since there have been no major source modifications to the flare, however, the PSD requirements do not apply and therefore are not included in this permit.

6. **Federal Rule Applicability**

USEPA and NNEPA recognize 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.

- (a) **New Source Performance Standard (NSPS) for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants (40 CFR 60.630 – 60.636, Subpart KKK):** Emission units, identified as Unit 11 (vapor recovery unit), Unit 16 (truck rack system) and Unit 18 (butamer unit), located in NMED jurisdiction and regulated under Operating Permit P117-R1, are subject to 40 CFR 60, Subpart KKK. Emissions from the truck rack system and butamer unit are directed to the vapor recovery unit, where hydrocarbons are recovered for re-introduction in to the processing system. Unrecoverable hydrocarbons are directed to the large boiler (unit 19), in normal operation. When there is a failure or overload of the VRU, some or all emissions are directed to the candlestick flare. Under 40 CFR

60.633(g), *flares used to comply with this subpart shall comply with the requirements of 40 CFR 60.18*. Therefore, the requirements of 40 CFR 60.18 have been incorporated into the permit.

(b) New Source Performance Standard (NSPS) - Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations (40 CFR 60, Subpart NNN):

The Mega train (“B”) Depropanizer Distillation Unit, located in NMED jurisdiction and regulated under Operating Permit P117-R1, was constructed or modified after December 30, 1983 and the Butamer De isobutanizer reactors, located in NMED jurisdiction and regulated under Operating Permit P117-R1, were constructed or modified after June 29, 1990. These units are affected facilities under 40 CFR 60, Subpart NNN (see EPA Region 6 applicability determination letter dated 12/14/06).

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart NNN, included as Appendix A of the permit, and 40 CFR 60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart NNN for the Mega train (“B”) Depropanizer Distillation Unit and the Butamer De isobutanizer reactors regulated under New Mexico Environment Department Operating Permit P117-R1:

- (1) 40 CFR §60.660 (Applicability and designation of affected facilities)
- (2) 40 CFR §60.661 (Definitions)
- (3) 40 CFR §60.662(b) (Standards)
- (4) 40 CFR §60.663(b) Monitoring of emissions and operations)
- (5) 40 CFR §60.664(a),(d) and (e) (Test methods and procedures)
- (6) 40 CFR §60.665(b)(3) (Reporting and recordkeeping requirements)
- (7) 40 CFR §60.665(f) (Reporting and recordkeeping requirements)
- (8) 40 CFR §60.665(l)(4) (Reporting and recordkeeping requirements)
- (9) 40 CFR §60.666 (Reconstruction)
- (10) 40 CFR §60.667 (Chemicals affected by Subpart NNN)

(c) New Source Performance Standard (NSPS) - Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes (40 CFR 60, Subpart RRR):

The isobutanizer reactors, located in NMED jurisdiction and regulated under Operating Permit P117-R1, were constructed or modified after June 29, 1990 and are affected facilities subject to 40 CFR 60, Subpart RRR (see EPA Region 6 applicability determination letter dated 12/14/06).

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart RRR, included as Appendix B of the permit, and 40 CFR 60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17)

to comply with Subpart RRR for the isobutanizer reactors regulated under New Mexico Environment Department Operating Permit P117-R1:

- (1) 40 CFR §60.700 (Applicability and designation of affected facility)
- (2) 40 CFR §60.701 (Definitions)
- (3) 40 CFR §60.702(b) (Standards)
- (4) 40 CFR §60.703(b) (Monitoring of emissions and operations)
- (5) 40 CFR §60.704(a),(c) and (d) (Test methods and procedures)
- (6) 40 CFR §60.705(b)(3) (Reporting and recordkeeping requirements)
- (7) 40 CFR §60.705(d) and (e) (Reporting and recordkeeping requirements)
- (8) 40 CFR §60.705(l)(3),(7) (Reporting and recordkeeping requirements)
- (9) 40 CFR §60.705(s) (Reporting and recordkeeping requirements)
- (10) 40 CFR §60.706 (Reconstruction)
- (11) 40 CFR §60.707 (Chemicals affected by subpart RRR)

(d) New Source Performance Standard (NSPS) – General Provisions (40 CFR Part 60, Subpart A):

This source is subject to the General Provisions of 40 CFR Part 60, Subpart A. As such, the requirements of § 60.18, general control device and work practice requirements for the flare, have been incorporated into the permit. The Permittee shall continue to comply with these applicable requirements.

(e) Chemical Accident Prevention Program

This source is subject to the Chemical Accident Prevention program regulated under Section 112(r) of the Clean Air Act and 40 CFR Part 68. A risk management plan (“RMP”) has been submitted to USEPA Region VI and applies to the facility as a whole; a separate RMP for the candlestick flare is not required.

(f) Asbestos (40 CFR 61, Subpart M)

The Permittee is subject to the requirements of Subpart M. The applicable requirements are specified in the permit.

(g) There are no National Emission Standards for Hazardous Air Pollutants (NESHAPS) requirements included in this permit.

(h) Pursuant to 40 CFR 64.2, Compliance Assurance Monitoring (CAM) is applicable to new or modified emission units that involve a pollutant-specific emission unit and meet the following criteria:

- (1) has a potential to emit before controls equal to or greater than the major source threshold for the pollutant involved;
- (2) is subject to an emission limitation or standard for that pollutant; and
- (3) uses a control device, as defined in 40 CFR 64.1, to comply with that emission limitation or standard.

The potential to emit of VOC from the flare, which may not be a PSEU since it is a control device in and of itself, is less than 100 tons per year. Therefore CAM does not apply.

**7. Endangered Species Act**

Pursuant to Section 7 of the Endangered Species Act (ESA), 16 U.S.C. § 1536, and its implementing regulations at 50 CFR Part 402, USEPA is required to ensure that any action authorized, funded, or carried out by USEPA is not likely to jeopardize the continued existence of any Federally listed endangered species or threatened species or result in the destruction or adverse modification of such species' designated critical habitat. NNEPA is issuing this federal Part 71 permit to ConocoPhillips for the candlestick flare unit pursuant to a delegation from USEPA. However, this permit does not authorize the construction of new emission units, or emission increases from the existing unit, nor does it otherwise authorize any other physical modifications to the unit or its operations. Therefore, NNEPA and USEPA have concluded that the issuance of this permit will have no effect on listed species or their critical habitat.

**8. Use of 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, NNEPA, and EPA in such determinations.

**9. NNEPA Authority**

On October 15, 2004 USEPA delegated authority to administer the federal Title V operating permits program (Part 71) to the Navajo Nation Environmental Protection Agency. For more information concerning this delegation, please visit the following website: <http://www.epa.gov/region09/air/permit/permitdelegation.html>

**10. Public Participation**

**a. Public Notice**

As described in 40 C.F.R. § 71.11(a)(5) and Navajo Nation Operating Permit Regulations (“NNOPR”) § 403(A), all 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 C.F.R. § 71.11(d) and NNOPR Subpart IV.

There is a 30-day public comment period for actions pertaining to a draft permit. Public notice will be given for this draft permit by mailing a copy of the notice to the permit applicant and the affected states (Arizona and New Mexico). A copy of the notice will also be provided to all persons who submit a written request to the address below to be included on the mailing list.

Charlene Nelson  
Navajo Nation Operating Permit Program  
P.O. Box 529  
Fort Defiance, AZ 86504  
E-mail: [charlenenelson@navajo.org](mailto:charlenenelson@navajo.org)

Public notice will be published in the Gallup Independent, the Navajo Times, and the Farmington Daily Times.

**b. Opportunity for Comment**

Members of the public may review a copy of the draft permit prepared by NNEPA, this statement of basis for the draft permit, the application, and all supporting materials submitted by the source at:

Navajo Nation Air Quality Control Program  
Route 112 North, Bldg No. F004-51  
Fort Defiance, AZ 86504

Copies of the draft permit and this statement of basis can also be obtained free of charge from NNEPA's website: [www.navajonationepa.org/airqty/permits](http://www.navajonationepa.org/airqty/permits)

or by contacting Charlene Nelson at the NNAQCP address listed above or by telephone at (928) 729-4247. All documents will be available for review at the NNAQCP office indicated above during regular business hours.

If you have comments on the draft permit, you must submit them during the 30-day public comment period. All comments received during the public comment period and all comments made at any public hearing will be considered in arriving at a final decision on the permit. The final permit is a public record that can be obtained by request. A statement of reason for changes made to the draft permit and responses to comments received will be sent to persons who commented on the draft permit.

If you believe that any condition of the draft permit is inappropriate, you must raise all reasonably ascertainable issues and submit all argument supporting your position by the end of the comment period. Any supporting documents must be included in full and may not be incorporated by reference, unless they are already part of the administrative record for this permit or consist of tribal, state or federal statutes or regulations, or other generally available referenced materials.

**c. Opportunity to Request a Hearing**

A person may submit a written request for a public hearing to Charlene Nelson, at the address listed above, by stating the nature of the issues to be raised at the public hearing. Based on the number of hearing requests received, NNEPA will hold a public hearing whenever it finds there is a significant degree of public interest in a draft operating permit. If a public hearing is held, NNEPA will

provide public notice of the hearing and any person may submit oral or written statements and data concerning the draft permit.

**d. Mailing List**

If you would like to be added to our mailing list to be informed of future actions on this or other Clean Air Act permits issued on Navajo Nation, please send your name and address to Charlene Nelson at the address listed above.

**ATTACHMENT A - EMISSION CALCULATIONS**



**Public Notice**  
**PROPOSED RENEWAL OF A PART 71 PERMIT**  
**CONOCOPHILIPS COMPANY, WINGATE FRACTIONATING PLANT**  
**LOCATED IN GALLUP, NM**



The Navajo Nation Environmental Protection Agency (NNEPA) is accepting written comments on the renewal of a Part 71 permit for ConocoPhillips Company for the candlestick flare at the Wingate Fractionating Plant, located at # 68 El Paso Circle, Gallup, NM 87301. The facility is 6 miles east of Gallup, New Mexico on the Navajo Nation, in Section 16 of Township 15-N, Range 17-W. This Proposed Permit will limit emissions of the following types of air contaminants: nitrogen oxides, carbon monoxides, sulfur dioxide, volatile organic contaminants, particulate matter, and hazardous air pollutants.

Written comments on the draft Part 71 permit renewal, written requests for public hearing or written requests for notification of the final decision regarding this permit action or requests for additional information regarding this permit action must be submitted to Charlene Nelson (Program Supervisor) at NAQCP, Operating Permits Program section, P.O. Box 529, Fort Defiance, AZ 86504. All correspondence should specify OP- 04-006NN. Written comments and/or written request must be received by 12:30 p.m., (May 6, 2009).

If NNEPA finds a significant degree of public interest, a public hearing will be held. NNEPA will send notification of the final permit decision to the applicant and to each person who has submitted written comments or a written request for notification of the final decision.

The application, proposed Part 71, and statement of basis are available for review at the NNEPA, Navajo Air Quality Control Program office, Fort Defiance, AZ 86504. Viewing hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday (except holidays).

Person wishing to be included on the NAQCP permit public notice mailing list should contact Ms. Angie Frank in writing at NNAQCP, Operating Permits Program section, P.O. Box 529, Fort Defiance, AZ 86504, phone (928) 729-4096 or by email at [nnepanilchi@navajo.org](mailto:nnepanilchi@navajo.org). E-files of the public notices and permits can be requested from NNEPA (NNAQCP) by email request at [nnepanilchi@navajo.org](mailto:nnepanilchi@navajo.org).



**NAVAJO NATION ENVIRONMENTAL PROTECTION  
AGENCY**

**Navajo Nation Operating Permit Program  
Rt. 112 North, Building F004-051  
P.O. Box 529, Fort Defiance, AZ 86504**



**Detailed Information**

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**Permitting Authority: NNEPA**

**County:** McKinley

**State:** New Mexico

**AFS Plant ID:** 35-031-84232

**Facility:** CONOCOPHILLIPS COMPANY – Wingate Fractionating Plant Candlestick Flare

**Document Type:** RESPONSES TO COMMENTS

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**RESPONSE TO COMMENTS**

**on the Part 71 Permit to Operate**

**ConocoPhillips Company - Wingate Fractionating Plant - Candlestick Flare**

**Permit No. NN-OP-05-011**

Between April 9, 2009 and May 9, 2009, the Navajo Nation Environmental Protection Agency (NNEPA) had notices published in the Navajo Times of Window Rock, Arizona and the Daily Times of Farmington, New Mexico, and between April 5, 2009 and April 29, 2009 announced on radio stations KGAK-AM, KTNN-AM 660, and KWRK-FM 96.1, stating that ConocoPhillips Company – Wingate Fractionating Plant – Candlestick Flare, located at #68 El Paso Circle, Gallup, New Mexico, had applied for a Part 71 Operating Permit renewal to operate a candlestick flare. The notice also stated that NNEPA proposed to issue a permit for this operation and provided information on how the public could review the proposed permit and other documentation. Finally, the notice informed interested parties that they would have thirty (30) days to provide comments on whether or not the permit should be issued as proposed.

On May 18, 2009, U.S. EPA submitted comments on the proposed Part 71 Operating Permit. Their comments are listed as Comments 1 through 3. On April 9, 2009, ConocoPhillips Company (referred to as "the Permittee") submitted comments on the proposed Part 71 Operating Permit. Their comments are listed as Comments 4 through 18. This Response to Comment document provides responses to all of these comments. When permit language is included in the response, bolded language indicates additions to the permit and language with a line through it has been deleted from the permit.

**Comments from the U.S. EPA, Region 9 (Comments 1 through 3)**

**Comment 1:**

EPA has not delegated any NSPS subparts to NNEPA. Therefore, NNEPA is not the “Administrator” for NSPS purposes. NNEPA should revise condition II.A.1. to require that NSPS reports be sent to the EPA Administrator, with a duplicate to NNEPA.

**Response to Comment 1:**

Condition II.A.1 has been revised as follows:

**II.A. NSPS General Provisions**

The following requirements apply to the operation, maintenance, and testing of the candlestick flare, Unit ID No. 17, in accordance with 40 CFR Part 60, Subparts A (General Provisions), RRR (Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes), NNN (Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations), and KKK (Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants):

1. All requests, reports, applications, submittals, and other communications to the **EPA Administrator** pursuant to 40 CFR Part 60 shall be submitted **to the EPA Region 9 office and a in duplicate submitted to the NNEPA and the EPA Region 9 office** at the following addresses [40 CFR § 60.4(a)]:

Navajo Nation Environmental Protection Agency  
Air Quality Control Program  
P.O. Box 529  
Fort Defiance, AZ 86504

and

EPA Region 9  
Director, Air Division (Attn: AIR-1)  
EPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

**Comment 2:**

The semi-annual monitoring reporting condition (III.C.1.) and the annual compliance report condition (IV.C.1.) have references to due dates that have passed. NNEPA should

delete these dates, and revise the conditions to ensure that there are no gaps in the periods of time for which the permittee must certify compliance and report monitoring results.

### **Response to Comment 2:**

Conditions III.C.1 and IV.C.1. have been revised per EPA comment. In addition, Condition IV.C.2. was revised based on similar language in the condition. The following revisions to the permit have been made:

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

1. The permittee shall submit to NNEPA and U.S. EPA Region 9 reports of any monitoring required under 40 CFR § 71.6(a)(3)(i)(A), (B), or (C) each six month reporting period from January 1 to June 30 and from July 1 to December 31, except that the first reporting period shall cover the period from the effective date of this Part 71 permit ~~through June 30, 2008~~ **December 31, 2009**. All reports shall be submitted to NNEPA and U.S. EPA and shall be postmarked by the 30<sup>th</sup> day following the end of the reporting period. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Condition IV.E of this permit.

### **IV.C. Compliance Certifications [40 CFR § 71.6(c)(5)] [NNOPR § 302(I)]**

1. The permittee shall submit to NNEPA and U.S. EPA Region 9 a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 and covering the previous calendar year, except that the first certification period shall cover the period from ~~May 12, 2007 through May 11, 2008~~ **January 1, 2009 through December 31, 2009** and the certification shall be postmarked by ~~June 10, 2008~~, and the second certification period shall cover the period from ~~May 12, 2008 through December 31, 2008~~ and the certification shall be postmarked by ~~January 30, 2009~~ **2010**. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit and 40 CFR § 71.5(d) [40 CFR § 71.6(c)(5)].
2. The permittee shall submit to NNEPA a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by July 30 and covering the previous six (6) months, except that the first certification period shall cover the period from ~~the effective date of this Part 71 permit~~ **January 1, 2009** through ~~June 30, 2008~~ **2009**. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit. This condition is enforceable by NNEPA only [NNOPR § 302(I)].

**Comment 3:**

The Statement of Basis provides actual flare emissions data in Section 3. However, according to the SOB, this data is based on 2004 emission inventory. Since the source reports its estimated actual emissions annually as part of its fee submittal, NNEPA should present the most recent actual emissions estimates that are available.

**Response to Comment 3:**

The Statement of Basis has been revised to reflect the actual emissions estimates from the source from the 2007 emission inventory data.

**Actual Emissions from Unit 17 (candlestick flare)**

The following table shows the actual emissions from the source (candlestick flare only). This information reflects the ~~2004~~ 2007 emission inventory data submitted by the Permittee.

<b>Pollutant</b>	<b>Actual Emissions (tons/year)</b>
PM	<del>0</del> <b>not reported</b>
PM10	<del>0</del> <b>0.01</b>
SO2	<del>0</del> <b>0.05</b>
VOC	<del>19.1</del> <b>12.50</b>
NOX	<del>3.1</del> <b>2.56</b>
CO	<del>6.1</del> <b>not reported</b>
n-Hexane	<del>0.41</del> <b>0.27</b>
Benzene	<del>0.1</del> <b>0.05</b>
Toluene	<del>0.1</del> <b>0.06</b>
<b>Xylenes</b>	<b>0.01</b>
<b>2,2,4 - TMP</b>	<b>0.03</b>

**Comments from the Permittee (Comments 4 through 18)**

**Comment 4:**

The Permittee requested changes to contact information and source identification on the cover page and Condition I as follows:

**Cover page:**

G. Lane Ayers, Plant Manager  
ConocoPhillips Company  
~~P.O. Box 6003, Three Westlake Park~~  
~~550 Westlake Park Blvd~~  
~~Houston, TX 77079~~  
**P.O. Box 217**  
**Bloomfield, NM 87413**

## I. Source Identification

Parent Company name: ConocoPhillips Company  
Parent Company Mailing: ~~P.O. Box 6003 Three Westlake Park,~~  
~~550 Westlake Park Blvd~~  
~~Houston, TX 77079~~  
**(Manager of SJ Plants)**  
**P.O. Box 217**  
**Bloomfield, NM 87413**

Telephone: ~~(832) 486-2100~~ **(505) 632-4954**  
Facsimile: ~~(832) 486-2764~~ **(505) 632-4930**

Plant Name: Wingate Fractionating Plant – **Candlestick Flare**  
Plant Location: #68 El Paso Circle  
Gallup, NM 87301  
McKinley County

**Plant Mailing: P. O. Box 119**  
**Rehoboth, NM 87322**

Company Contact: Beverly Cox  
Telephone: (505) 863-1023 **324-6194**  
Facsimile: (505) 863-1047 **599-4005**

Plant Contact: ~~same~~ **Kim Kamps**  
Telephone: ~~same~~ **(505)-863-1023**  
Facsimile: ~~same~~ **(505)-863-1047**

Responsible Official: G. Lane Ayers  
Telephone: (505) 632-4906  
Facsimile: (505) 863-1047 **632-4930**

### Response to Comment 4:

The cover page and Condition I have been revised as requested.

### Comment 5:

The Permittee requested to revise the description of the process in Section I as follows:

Description of Process: ~~This facility performs fractionation of natural gas liquids into different types of fuels. The only piece of equipment at this facility that is located on the reservation of the Navajo Nation is a candlestick flare, and therefore this permit applies only to that flare. The Title V operating permit for the remainder of the facility has been issued by the New Mexico Environment Department.~~

**Wingate Fractionating Plant performs fractionation of natural gas liquids into different product streams. Wingate Fractionating Plant operates as authorized by NSR and Title V permits issued by New Mexico Environment Department (NMED). The only emissions source associated with Wingate Fractionating Plant that is located on the reservation of the Navajo Nation is a candlestick flare; therefore this permit only applies to that flare.**

**Response to Comment 5:**

NNEPA agrees that the revised description is acceptable and has made this requested change.

**Comment 6:**

The Permittee requested the following clarification in Section II.A.2., NSPS General Provisions:

2. Any owner or operator **of the candlestick flare**, subject to the provisions of this part shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative [40 CFR § 60.7(b)].

**Response to Comment 6:**

Condition II.A.2 has been incorporated as it is written in 40 CFR § 60.7(b). It has been made clear under the facility description and the Statement of Basis that this permit pertains only to the candlestick flare. There has been no change to the permit as a result of this comment.

**Comment 7:**

The Permittee requested under Section II.B., NSPS General Control Device Requirements, 40 CFR § 60.18, if the regulation can be cited rather than repeated as follows:

The Permittee shall comply with the ~~following~~ requirements for the candlestick flare (EU 17) in accordance with 40 CFR § 60.18 and Condition II.C of this permit

- (a)(1) Flares shall be designed for and operated with no visible emissions as determined by the methods specified in paragraph (d), except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.
- (2) Flares shall be operated with a flame present at all times, as determined by the methods specified in paragraph (d).
- ~~(3) An owner/operator has the choice of adhering to either the heat content specifications in paragraph (a)(3)(ii) of this section and the maximum tip velocity~~

~~specifications in paragraph (a)(4) of this section, or adhering to the requirements in paragraph (a)(3)(i) of this section.~~

~~(i)(A) Flares shall be used that have a diameter of 3 inches or greater, are nonassisted, have a hydrogen content of 8.0 percent (by volume), or greater, and are designed for and operated with an exit velocity less than 37.2 m/sec (122 ft/sec) and less than the velocity,  $V_{max}$ , as determined by the following equation:~~

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

~~Where:~~

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

~~$K_1$  = Constant, 6.0 volume percent hydrogen.~~

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

~~$X_{H_2}$  = The volume percent of hydrogen, on a wet basis, as calculated by using the American Society for Testing and Materials (ASTM) Method D1946-77. (Incorporated by reference as specified in §60.17).~~

~~(B) The actual exit velocity of a flare shall be determined by the method specified in paragraph (d)(4) of this section.~~

~~(ii) Flares shall be used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm (200 Btu/scf) or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in paragraph (d)(3) of this section.~~

~~(4)(i) Steam-assisted and nonassisted flares shall be designed for and operated with an exit velocity, as determined by the methods specified in paragraph (d)(4) of this section, less than 18.3 m/sec (60 ft/sec), except as provided in paragraphs (a)(4) (ii) and (iii) of this section.~~

~~(ii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (d)(4), equal to or greater than 18.3 m/sec (60 ft/sec) but less than 122 m/sec (400 ft/sec) are allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).~~

~~(iii) Steam-assisted and nonassisted flares designed for and operated with an exit velocity, as determined by the methods specified in paragraph (d)(4), less than the velocity,  $V_{max}$ , as determined by the method specified in paragraph (d)(5), and less than 122 m/sec (400 ft/sec) are allowed.~~

~~(5) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity,  $V_{max}$ , as determined by the method specified in paragraph (d)(6).~~

~~(6) Flares used to comply with this section shall be steam-assisted, air-assisted, or nonassisted.~~

- (b) Owners or operators of flares used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs. Applicable subparts will provide provisions stating how owners or operators of flares shall monitor these control devices.
- (c) Flares used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.
- (d)(1) Method 22 of appendix A to this part shall be used to determine the compliance of flares with the visible emission provisions of this subpart. The observation period is 2 hours and shall be used according to Method 22.
- (2) The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.
- (3) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

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

where:

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

$$K = \frac{\text{Constant, } 1.740 \times 10^{-7} \left( \frac{1}{\text{ppm}} \right) \left( \frac{\text{g mole}}{\text{scm}} \right) \left( \frac{\text{MJ}}{\text{kcal}} \right)}{\text{where the standard temperature for } \left( \frac{\text{g mole}}{\text{scm}} \right) \text{ is } 20^\circ\text{C;}}$$

$C_i$  = Concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-77 or 90 (Reapproved 1994) (Incorporated by reference as specified in §60.17); and

$H_i$  = Net heat of combustion of sample component i, kcal/g mole at 25 °C and 760 mm Hg. The heats of combustion may be determined using ASTM D2382-76 or 88 or D4809-95 (incorporated by reference as specified in §60.17) if published values are not available or cannot be calculated.

- (4) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by Reference Methods 2, 2A, 2C, or 2D as appropriate; by the unobstructed (free) cross-sectional area of the flare tip.
- (5) The maximum permitted velocity,  $V_{\text{max}}$ , for flares complying with paragraph (a)(4)(iii) shall be determined by the following equation:

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

$V_{\text{max}}$  = Maximum permitted velocity, M/sec

28.8 = Constant

~~31.7 = Constant~~

~~H<sub>T</sub> = The net heating value as determined in paragraph (d)(3).~~

~~(6) The maximum permitted velocity, V<sub>max</sub>, for air-assisted flares shall be determined by the following equation.~~

$$\del V_{\max} = 8.706 + 0.7084 (H_T)$$

~~V<sub>max</sub> = Maximum permitted velocity, m/sec~~

~~8.706 = Constant~~

~~0.7084 = Constant~~

~~H<sub>T</sub> = The net heating value as determined in paragraph (d)(3).~~

### Response to Comment 7:

NNEPA believes that while all efforts are made to streamline permit conditions, the NSPS General Control Device Requirements, 40 CFR § 60.18, present different options for compliance, and are referred to in other conditions of the permit. There has been no change to Section II.B as a result of this comment.

### Comment 8:

The Permittee has requested the following changes to Section II.C., NSPS Requirements.

#### II.C. NSPS Requirements (Unit ID No. 17 only)

##### A. 40 CFR Part 60, Subpart NNN

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart NNN, included as Appendix A of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart NNN for the **vapor recovery unit (Unit 11) Mega-train ("B") Depropanizer Distillation Unit and the Butamer De-isobutanizer reactors** regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

~~(1) 40 CFR §60.660 (Applicability and designation of affected facilities)~~

~~(2) 40 CFR §60.661 (Definitions)~~

~~(3) 40 CFR §60.662(b) (Standards)~~

~~(4) 40 CFR §60.663(b) (Monitoring of emissions and operations)~~

~~(5) 40 CFR §60.664(a),(d) and (e) (Test methods and procedures)~~

~~(6) 40 CFR §60.665(b)(3) (Reporting and recordkeeping requirements)~~

~~(7) 40 CFR §60.665(f) (Reporting and recordkeeping requirements)~~

~~(8) 40 CFR §60.665(l)(4) (Reporting and recordkeeping requirements)~~

~~(9) 40 CFR §60.666 (Reconstruction)~~

~~(10) 40 CFR §60.667 (Chemicals affected by Subpart NNN)~~

B. 40 CFR Part 60, Subpart RRR

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart RRR, included as Appendix B of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart RRR for the **vapor recovery unit (Unit 11)** ~~isobutanizer reactors~~ regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

- (1) ~~40 CFR §60.700 (Applicability and designation of affected facility)~~
- (2) ~~40 CFR §60.701 (Definitions)~~
- (3) ~~40 CFR §60.702(b) (Standards)~~
- (4) ~~40 CFR §60.703(b) (Monitoring of emissions and operations)~~
- (5) ~~40 CFR §60.704(a),(c) and (d) (Test methods and procedures)~~
- (6) ~~40 CFR §60.705(b)(3) (Reporting and recordkeeping requirements)~~
- (7) ~~40 CFR §60.705(d) and (e) (Reporting and recordkeeping requirements)~~
- (8) ~~40 CFR §60.705(l)(3),(7) (Reporting and recordkeeping requirements)~~
- (9) ~~40 CFR §60.705(s) (Reporting and recordkeeping requirements)~~
- (10) ~~40 CFR §60.706 (Reconstruction)~~
- (11) ~~40 CFR §60.707 (Chemicals affected by subpart RRR)~~

C. 40 CFR Part 60, Subpart KKK

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart KKK, included as Appendix C of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart KKK for the vapor recovery unit (Unit 11), ~~the truck rack loading system (Unit 16), and the butamer unit (Unit 18)~~ regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

- (1) ~~40 CFR §60.633(g) (Exceptions)~~

**Response to Comment 8:**

This comment was discussed with a representative for ConocoPhillips on July 13, 2009. It was agreed that the Conditions would remain as is in the permit with the following exceptions:

A. 40 CFR Part 60, Subpart NNN

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart NNN, included as Appendix A of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart NNN for the **vapor recovery unit (Unit 11)**, Mega train (“B”) Depropanizer Distillation Unit and the Butamer De isobutanizer reactors regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

B. 40 CFR Part 60, Subpart RRR

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart RRR, included as Appendix B of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart RRR for the **vapor recovery unit (Unit 11)**, isobutanizer reactors regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

C. 40 CFR Part 60, Subpart KKK

The Permittee shall comply with the following provisions of 40 CFR Part 60, Subpart KKK, included as Appendix C of this permit, and 40 CFR §60.18 as specified at Condition II.B of the permit, when using the candlestick flare (EU 17) to comply with Subpart KKK for the vapor recovery unit (Unit 11), the truck rack loading system (Unit 16), and the butamer unit (Unit 18) regulated under New Mexico Environment Department Operating Permit P117-R1 *et seq.*:

**Comment 9:**

The Permittee requested the following changes to Condition II.D.A:

**II.D. Monitoring and Testing Requirements** [40 CFR § 71.6(a)(3)(i)(B) and (C); 71.6(a)(3)(ii); 71.6 (c)(1)]

- A. At least once per calendar year, the Permittee shall conduct a performance test utilizing Method 22 (Smoke Emissions From Flares) in order to determine compliance with Condition II.B.(a)(1) when the equipment associated with Conditions II.C.A, II.C.B ~~and or~~ II.C.C are venting ~~process~~ gas to the flare. The observer must be knowledgeable with respect to the general procedures for determining the presence of visible emissions. At a minimum, the observer must be trained and knowledgeable regarding the effects of background contrast, ambient lighting, observer position relative to lighting, wind, and the presence of uncombined water (condensing water vapor) on the visibility of emissions. Smoke emissions are defined as a pollutant generated by combustion in a flare and occurring immediately downstream of the flame. Smoke occurring within the flame, but not downstream of the flame, is not considered a smoke emission. The observation period shall be 2 hours, **or the duration of the flaring event, whichever is shorter.**

**Response to Comment 9:**

Condition II.D.A. has been revised as requested with the exception of adding “or the duration of the flaring event, whichever is shorter”. Method 22 requires the observation period to be 2 hours; NNEPA does not have the authority to shorten the observation period.

**Comment 10:**

The Permittee suggested adding monitoring for the continuous presence of flame under Condition II.D.

**Response to Comment 10:**

The NNEPA agrees that a condition should be added under Condition II.D. for monitoring the continuous presence of a flame. Condition II.D.D. has been added as follows:

.....

- D. In order to demonstrate compliance with Condition II.B.(a)(2), the Permittee shall monitor the continuous presence of a flame using the method outlined in Condition II.B(d)(2).**

**Comment 11:**

Condition III.A. Testing Requirements: Only periodic test requirement is for 60.18; since this is a flare device, it is not possible to provide prior notification of emergency events. ConocoPhillips understands this condition to be general permit language, not applicable here.

**Response to Comment 11:**

NNEPA agrees that the general permit language for testing is not applicable for the candlestick flare and has deleted Condition III.A. The Permittee is still responsible for complying with all NSPS and 40 CFR § 60.18 requirements. Subsequent conditions were renumbered accordingly and the Table of Contents was revised.

~~**III.A. Testing Requirements [40 CFR § 71.6(a)(3)]**~~

~~In addition to the unit specific testing requirements derived from the applicable requirements for each individual unit contained in Section II of this permit, the Permittee shall comply with the following generally applicable testing requirements as necessary to ensure that the required tests are sufficient for compliance purposes:.~~

- ~~1. Submit to NNEPA a source test plan 30 days prior to any required testing. The source test plan shall include and address the following elements:~~

- ~~1.0 Purpose of the test~~
- ~~2.0 Source Description and Mode of Operation During Test~~
- ~~3.0 Scope of Work Planned for Test~~
- ~~4.0 Schedule/Dates~~
- ~~5.0 Process Data to be Collected During Test~~
- ~~6.0 Sampling and Analysis Procedures~~

- 6.1 Sampling Locations
- 6.2 Test Methods
- 6.3 Analysis Procedures and Laboratory Identification
- 7.0 Quality Assurance Plan
  - 7.1 Calibration Procedures and Frequency
  - 7.2 Sample Recovery and Field Documentation
  - 7.3 Chain of Custody Procedures
  - 7.4 QA/QC Project Flow Chart
- 8.0 Data Processing and Reporting
  - 8.1 Description of Data Handling and QC Procedures
  - 8.2 Report Content

2. ~~Unless otherwise specified by an applicable requirement or permit condition in Section II, all source tests shall be performed at maximum available operating rates (90% to 110% of device design capacity).~~
3. ~~Only regular operating staff may adjust the processes or emission control device parameters during a compliance source test. No adjustments are to be made within two (2) hours of the start of the tests. Any operating adjustments made during a source test, that are a result of consultation during the tests with source testing personnel, equipment vendors, or consultants, may render the source test invalid.~~
4. ~~During each test run and for two (2) hours prior to the test and two (2) hours after the completion of the test, the permittee shall record the following information:~~
  - a. ~~Fuel characteristics and/or amount of product processed (if applicable).~~
  - b. ~~Visible emissions.~~
  - c. ~~All parametric data which is required to be monitored in Section II for the emission unit being tested.~~
  - d. ~~Other source specific data identified in Section II such as minimum test length (e.g., one hour, 8 hours, 24 hours, etc.), minimum sample volume, other operating conditions to be monitored, correction of O<sub>2</sub>, etc.~~
5. ~~Each source test shall consist of at least three (3) valid test runs and the emission results shall be reported as the arithmetic average of all valid test runs and in the terms of the emission limit. There must be at least 3 valid test runs, unless otherwise specified.~~
6. ~~Source test reports shall be submitted to NNEPA within 60 days of completing any required source test.~~

### Comment 12:

The Permittee requested clarification in Condition III.B as follows:

#### III.B. Recordkeeping Requirements [40 CFR § 71.6 (a)(3)(ii)]

In addition to the unit specific recordkeeping requirements derived from the applicable requirements for each individual unit and contained in Section II, the permittee shall comply with the following generally applicable recordkeeping requirements: **This condition applies only to recordkeeping applicable to the candlestick flare.**

1. The permittee shall keep records of required monitoring information that include the following:
  - a. The date, place, and time of sampling or measurements;
  - b. The date(s) analyses were performed;
  - c. The company or entity that performed the analyses;
  - d. The analytical techniques or methods used;
  - e. The results of such analyses; and
  - f. The operating conditions as existing at the time of sampling or measurement.
2. The permittee shall retain records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all original ~~strip~~-chart recordings for continuous monitoring instrumentation, **all electronic records**, and copies of all reports required by this permit.

### Response to Comment 12:

The language in Condition III.B has been taken directly from 40 CFR § 71. NNEPA recognizes that ConocoPhillips maintains electronic records. However, NNEPA does not have the authority at this time to add the requested change. In addition, it is not necessary to add “this condition applies only to recordkeeping applicable to the candlestick flare.” It has been made clear under Facility Information and in the Statement of Basis that this permit only applies to the candlestick flare. No change has been made to the permit as a result of this comment.

### Comment 13:

III.C. Reporting Requirements - Only required monitoring is annual visible emissions. Shouldn't record of deviations from requirement for continuous monitoring for presence of flame be required? (60.18(a)(2))

### Response to Comment 13:

Condition III.C. is Standard language. The permittee is required to monitor for continuous presence of flame under 40 CFR § 60.18 (General Control Device Requirements). No change has been made to the permit as a result of this comment.

### Comment 14:

The Permittee requested the following changes to Condition III.F.

#### III.F. Chemical Accident Prevention [Clean Air Act Sections 112(r)(1), 112(r)(3), 112(r)(7) & 40 CFR Part 68]

1. The following activities are considered essential and necessary to satisfy the general duty requirements of section 112(r)(1) of the Act:
  - a. Identify hazards which may result from accidental releases using appropriate hazard assessment techniques.
  - b. Design, maintain, and operate a safe facility.
  - c. Minimize the consequences of accidental releases if they occur.
  
2. **The Wingate Fractionating Plant** ~~This facility~~ is subject to 40 CFR Part 68 and shall certify annual compliance with all requirements of 40 CFR Part 68, including compliance with the risk management plan (RMP) submitted to USEPA Region VI ~~IV~~. [40 CFR § 68.215]. **The candlestick flare authorized by this permit is not by itself subject to 40 CFR 68 and non-compliance with this condition of this permit shall not constitute a deviation of this permit. This condition is for information only.**

### Response to Comment 14:

The candlestick flare is a process flare and a part of the Wingate Fractionating Plant. Although the candlestick flare is in a separate jurisdiction, it is located on contiguous property and is part of a single stationary source with processes subject to 40 CFR Part 68. The candlestick flare has always been subject to 40 CFR Part 68, and will continue to be subject. NNEPA recognizes that ConocoPhillips includes the candlestick flare in its Risk Management Plan for the Wingate Fractionating Plant and finds that approach acceptable. No change has been made to the permit as a result of this comment.

### Comment 15:

The Permittee requested the following clarification to Condition IV.S.:

#### **IV.S. Malfunction**

NNEPA and US EPA Region 9 shall be notified by telephone within 48 hours following any failure of the candlestick flare ~~secondary control equipment~~ to operate in a normal manner which results in an increase in emissions. In addition, NNEPA and the US EPA Region 9 shall be notified in writing within fifteen (15) days of any such failure. This notification shall include a description of the malfunction or abnormal operation, the date of the initial failure, the period of time of the failure, the cause of the failure, the estimated resultant emissions and the methods utilized to restore normal operations. Compliance with this malfunction notification provision shall not excuse or otherwise constitute a defense to any violations of this permit or of any law or regulations which such malfunction may cause.

#### **Response to Comment 15:**

Condition IV.S. was revised as follows:

NNEPA and US EPA Region 9 shall be notified by telephone within 48 hours following any failure of the candlestick flare ~~secondary control equipment~~ to operate in a normal manner which results in an increase in emissions. In addition, NNEPA and the US EPA Region 9 shall be notified in writing within fifteen (15) days of any such failure. This notification shall include a description of the malfunction or abnormal operation, the date of the initial failure, the period of time of the failure, the cause of the failure, the estimated resultant emissions and the methods utilized to restore normal operations. Compliance with this malfunction notification provision shall not excuse or otherwise constitute a defense to any violations of this permit or of any law or regulations which such malfunction may cause.

#### **Comment 16:**

The Permittee requested changes to contact information and source identification in the Statement of Basis as follows:

Permitting Authority: Navajo Nation Environmental Protection Agency

County: Mc Kinley

State: NM

AFS Plant ID: 35-031-84232

Facility: ConocoPhillips Company (Wingate Fractionating Plant **Candlestick Flare**)

Document Type: Draft Statement of Basis

#### **1. Facility Information**

##### **a. Permittee**

ConocoPhillips Company

##### **Mailing Address:**

~~P.O. Box 6003 Three Westlake Park,  
550 Westlake Park Blvd~~

Houston, TX 77079  
P.O. Box 119  
Rehoboth, NM 87322

b. **Facility location**

The Wingate Fractionating Plant is located at #68 El Paso Circle, Gallup, NM 87301. The facility is 6 miles east of Gallup, New Mexico. **The plant is located on private land and is under the jurisdiction of the New Mexico Environment Department (NMED). The candlestick flare, emissions unit 17, is on the reservation of the Navajo Nation, in Section 16 of Township 15-N, Range 17-W. This permit applies only to the candlestick flare.**

e. **Contact information**

~~Facility Contact: Beverly Cox Telephone (505) 863-1023~~  
~~Responsible Official: G. Lane Ayers Telephone (505) 632-4906~~  
~~Facsimile: (505) 863-1047~~

**Technical Contact: Beverly Cox Telephone (505) 324-6194**  
**Facility Contact: Kim Kamps Telephone (505) 863-1023**  
**Responsible Official: G. Lane Ayers Telephone (505) 632-4906**  
**Facsimile: (505) 632-4930**

d. **Description of operation**

ConocoPhillips Company, Wingate plant, is a natural gas fractionating plant. The majority of the plant is on private land under the jurisdiction of the State of New Mexico. However a small portion of this facility, **the candlestick flare**, is located on land under the jurisdiction of the Navajo Nation. This application addresses the portion of the plant that is located on tribal land, however the potential emissions from the New Mexico Environment Department Operating Permit No.: P117-R1, issued on April 7, 2008, are referenced. The only piece of equipment located on the Navajo Nation is a candlestick flare; therefore, this permit only applies to that unit. The remainder of the facility is permitted by the New Mexico Environment Department.

~~The facility processes natural gas liquids into different types of fuels. The Wingate Fractionating Plant as a whole is a major source of VOC emissions, pursuant to 40 C.F.R. Part 71, because the VOC potential to emit ("PTE") is greater than the 100 tpy major source threshold. During operation the candlestick flare receives small volumes of hydrocarbons from routine process releases and it is also a secondary control device receiving hydrocarbons from routine and non-routine activities, including failure of the vapor recovery unit (VRU), which is the primary control device for the fractionating plant.~~

**The facility processes natural gas liquids into different product streams. The Wingate Fractionating Plant as a whole is a major source of VOC emissions, pursuant to 40 C.F.R. Part 71, because the VOC potential to emit ("PTE") is greater than the 100 tpy major source threshold, considering emissions from both the plant and the potential emissions from the flare. During operation the candlestick flare is a secondary control device receiving hydrocarbons from routine and non-routine activities, including failure or overload of the vapor**

recovery unit (VRU), which recovers hydrocarbons and directs unrecovered hydrocarbons to the boiler, unit 19, which is a control device for portions of the fractionating plant.

e. **Permitting History**

The ConocoPhillips Company Fractionator was initially constructed in 1952. The New Mexico Environment Department issued a construction permit **and a number of subsequent revisions** for all of the facility ~~except for~~ **including** the candlestick flare, which was ~~located~~ **constructed in 1972** on the reservation of the Navajo Nation. In 2000 the facility submitted an application identifying the flare (Unit 17) as a major source for VOC based upon previous calculations and data. On December 22, 2001 USEPA Region IX issued a Part 71 permit (NN-OP-00-08) to the facility that covered the candlestick flare unit. **NMED also issued revised NSR and Title V permits not including the candlestick flare.**

**Response to Comment 16:**

The contact information and source identification in the Statement of Basis have been revised as requested.

**Comment 17:**

The permittee requested clarification of condition 6 in the Statement of Basis as follows:

6. **Federal Rule Applicability**

....

- (a) New Source Performance Standard (NSPS) for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants (40 CFR 60.630 – 60.636, Subpart KKK): Emission units, identified as Unit 11 (vapor recovery unit), Unit 16 (truck rack system) and Unit 18 (butamer unit), located in NMED jurisdiction and regulated under Operating Permit P117-R1, are subject to 40 CFR 60, Subpart KKK. Emissions from the ~~vapor recovery unit~~, truck rack system and butamer unit are directed to the **vapor recovery unit, where hydrocarbons are recovered for re-introduction in to the processing system. Unrecoverable hydrocarbons are directed to the large boiler (unit 19), in normal operation. When candlestick flare** ~~when there is a failure to these processes, or overload to the processes or~~ **overload of the VRU, some or all emissions are directed to the candlestick flare.** Under 40 CFR 60.633(g), *flares used to comply with this subpart shall comply with the requirements of 40 CFR 60.18.* Therefore, the requirements of 40 CFR 60.18 have been incorporated into the permit.

**Response to Comment 17:**

Condition 6 of the Statement of Basis has been revised descriptively as requested.

**Comment 18:**

Why should this permit remain a Title V Permit?

**Response to Comment 18:**

Title V of the Clean Air Act requires all major sources to obtain a Title V operating permit. CAA § 502(a), 42 U.S.C. § 7661a(a). A major source is defined as “any stationary source (*or any group of stationary sources located within a contiguous area and under common control*)” that, for purposes of the major source currently being permitted, emits or has the potential to emit 100 tons per year or more of a criteria pollutant. CAA § 501(2), 42 U.S.C. § 7661(2) (incorporating 42 U.S.C. § 7602(j)) (emphasis added).

The candlestick flare by itself would not trigger the Title V permit requirement, as its potential to emit, based on a seven-year history, is below 100 tons per year for any criteria pollutant. The candlestick flare may not be considered by itself for Title V purposes, however, because it is a “stationary source located within a contiguous area and under common control” with the remainder of the Wingate Fractionating Plant. Both the flare and the remainder of the plant are owned by ConocoPhillips. The flare receives small volumes of hydrocarbons from routine process releases from the fractionating plant and also serves as a secondary control device for the plant, in the event of failure of the vapor recovery unit. It thus is an integral part of the plant. The Wingate Fractionating Plant has the potential to emit more than 100 tons per year of NO<sub>x</sub>, VOCs, and CO and therefore requires a Title V permit.

The unique situation here is that the main portion of the Wingate Fractionating Plant is subject to New Mexico state jurisdiction, but the candlestick flare is on Navajo tribal trust land subject to Navajo jurisdiction. The state does not have jurisdiction over Navajo tribal trust land, and so can not issue a Title V permit that covers the candlestick flare. In fact, U.S. EPA’s approval of New Mexico’s Title V operating permit program specifies that New Mexico’s program complies “with Federal requirements for approvable State and local programs to issue operating permits to all major stationary sources, and to certain other sources *with the exception of Indian Lands.*” 60 Fed. Reg. 60,032 (Nov. 26, 1996) (emphasis added); *see also* 59 Fed. Reg. 59,656 (Nov. 18, 1994) (same language with regard to interim approval). For this reason, two Title V permits are required for the Wingate Fractionating Plant: one issued by New Mexico for all but the candlestick flare, and one issued by NNEPA for the candlestick flare.