

**Final RCRA Permit
for
Colorado River Indian Tribes
and Evoqua Water Technologies LLC
for Carbon Regeneration Facility Located at:
2523 Mutahar Street
Parker, Arizona 85344
(EPA ID # AZD982441263)**



**Issued by
U.S. Environmental Protection Agency, Region 9
San Francisco, California**

September 2018



U.S. Environmental Protection Agency
Resource Conservation & Recovery Act Final Permit
EPA RCRA I.D. Number: AZD982441263

BENEFICIAL LANDOWNER:	COLORADO RIVER INDIAN TRIBES	OPERATOR:	EVOQUA WATER TECHNOLOGIES, LLC
	26600 Mohave Road Parker, Arizona 85344		2523 Mutahar Street Parker, Arizona 85344

Pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, 42 USC Sections 6901 *et seq.*, and the Hazardous and Solid Waste Amendments (HSWA) of 1984, P.L. 98-616 (collectively, hereafter, "RCRA"), and regulations promulgated thereunder by the U.S. Environmental Protection Agency (EPA) (codified and to be codified in Title 40 of the Code of Federal Regulations), this Permit is issued to Evoqua Water Technologies, LLC and the Colorado River Indian Tribes (collectively, hereafter, the "Permittees"), for the facility located at 2523 Mutahar Street, Parker, Arizona 85344 with the EPA RCRA ID # AZD982441263.

This Permit, with all its attachments, constitutes the full RCRA Permit for this Facility. The Permittees, pursuant to this Permit, are required to investigate any unpermitted releases of hazardous waste or hazardous constituents at the Facility, regardless of the time at which waste was placed in a unit. The Permittees are required to take appropriate corrective action for any such releases.

The Permittees must comply with all the terms and conditions of this Permit. This Permit consists of the conditions contained herein (including those in any appendices) and the applicable regulations contained in 40 CFR Parts 63, 124, and 260 through 270, as specified in this Permit, and the statutory requirements of RCRA. Nothing in this Permit shall preclude the Regional Administrator from reviewing and modifying the Permit at any time during its term in accordance with 40 CFR § 270.41.

This Permit is based on the premise that information and reports submitted by the Permittees prior to issuance of this Permit are complete and accurate, unless otherwise indicated in this Permit. Any inaccuracies found in this information or information submitted as required by this Permit may be grounds for termination or modification of this Permit in accordance with 40 CFR §§ 270.41, 270.42, or 270.43 and/or potential enforcement. The Permittees must inform the EPA of any deviation from or changes in the information in the application which would affect the Permittees' ability to comply with the applicable regulations or Permit conditions.

This Permit is effective thirty-five (35) days after it is signed/issued, and shall remain in effect for ten (10) years, unless revoked and reissued, or terminated under 40 CFR §§ 270.41 and/or 270.43 or continued in accordance with 40 CFR § 270.51(a). All obligations for performance of the conditions of this Permit are in effect until deemed complete by the Director of the Land Division for the U.S. Environmental Protection Agency, Region 9 (the "Director").

If any conditions of this Permit are appealed in accordance with 40 CFR § 124.19, the effective date of the conditions determined to be stayed in accordance with 40 CFR § 124.16 shall be determined by final agency action as specified under 40 CFR § 124.19.

Date Issued

Jeff Scott
Director
Land Division

October , 2018 to October , 2028
Ten (10) Year Permit Term*

* Unless the Permit is revoked and reissued, or terminated.

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MODULE I - GENERAL PERMIT CONDITIONS

I. INTRODUCTION

This document, consisting of Modules I through VI and the Permit Attachments, Permit Exhibits, and any other documents incorporated herein, constitutes a hazardous waste permit under Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), and the applicable regulations at Title 40 of the Code of Federal Regulations (40 CFR) Parts 260 through 270 for hazardous waste storage and treatment at a carbon regeneration facility (EPA ID Number - AZD982441263) (Permit) located on the Colorado River Indian Tribes (CRIT) Reservation near Parker, Arizona. At the Evoqua Water Technologies LLC Facility (defined below), spent carbon is treated in a regeneration furnace to purify it and make it suitable as a commercial product. [See 40 CFR §§ 264.10 and 264.11.]

I.A. EFFECT OF PERMIT

- I.A.1. The Permittees Evoqua Water Technologies LLC and CRIT are allowed to store and treat hazardous waste in accordance with the conditions of this Permit. Any storage or treatment of hazardous waste at the Facility not authorized in this Permit is prohibited. Subject to 40 CFR § 270.4, compliance with this Permit during its term generally constitutes compliance, for purposes of enforcement, with RCRA, except for those requirements not included in the permit, which: (1) become effective by statute; (2) are promulgated under 40 CFR Part 268 restricting the placement of hazardous waste in or on the land; (3) are promulgated under 40 CFR Part 264 regarding the leak detection systems described at 40 CFR §270.4(a)(1)(iii); or (4) are promulgated under subparts AA, BB, or CC of 40 CFR Part 265 limiting air emissions. (40 CFR §270.4). (42 U.S.C. §§6901 *et seq.*). [See also Permit Conditions II.B.2. and II.B.5. and 40 CFR Part 262, §§270.1(c), and 270.4.]
- I.A.2. Issuance of this Permit does not convey any property rights of any sort or any exclusive privilege. [See 40 CFR §§270.4(b) and 270.30(g).]
- I.A.3. Issuance of this Permit does not authorize any injury to persons or property, any invasion of other private rights, or any infringement of

Tribal, state or local law or regulations. [See 40 CFR §270.4(c).]

- I.A.4. Compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under Sections 3008(h), 3013, or 7003 of RCRA, Sections 104, 106(a) or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. §§-9601 et seq.), or any other law providing for protection of public health or the environment. In addition, compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under Sections 3008(a), solely with respect to those requirements set forth at 40 CFR § 270.4(a)(1)(i)-(iv).
- I.A.5. This Permit, including its attachments, sections, and appendices, supersedes the permit application. In addition, references to RCRA's interim status requirements (40 CFR Part 265) contained in any Permit attachments, sections or appendices are superseded by the standards applicable to RCRA permitted facilities (40 CFR Part 264), as appropriate, upon the effective date of this Permit.
- I.A.6. Unless set forth specifically otherwise herein, requirements of this Permit apply to both the Tribal trust landowner and the operator of the Facility, who are referred to herein collectively as the "Permittees." However, compliance with such requirements of this Permit by either the Tribe, as beneficial landowner, or the operator is regarded as sufficient for both. [See 45 Federal Register (FR) 33295/col. 3, (May 19, 1980).]
- I.A.7. Where citations to regulatory authority are included at the end of a permit condition -- for example "[See 40 CFR §264.XXX.]" -- such references are solely to assist those reading the Permit with identifying the source of the requirement to which the citation applies. Such citations do not, in and of themselves, incorporate the regulatory requirement into the Permit condition. However, where regulations are referenced in the body of a permit condition -- for example "Pursuant to 40 CFR § 264.XXX" or "In accordance with 40 CFR § 264.XXX," the requirements of the regulation so cited are incorporated into the Permit condition.
- I.A.8. For the purposes of this Permit, any reference to a regulatory requirement (including any interim final regulation) shall refer to the version of such regulatory requirement that is in effect at the time of issuance of the

permit. With some exceptions as set forth in 40 CFR § 270.4(a)(1), where regulatory authorities affecting conditions of this Permit are issued, revised or amended after the issuance of this Permit, such new, revised or amended provisions shall only be applicable to the operations of the Facility after a permit modification incorporates such requirements or after a renewal of the Permit, incorporating or referencing such new, revised or amended regulations, is issued. [See 40 CFR 270.32(c) and 40 CFR § 270.4(a)(1).]

I.B. PERMIT ACTIONS

I.B.1. This Permit may be modified, revoked and reissued, or terminated for cause, in accordance with 40 CFR §§ 270.41, 270.42, and 270.43. The filing of a request for a permit modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the Permittees, does not stay the applicability or enforceability of any permit condition. [See 40 CFR §§ 270.4(a)(2), 270.30(f), 270.41, 270.42, and 270.43.]

I.B.2. This Permit may be renewed in accordance with 40 CFR § 270.30(b) and Permit Condition I.E.2. Review of any application for a Permit renewal shall consider improvements in the state of control and measurement technology, as well as changes in applicable regulations. [See 40 CFR § 270.30(b), RCRA Section 3005(c)(3).]

I.C. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby. [See 40 CFR §124.16.]

I.D. DEFINITIONS

For purposes of this Permit, terms used herein shall have the same meaning as those in 40 CFR Parts 63, 124, 260, 264, 266, 268, and 270, as appropriate, unless this Permit specifically provides otherwise. Where terms are not defined in the regulations or this Permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or

industrial meaning of the term.

AOC means Area of Concern.

CEMS means continuous emissions monitoring system.

CERCLA means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. §§9601 et seq.,) as amended.

CFR means Code of Federal Regulations, latest edition.

CMS means continuous monitoring system.

CRIT or Tribe means the beneficial landowner of the land on which the Facility is located, the Colorado River Indian Tribes.

Day or days means a calendar day or days, even if the word “calendar” is absent, unless otherwise specified.

Director means the Director of the EPA Region 9 Land Division, or his or her designee or authorized representative.

Enforcement Director means the Director of the EPA Region 9 Enforcement Division, or his or her designee or authorized representative.

EPA means the United States Environmental Protection Agency.

Facility means the carbon regeneration facility located at 2523 Mutahar Street, Parker, Arizona, 85344, on land of the Colorado River Indian Tribes, (including land or appurtenances thereto), that is subject to regulation under the RCRA program.

Facility mailing list means the most recent version of the mailing list of interested parties provided to the Permittee(s) by EPA Region 9 Land Division.

HWMU means Hazardous Waste Management Unit.

Method 21 means Method 21 from Appendix A-7 of 40 CFR Part 60.

PDT means Performance Demonstration Test.

Permit Attachment(s), Permit Attachment Section(s) and Permit Attachment Appendix or Appendices mean the attachments, sections and appendices to this Permit.

Permittee means either Evoqua Water Technologies, LLC, the operator of the Facility, or the Colorado River Indian Tribes, the beneficial landowner of the tribal land on which the Facility is located. Permittees or Permit Applicants means both.

Product means the carbon that has been thermally treated and regenerated at the Facility. Product is not regulated as a solid or hazardous waste, unless it is discarded.

RCRA means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984, as amended, 42 U.S.C. §§ 6901 et seq.

Site means the land or water area where the Facility or any hazardous waste activity is physically located or conducted, including adjacent land used in connection with the Facility or activity.

SWMU means Solid Waste Management Unit.

I.E. DUTIES AND REQUIREMENTS

I.E.1. Duty to Comply

The Permittees shall comply with all conditions of this Permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit. Any Permit noncompliance, other than noncompliance authorized by an emergency permit, constitutes a violation of RCRA and is grounds for enforcement action; for Permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. [See 40 CFR §270.30(a).]

I.E.2. Duty to Reapply

If the Permittees wish to continue an activity allowed by this Permit after the expiration date of this Permit, the Permittees shall submit a complete application for a new permit in accordance with the provisions of 40 CFR § 270.10(h). [See 40 CFR §§270.10(h) and 270.30(b).]

I.E.3. Permit Expiration

This Permit shall be effective for a fixed term not to exceed ten years. This Permit and all conditions herein will continue in force under 5 U.S.C. § 558(c) until the effective date of a new permit if: (i) the Permittee(s) has submitted a timely application under § 270.14 and the applicable sections of §§ 270.15 – 270.29, which is a complete application for a new permit, and (ii) the Director, through no fault of the Permittee(s), does not issue a new permit with an effective date on or before the expiration date of the previous permit. Permits continued under this paragraph remain fully effective and enforceable. [See U.S.C. §558(c) and 40 CFR §§ 270.10, 270.13, 270.14, 270.50, and 270.51.]

I.E.4. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittees 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. [See 40 CFR §270.30(c).]

I.E.5. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittees shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable, to prevent significant adverse impacts on human health or the environment. [See 40 CFR §270.30(d).]

I.E.6. Proper Operation and Maintenance

The Permittees shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the Permittees to achieve compliance with the conditions of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and

training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Permit. [See 40 CFR § 270.30(e).]

I.E.7. Duty to Provide Information

The Permittees shall furnish to the Director or the Enforcement Director, as appropriate, within a reasonable time, any relevant information which the Director or the Enforcement Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittees shall also furnish to the Director or the Enforcement Director, as appropriate, upon request, copies of records required to be kept by this Permit. [See 40 CFR § 270.30(h).]

I.E.8. Inspection and Entry

The Permittees shall allow the Director or the Enforcement Director, as appropriate, or an authorized representative, upon presenting credentials and other documents, as may be required by law, to:

- I.E.8.a. Enter at a reasonable time upon the Facility and/or either Permittees' premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this Permit;
- I.E.8.b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
- I.E.8.c. Inspect at reasonable times any equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
- I.E.8.d. Sample or monitor, at reasonable times, for the purposes of assuring Permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location at the Facility. [See 40 CFR § 270.30(i).]

I.E.9. Monitoring and Records

- I.E.9.a. Samples and measurements taken by the Permittees for the purpose of monitoring shall be representative of the monitored activity. [See 40 CFR § 270.30(j)(1).]
- I.E.9.b. Commencing with the effective date of this Permit, but including any records required to be maintained by RCRA's interim status regulations through to at least the last day of the Facility's interim status, the Permittees shall retain records of all monitoring information required by this permit (including all calibration and maintenance records and all digital and original strip chart recordings for continuous monitoring instrumentation), copies of all reports and records required by this Permit, the certification required by 40 CFR § 264.73(b)(9) and Permit Condition II.B.6., and records of all data used to complete the application for this Permit for a period of at least 3 years from the date of the sample, measurement, report, record, certification, or application. These periods may be extended by request of the Director at any time and are automatically extended during the course of any unresolved enforcement action regarding this Facility. The Permittees shall maintain records for all ground-water monitoring wells and associated ground-water surface elevations for the active life of the Facility. This provision does not apply to: (1) any records required to be maintained in accordance with Permit Condition V.G.1, which shall instead be subject to that requirement; or (2) to the records referenced in Permit Attachment Appendix XXI (Records Retention Requirements) that are required to be maintained solely under 40 CFR Part 61 Subpart FF, rather than under RCRA's record-keeping authorities. [See 40 CFR §§ 264.73(b)(9), 264.74(b), 264.347(d) and 270.30(j)(2). See also Permit Condition V.G.1.]
- I.E.9.c. Records of monitoring information shall specify, to the extent applicable:
- I.E.9.c.i. The dates, exact place, and time of sampling or measurements;

- I.E.9.c.ii. The individual(s) who performed the sampling or measurements;
- I.E.9.c.iii. The date(s) analyses were performed;
- I.E.9.c.iv. The individual(s) who performed the analyses;
- I.E.9.c.v. The analytical technique(s) or method(s) used; and
- I.E.9.c.vi. The results of such analyses. [See 40 CFR §270.30(j)(3).]

I.E.10. Reporting Planned Changes

Except as otherwise provided under 40 CFR § 270.42, the Permittees shall give notice to the Director, as soon as possible, of any planned physical alterations or additions to the permitted Facility. Any notice provided under this section shall include any necessary request for a permit modification pursuant to Permit Condition I.G.7. and 40 CFR § 270.42. [See 40 CFR §§ 270.30(l)(1) and 270.42.]

I.E.11. Reporting Anticipated Noncompliance

The Permittees shall give advance notice to the Director of any planned changes in the permitted Facility or activity which may result in noncompliance with Permit requirements. [See 40 CFR §270.30(l)(2).]

I.E.12. Transfer of Permits

This Permit is not transferable to any person, except after notice to the Director and approval as follows. The Permittees must inform the Director in writing and obtain prior written approval from the Director before transferring ownership or operational control of the Facility. (40 C.F.R. § 270.42, Appendix I.) In addition, the Permittees must inform the new owner or operator that they must submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Director. The Director may require modification or revocation and reissuance of the Permit to change the name of a Permittee and incorporate such other requirements as may be necessary in accordance with 40 CFR § 270.40. Before transferring ownership or operation of the Facility during its operating life, the Permittees shall notify the new owner or operator in writing of the requirements of 40 CFR Parts 264

and 270 and this Permit. [See 40 CFR §§ 264.12(c), 270.30(l)(3) and 270.40.]

I.E.13. Twenty-Four Hour Reporting

I.E.13.a. The Permittees shall report to the Director any noncompliance which may endanger human health or the environment. Any such information shall be reported orally to the National Response Center (800-424-8802) within 24 hours from the time whichever Permittee first becomes aware of the circumstances. The report shall include the following:

I.E.13.a.i. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies; and

I.E.13.a.ii. Any information of a release or discharge of hazardous waste, or of a fire or explosion from the Facility which could threaten the environment or human health outside the Facility. [See 40 CFR §270.30(l)(6)(i).]; If the release has been reported pursuant to 40 CFR Part 302, that report will satisfy this requirement.

I.E.13.b. The description of the noncompliance and its cause shall include:

I.E.13.b.i. Names, addresses, and telephone numbers of the Permittees;

I.E.13.b.ii. Name, address, and telephone number of the Facility;

I.E.13.b.iii. Date, time, and type of incident;

I.E.13.b.iv. Name and quantity of materials involved;

I.E.13.b.v. The extent of injuries, if any;

I.E.13.b.vi. An assessment of actual or potential hazards to the environment and/or human health outside the Facility, where this is applicable; and

- I.E.13.b.vii. Estimated quantity and disposition of recovered material that resulted from the incident. [See 40 CFR § 270.30(l)(6)(ii).]
- I.E.13.c. A written submission shall also be submitted to the Director for approval in accordance with Permit Condition I.G.4. within 5 days of the time that whichever Permittee first becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period(s) of noncompliance (including exact dates and times); whether the noncompliance has been corrected, and, if not, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The submission shall include an assessment of potential corrective measures, whether interim or otherwise, and whether such measures may be appropriate. The Director may waive the 5-day- written notice requirement in favor of a written report within 15 days. [See 40 CFR §270.30(l)(6)(iii).]
- I.E.13.d.i. If the approved written submission submitted in accordance with Permit Condition I.E.13.c. concludes that interim or other corrective measures are appropriate, the Permittees shall submit the written report required by and in accordance with Permit Condition VI.E.1.c and the permit modification request required by and in accordance with Permit Condition VI.E.2.
- I.E.13.d.ii. Where such a report is appropriate, the Permittees shall also submit the 90-day Interim Corrective Measures Report in accordance with Permit Condition VI.E.3.
- I.E.13.d.iii. To the extent that the approved Interim Corrective Measures Report concludes that there is a need for further investigations or implementation of corrective measures, the Director will require the Permittees to prepare a RCRA Facility Investigation (RFI) Work Plan in accordance with Permit Conditions VI.E.4. and VI.F.
- I.E.13.d.iv. To the extent that the approved Interim Corrective

Measures Report concludes that a corrective measures study is warranted, the Permittees must also follow the process set forth in Module VI for developing and implementing a Corrective Measures Study and Corrective Measures Study Final Report in accordance with Permit Condition VI.I. and for selecting an appropriate remedy in accordance with Permit Condition VI.J.

I.E.14. Compliance Schedule Reporting

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Permit shall be submitted no later than 14 days following each schedule date. [See 40 CFR §270.30(1)(5).]

I.E.15. Other Noncompliance

The Permittees shall report all other instances of noncompliance not otherwise required to be reported in Permit Conditions I.E.10 through I.E.14, within 60 days, in a “Report of Non-Compliance” submitted in accordance with Permit Condition I.G. The Reports of Noncompliance shall contain the information listed in Permit Conditions I.E.13.a. and I.E.13.b. [See 40 CFR § 270.30(1)(10).]

I.E.16. Other Information

Whenever either Permittee becomes aware that either Permittee failed to submit any relevant facts in a Permit application, or submitted incorrect information in a Permit application or in any report to the Director, the Permittees shall promptly submit such facts or information. [See 40 CFR § 270.30(1)(11).]

I.F. SIGNATORY REQUIREMENT

All applications, reports, or information submitted to or requested by the Director, the Enforcement Director, or a designee or authorized representative of the Director or the Enforcement Director, shall be signed and certified in accordance with 40 CFR §§ 270.11 and 270.30(k). [See 40 CFR §§ 270.11 and 270.30(k).]

I.G. REPORTS, NOTIFICATIONS, AND DELIVERABLES

I.G.1.a. Except as provided in Permit Condition I.G.3, all reports, correspondence, notices or other deliverables required by this Permit, or required to be submitted to EPA or the Regional Administrator under regulatory provisions cited in this Permit, shall be delivered by U.S. Postal Service or private courier service to:

Director, Land Division
US Environmental Protection Agency, Region IX
75 Hawthorne St. (LND-1)
San Francisco, CA 94105

I.G.1.b. All reports, correspondence, notices, including emergency notices, or other deliverables required by this Permit, or required to be submitted to EPA or the Regional Administrator under regulatory provisions cited in this Permit, shall also be delivered to the Director of the CRIT Environmental Protection Office or his or her designee.

I.G.2. All deliverables submitted in paper form pursuant to Permit Condition I.G.1.a. shall also be submitted in electronic format (*e.g.*, CD ROM, flash drive) to the addressee(s) identified in Permit Condition I.G.3 and/or the physical address provided in Permit Condition I.G.1.a., as appropriate.

I.G.3. In lieu of the hardcopies required by Permit Condition I.G.1.a., one copy of all reports, correspondence, notices or other deliverables required by this Permit, or required to be submitted to EPA or the Regional Administrator under regulatory provisions cited in this Permit may be submitted by electronic mail to: R9LandSubmit@epa.gov. (Assuming this electronic submittal option is elected, additional electronic submittals in accordance with Permit Condition I.G.2. are unnecessary.)

I.G.4. For the computation of time periods set forth in this Permit, the Permittees shall comply with the following:

I.G.4.a. Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

I.G.4.b. Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.

I.G.4.c. If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day. [See, *e.g.*, 40 CFR § 124.20.]

I.G.5. Deliverables Submitted for the Director's Review and Approval

I.G.5.a. Deliverables that are explicitly required by this Permit to be submitted to the Director for review and approval must be post-marked by the due date specified in this Permit or by the specific schedules developed pursuant to the requirements of this Permit that apply to such deliverables. The Director shall review and respond to the deliverable in accordance with Permit Condition I.G.5.b. Electronic submittals in accordance with Permit Conditions I.G.2. or I.G.3. must be received prior to 11:59 p.m. Pacific Time on the due date.

I.G.5.b. Subject to the provisions of I.G.5.c., after review of any deliverable that is required to be approved by the Director pursuant to this Permit, the Director will either:

- i. approve, in whole or in part, the submission;
- ii. approve the submission on specified conditions;
- iii. modify the submission to cure the deficiencies;
- iv. disapprove, in whole or in part, the submission, directing that Permittee modify the submission; or
- v. any combination of the above.

I.G.5.c. The Director will not modify or condition approval of a deliverable under Permit Condition I.G.5.b. without first providing the Permittees at least one notice (Deliverable Deficiency Notice) identifying the legal basis for each of EPA's conclusions that there are deficiencies in the deliverable, and an opportunity to cure within a reasonable period of time under the circumstances, except:

- i. where the Director determines that to do so would cause serious disruption to the work required by this Permit or could present an unacceptable risk to human health or the environment; or
 - ii. where the Director has disapproved previous submission(s) due to material defects and the Director determines that the deficiencies in the submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.
- I.G.5.d. Upon approval of any deliverable pursuant to this Permit, including approval on conditions or modification by the Director, the Permittees may either (1) accept the approval, in which case they shall maintain a copy of the approved deliverable, in accordance with the applicable record-keeping provision(s) of this Permit, and proceed to take any action required by and in accordance with the approved deliverable, or (2) seek review of the conditions or modifications to the approval through the dispute resolution procedures in Section I.L. of this Permit, except as set forth in Permit Condition VI.H.5.
- I.G.5.e. Resubmission of Deliverable: Upon receipt of a notice of disapproval, in whole or in part, pursuant to this Permit Condition, the Permittees shall either: (1) within a reasonable period of time under the circumstances, as specified by the Director in such notice, correct any deficiencies and resubmit the deliverable for approval, or (2) invoke the dispute resolution procedures in Section I.L. of this Permit.
- I.G.5.f. Notwithstanding the receipt of a notice of disapproval pursuant to this Permit Condition, the Permittees shall proceed, at the direction of the Director, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve the Permittees of the obligation to address any deficient portion of the submission.
- I.G.5.g. In the event that a resubmitted deliverable, or portion thereof, is disapproved by the Director, the Director may again issue a Deliverable Deficiency Notice pursuant to Section I.G.5.c,

providing the Permittees with an opportunity to correct the identified deficiencies, in accordance with this Permit Condition I.G.5., or may proceed to disapprove or revise the deliverable.

I.G.5.h. If upon resubmission, a deliverable is disapproved or modified by the Director due to a material defect, the Permittees shall be deemed to have failed to submit such deliverable in a timely or adequate manner.

I.G.6. Revisions to Previously Approved Deliverables

I.G.6.a. If at any time during the life of this Permit, the Permittees identify a need for a revision of any previously approved deliverable required by this Permit or of any deadline required by this Permit, the Permittees shall submit a memorandum documenting the need for the revision to the Director. Where appropriate, such memorandum shall be accompanied by a request for a Permit Modification pursuant to 40 CFR § 270.42. [See 40 CFR § 270.42.]

I.G.6.b. Where a Permit Modification is not requested by the Permittees, the Director will determine if the requested revision to the previously approved deliverable or to the deadline is warranted as soon as practicable after receipt of any memorandum submitted pursuant to Permit Condition I.G.6.a. and so inform the Permittees in writing that the proposed revision to the deliverable or deadline has been approved, modified or disapproved as provided in Permit Condition I.G.5.b. and subject to Permit Condition I.G.5.c. Where the memorandum is accompanied by a request for a Permit Modification under 40 CFR § 270.42, RCRA's permit modification procedures shall apply. [See 40 CFR § 270.42.]

I.G.6.c. Requests for extensions of the due dates for deliverables may be granted by the Director in accordance with either the procedures in Permit Condition I.G.6.a. of this Permit or RCRA's permit modification processes. [See 40 CFR § 270.42.]

I.G.7. Deliverables that Require a Permit Modification

- I.G.7.a. Deliverables that are explicitly required by this Permit to be submitted with an accompanying request for a permit modification in accordance with this Permit Condition I.G.7. must specify the class of permit modification for which the request is being submitted in accordance with 40 CFR § 270.42 and Appendix 1 to that section. Or, if the request is for a permit modification not explicitly identified in Appendix 1 to 40 CFR § 270.42, the Permittees may submit a Class 3 modification request to the Director, or may request a determination by the Director that the modification should be reviewed and approved as a Class 1 modification with no prior Director approval, Class 1 modification with prior Director approval, or Class 2 modification. [See 40 CFR § 270.42 and Appendix 1 to 40 CFR § 270.42.]
- I.G.7.b. For any permit modification not explicitly identified in Appendix 1 to 40 CFR § 270.42, if the Permittees request that the modification be classified as a Class 1 modification with no prior Director approval, Class 1 modification with prior Director approval, or Class 2 modification, the request must include the necessary information to support the requested classification in accordance with 40 CFR §270.42. [See 40 CFR § 270.42(d).]
- I.G.7.c. The Director's determination that the modification should or should not be treated as a Class 1 with no prior Director approval, Class 1 with prior Director approval, or Class 2 modification shall be subject to the dispute resolution provisions of Permit Condition I.L., but any other decisions made by the Director as part of the permit modification process shall only be reviewable in accordance with 40 CFR Part 124. [See 40 CFR Part 124.]

I.G.8. Deliverables That May Trigger a Permit Modification

Where a report or other deliverable required by this Permit includes a recommendation that the Permit be modified, and the report or other deliverable is subject to approval by the Director under Permit Condition I.G.5., the request for the permit modification may be submitted after the report or other deliverable recommending the modification has been approved by the Director. However, nothing in this Permit condition is intended to

limit the Permittees' respective abilities to put into effect or request permit modifications in accordance with 40 CFR § 270.42.

I.H. CONFIDENTIAL INFORMATION

In accordance with 40 CFR § 270.12, either Permittee may claim any information required to be submitted by this Permit as confidential business information. If either Permittee asserts such a claim, the information will be treated in accordance with the procedures in 40 CFR Part 2. If no claim is made at the time of submission, the information may be made available to the public without further notice. [See 40 CFR Part 2, Subpart B, and 40 CFR § 270.12.]

I.I. DOCUMENTS TO BE MAINTAINED AT THE FACILITY

- I.I.1.a. The Permittees shall maintain at the Facility, until closure is completed and certified by an independent, registered professional engineer or as otherwise specified below, the following documents and all amendments, revisions, and modifications to these documents:
- i. Waste Analysis Plan, as required by 40 CFR § 264.13 and this Permit;
 - ii. Inspection schedules, as required by 40 CFR § 264.15(b)(2) and this Permit;
 - iii. Personnel training documents and records, as required by 40 CFR § 264.16(d) and this Permit, although training records on current personnel must be kept until closure of the Facility, training records on former employees must be kept for at least 3 years from the date the employee last worked at the Facility in accordance with 40 CFR § 264.16(e);
 - iv. Contingency Plan, as required by 40 CFR § 264.53(a) and this Permit;
 - v. Operating record, as required by 40 CFR § 264.73 and this Permit;
 - vi. Closure Plan, as required by 40 CFR § 264.112(a) and this Permit;
 - vii. Annually-adjusted cost estimates for Facility closure, as required by 40 CFR §§ 264.73(b) and 264.142(d) and this Permit;
 - viii. The Startup Shutdown and Malfunction Plan (SSMP), for the operating life of RF-2, as required by this Permit; and
 - ix. All other documents required to be maintained for the life of the Facility in accordance with the requirements of this Permit. (See,

e.g., Permit Condition IV.J.4.).

I.I.1.b. For the purposes of the requirement that records be maintained “at the Facility” in accordance with this Permit condition, except for the Contingency Plan, such records may be maintained in either hardcopy at the Facility or electronic format, provided they are made available to and are readily accessible to EPA, CRIT and CRIT EPO for the period that applies to the record. [See also Permit Condition II.K. (Contingency Plan.)]

I.I.2. All records, including plans, required under this Permit must be furnished upon request, and made available at all reasonable times for inspection by any officer, employee, or representative of EPA who is duly designated by the Director. [See 40 CFR § 264.74(a).]

I.J. INFORMATION REPOSITORY

I.J.1. The Permittees must establish and maintain an information repository that meets the requirements of 40 CFR § 124.33 and includes the records identified in Permit Exhibit I. The information repository shall be located and maintained at a site chosen by the Permittees and may consist of solely an electronic, internet-based site. If an electronic, internet-based site is chosen for the information repository, it must be publicly accessible, and maintained by the Permittees to allow public access to the records on as continuous a basis as is technically feasible. [See 40 CFR §§ 124.33 and 270.30(m).]

I.J.2. The Permittees must update the information repository with appropriate information when permit events take place (e.g., permit modifications, trial burn tests, etc.) and at least every five (5) years throughout the life of this Permit. Records maintained in the information repository need only be maintained for the periods of time otherwise required by this Permit. [See 40 CFR §§ 124.33(f) and 270.30(m).]

I.J.3. Notice of the location of the information repository shall be sent to all persons on the Facility mailing list in accordance with Permit Condition I.K.5. [See Permit Condition I.K.5., and 40 CFR §§ 124.33(e) and 270.30(m).]

I.K. COMPLIANCE SCHEDULE

I.K.1. 40 CFR Part 264, Subpart BB Compliance

- I.K.1.a. The Permittees shall submit to the Director a request for a Permit Modification in accordance with Permit Condition I.G.7., with an accompanying revised Subpart BB Compliance Plan (Permit Attachment Appendix XIX) and, if necessary, a revised Permit Attachment Section N, within ***120 days after the final permit is effective***. The request for a Permit Modification shall be either as a Class 1 permit modification with prior Director approval, or a Class 2 or Class 3 modification. [See 40 CFR Part 264, Subpart BB.]
- I.K.1.b. If revisions to Permit Attachment Section N and the Subpart BB Compliance Plan also necessitate any changes to the Waste Analysis Plan (WAP) in order to comply with 40 CFR § 264.1063(d), the Permittees shall include a revised WAP with the Permit Modification request. [See 40 CFR § 264.1063(d).]
- I.K.1.c. If the Permittees and EPA do not agree on whether a piece of equipment contains or contacts a hazardous waste with organic concentrations at least 10 percent by weight, the procedures in 40 CFR § 264.1063(d)(1) or (d)(2) shall be used to resolve the disagreement. [See 40 CFR § 264.1063(f) and Permit Attachment Appendix XIX.]

I.K.2. 40 CFR Part 264, Subpart CC Compliance

Within ***120 days after the final permit is effective***, the Permittees shall submit to the Director a request for a Permit Modification in accordance with Permit Condition I.G.7., with an accompanying revised Subpart CC Compliance Plan (Permit Attachment Appendix XX) and, if necessary, a revised Permit Attachment Section O. The request for a Permit Modification shall be either as a Class 1 permit modification with prior Director approval, or a Class 2 or Class 3 modification. [See 40 CFR Part 264, Subpart CC. See also, Permit Condition IV.F.2.]

I.K.3. Waste Carbon Feed Monitoring for Sulfur.

The Permittees shall submit to the Director a notice of a Class 1 Permit Modification with prior Director approval, or Class 2 or Class 3 Permit Modification, in accordance with 40 CFR § 270.42(a)(2) and Permit Condition I.G.7., with an accompanying revised Permit Attachment Section C and a revised Permit Attachment Appendix IV (Waste Analysis Plan) within **60 days after the final Permit is effective.**

I.K.3. a. The Waste Analysis Plan shall include sampling and analysis for sulfur at the waste carbon feed. Sampling shall be performed every 4-6 hours (at least four times daily). Samples are to be composited every 15-20 days and sent to the laboratory for analysis.

I.K.3.b. The revised Waste Analysis Plan shall include a recommendation by the Permittees for a feed rate limit for sulfur in the spent carbon so that the Permittees can use this feed rate limit to demonstrate to the Agency that they will not exceed the sulfur oxides emission standard of 30 tons per consecutive 12-month period, which is the standard expressed in Table V-1 of Module V of this Permit. The Permittees' recommended feed rate limit for sulfur in the spent carbon shall include the explanation and calculation(s) for demonstrating compliance with the 30 tons per consecutive 12-month period using sulfur content of the feed, carbon reactivation production rate, and hours of operation over the course of the year, minus a 90% presumed sulfur removal rate from the scrubber system.

I.K.3.c. Once the revised Waste Analysis Plan is incorporated into the Permit, the Permittees are not authorized to feed in the RF-2 spent activated carbon that contains sulfur in concentrations that will cause the Permittees to exceed the emission standard set forth in Module V, Table V-1.

I.K.4. Contingency Plan.

Within 30 days of the effective date of this Permit, the Permittees shall deliver both a hard copy and an electronic copy of the Contingency Plan (Permit Attachment Appendix XIII) to the off-site response agencies and hospital identified in sections 4.1 and 4.2 of the Contingency Plan.

I.K.5. Information Repository.

I.K.5.a. ***Within 120 days of the effective date of this Permit***, the Permittees shall establish an information repository that meets the requirements of 40 CFR § 124.33 and includes the records identified in Permit Exhibit I. ***Within 150 days of the effective date of this Permit***, the Permittees shall send to the Director in accordance with Permit Condition I.G.1., notice of the location of the information repository, with sufficient postage for mailing by the Director to all persons on the Facility mailing list. [See 40 CFR §§ 124.33, 270.30(m), Permit Condition I.J. and Permit Exhibit I.]

I.K.5.b. ***Within 150 days of the effective date of this Permit***, the Permittees shall transmit a link to the online electronic copy of the Contingency Plan (Permit Attachment Appendix XIII) to the off-site response agencies and hospital identified in sections 4.1 and 4.2 of the Contingency Plan.

I.K.6. Permit Attachment Appendix XXI and Permit Attachment Section D.

Within 60 days of the effective date of this Permit, the Permittees shall submit to the Director a request for a Permit Modification in accordance with Permit Condition I.G.7., with an accompanying revised and updated Permit Attachment Appendix XXI (Record Retention Requirements) and revised and updated Permit Attachment Section D (Process Information). The purpose of the revision/update is to update the Operating and Maintenance Manuals Maintained on Site Table, (identified in Permit Attachment Section D as Table D-2) with the most recent information about the operating and maintenance manuals that are maintained on-site. [See Permit Attachment Appendix XXI and Permit Attachment Section D.] To the extent that such update is not necessary, a statement to that effect, with an explanation, may be submitted to the Director for approval in accordance with Permit Condition I.G.5., in lieu of the request for a permit modification and revised documents.

I.K.7. Permit Table VI-1 and Permit Attachment Section J.

Within 60 days of the effective date of this Permit, the Permittees shall submit to the Director a request for a Permit Modification in accordance with Permit Condition I.G.7., with an accompanying revised and updated Permit Table VI-1 (“Table VI-1 - Hazardous Waste Management Unit Identification, New Unit Name”) and revised and updated Permit Attachment Section J (Solid Waste Management Units (SWMUs), Hazardous

Waste Management Units (HWMUs), And Areas Of Concern (AOCs)). The purpose of the revision/update is to update Table VI-1, and Permit Attachment Section J with the most recent information about the hazardous waste management units that are currently at the Facility. [See Permit Table VI-1 in Module VI and Permit Attachment Section J.] To the extent that such update is not necessary, a statement to that effect, with an explanation, may be submitted to the Director for approval in accordance with Permit Condition I.G.5., in lieu of the request for a permit modification and revised documents.

I.L. DISPUTE RESOLUTION

- I.L.1. Whenever either Permittee is unable, after using good faith and best efforts, to informally resolve a dispute with respect to this Permit, the following dispute resolution procedures of this Permit Condition I.L. shall apply:
- I.L.1.a. The Permittee(s) may invoke the dispute resolution procedures by sending a Dispute Resolution Notice to the Director in writing in accordance with Permit Conditions I.G.1., I.G.2, and I.G.3. Within the first fourteen (14) days after receipt of any such Notice, the Permittee(s) and the EPA manager responsible for the RCRA Branch (the “RCRA manager”) will attempt to resolve any disputes. If requested by either of the Permittees, a meeting will be held between the RCRA manager and the Permittee(s) and/or the representative(s) of the Permittee(s) to discuss the matter. Unless otherwise agreed to by the RCRA manager, the meeting will be held at the EPA Region 9's office in San Francisco, California, or by video or teleconference.
- I.L.1.b. If agreement is not reached between the RCRA manager and the Permittee(s) within the initial fourteen (14) day period after receipt of written notice to the Director in accordance with Permit Condition I.L.1.a., and the Permittee(s) wish to continue the Dispute Resolution process, the Permittee(s) must submit written arguments and evidence to the Director. The written arguments and evidence shall be submitted to the Director within 30 days of the end of the initial 14-day period (*i.e.*, within 44 days after EPA’s receipt of the Dispute Resolution Notice) at the addresses identified in Permit Conditions I.G.1. through I.G.3., as appropriate.

- I.L.1.c. If written arguments and evidence are submitted by the Permittee(s) to the Director, the Director will resolve the dispute within a reasonably prompt time period. The Director's resolution of the dispute will include a written response to the evidence and arguments submitted by the Permittee(s), and will state the basis for EPA's decision. The Permittee(s) shall comply with the Director's decision regardless of whether the Permittee(s) agree with the decision.
- I.L.2. Unless otherwise agreed to by the Director, invocation of dispute resolution by the Permittee(s) shall not extend, postpone, or affect in any way any obligation of the Permittee(s) under this Permit not directly in dispute.
- I.L.3. Generally, during the period of the resolution of a dispute in accordance with this Permit Condition I.L. any relevant deadline or other compliance obligation or requirement that is the direct subject of the dispute shall be temporarily extended, postponed or otherwise held in abeyance unless disapproved by the Director. The length of time delay shall not exceed the length of time it takes to resolve the dispute, unless the Director specifies a longer time period for compliance as part of the resolution of the dispute. However, where the Director directs the Permittees to conduct Emergency Interim Corrective Measures in accordance with Permit Condition VI.H.5., the Permittees shall implement such Emergency Interim Corrective Measures, as instructed by the Director, simultaneously during any such invocation of the Permit's dispute resolution procedures, as set forth in Permit Condition VI.H.5.