

**United States Environmental Protection Agency, Region IX
Air Division
75 Hawthorne Street
San Francisco, CA 94105**

TITLE V PERMIT TO OPERATE

Permit Number: NN-OP 99-07

In accordance with the provisions of Title V of the Clean Air Act and 40 CFR Part 71 and applicable rules and regulations,

Peabody Western Coal Company
Black Mesa Complex

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. Terms and conditions not otherwise defined in this permit have the meaning assigned to them in the referenced regulations. All terms and conditions of the permit are enforceable by EPA and citizens under the Clean Air Act.

If all proposed control measures and/or equipment are not installed and properly operated and maintained, this will be considered a violation of the permit.

This permit is valid for a period of five (5) years and shall expire at midnight on the date five 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.

Date

Jack P. Broadbent
Director, Air Division
EPA Region IX

Abbreviations and Acronyms

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
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
Nox	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
P.E.	Potential to Emit
psia	pounds per square inch absolute
RMP	Risk Management Plan
SNAP	Significant New Alternatives Program
SO ₂	Sulfur Dioxide
TSP	Total Suspended Particulate
US EPA	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. Emission Limits
- B. Work Practice and Operational Requirements
- C. Monitoring and Testing Requirements
- D. Recordkeeping Requirements
- E. NSPS General Provisions
- F. Compliance Schedule
- G. Permit Shield
- H. Operational Flexibility

III. Facility-Wide or Generic Permit Conditions

- A. Testing Requirements
- B. Recordkeeping Requirements
- C. Reporting Requirements
- D. Stratospheric Ozone and Climate Protection
- E. Chemical Accident Prevention
- F. Asbestos Removal and Disposal

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. Reopening for Cause
- I. Property Rights
- J. Inspection and Entry
- K. Emergency Provisions
- L. Transfer of Ownership or Operation
- M. Off Permit Changes
- N. Permit Expiration and Renewal
- O. Administrative Permit Amendments
- P. Minor Permit Modifications
- Q. Group Processing of Minor Permit Modifications
- R. Significant Permit Modifications

II. Requirements for Specific Units

II.A. Emission Limits [40 CFR § 71.6(a)(1) and 40 CFR § 71.6(a)(1)(iii);]

1. PWCC shall not cause to be discharged into the atmosphere from any coal processing and conveying equipment, coal storage system, or coal transfer and loading system processing coal listed in Table 1 below, gases which exhibit 20 percent opacity or greater.
[40 CFR § 60.252(c)]

Table 1. Emission Points/Units Subject to NSPS Subpart Y

Emission Point/Unit	Description
J28PC	Primary Crusher
J28S	Screen (Double Deck)
J28SC	Secondary Crusher
J28SSC	Sample System Crusher
J28TP	Transfer Points (all transfers)
N11PC	Primary Crusher
N11S	Screen (Single Deck)
N11SSC	Sample System Crusher
N11TP	Transfer Points (all transfers)
N8S	Single Deck Screens (2)
N8SC	Secondary Crusher (2)
N8SSC	Sample System Crusher
N8TP	Transfer Points ((K-2 and K-3 stockpile and screen/sample systems)
OCTP20	Transfer Points (overland conveyor)
BMS	Screen
BMSC	Secondary Crusher
BMTPS	Transfer Points (at screen and secondary crusher)
BMSSC	Sample System Crusher

BMT PSSC	Transfer Points at Sample System Crusher
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2. The opacity standard in condition II.A.1 shall apply at all times except during periods of startup, shutdown, or malfunction. [40 CFR § 60.11(c)]

II.B. Work Practice and Operational Requirements [40 CFR § 71.6(a)(1)]

1. PWCC shall only store diesel fuel in storage tanks K17ST and K18ST. [40 CFR §60.110b]

II.C. Monitoring and Testing Requirements

[See 40 CFR §71.6(a)(3)(i).; 40 CFR §71.6(a)(3)(i)(A)]

1. PWCC shall conduct a daily visual emission survey of each crusher, screen, or transfer point subject to NSPS Subpart Y as listed in Table 1, with the exception of the sample system crushers and their associated transfer points. The daily survey shall be conducted while the equipment is operating, and during daylight hours, by a person certified in EPA Method 9 (Visual Determination of the Opacity of Emissions from Stationary Sources). If one or more NSPS affected facilities is housed within a single structure, PWCC shall observe the opacity at each opening where gases vent to the atmosphere. If an instantaneous opacity reading is 10% or greater, PWCC shall conduct an opacity test using EPA Method 9 within 24 hours while the equipment is operating.
2. For each visible emission observation or Method 9 opacity test, PWCC shall record and maintain the following records:
 - a. the date and time of the observation, and the name of the observer;
 - b. the unit ID number;
 - c. statement of whether visible emissions were detected, and if so, whether they were observed continuously or intermittently;
 - d. result of Method 9 test, if required;
 - e. statement of whether Method 9 test was triggered by observation of visible emissions or by condition II.C.3.
3. PWCC shall conduct an opacity test using EPA Method 9 on each crusher, screen, or transfer point listed in Table 1, with the exception of the sample system crushers and their associated transfer points, at least once per month while the equipment is operating. If one or more NSPS affected facilities is housed within a single structure, PWCC shall conduct the Method 9 test at each opening where gases vent to the atmosphere.
4. PWCC shall conduct a weekly observation of all water sprays to verify that the spray heads are not clogged and that they are otherwise operating as designed.

5. If any water spray is not operating as designed, PWCC shall take corrective action within 24 hours (or on the next weekday, if a problem is observed during a weekend or holiday) to repair, replace, or modify the spray.
6. For each water spray observation, PWCC shall record and maintain the following records:
 - a. the date and time of the observation, and the name of the observer
 - b. the control device ID number
 - c. whether the sprays were operating as designed
 - d. a description of any corrective actions taken

II.D. Recordkeeping Requirements [40 CFR §71.6(a)(3)(ii)]

1. For each 12,000 and 20,000 gallon storage tank, PWCC shall keep readily accessible records showing the dimension of the storage vessel and an analysis showing the capacity of the storage vessel. This record shall be kept for the life of the source. [40 CFR 60.116b]
2. PWCC 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 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)]

II.E. NSPS General Provisions [40 CFR § 60, Subpart A]

The following requirements apply to the operation, maintenance, and testing of affected facilities in accordance with 40 CFR Part 60, Subpart Y (“Standards of Performance for Coal Preparation Plants”):

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

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 Part 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]
5. At all times, including periods of startup, shutdown, and malfunction, PWCC shall, to the extent practicable, maintain and operate this facility including associated air pollution control equipment as efficiently as possible 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 Part 60, nothing 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 40 CFR Part 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 Part 60, PWCC shall comply with the “General notification and reporting requirements” found in 40 CFR 60.19. [40 CFR 60.19]

II.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.

II.G. Permit Shield [40 CFR § 71.6(f)(1)(i)]

1. Compliance with the conditions of the title V permit shall be deemed compliance with the requirements of 40 CFR Part 60, Subpart Y, Standards of Performance for Coal Preparation Plants, as of the date of permit issuance.
2. Compliance with the conditions of the title V permit shall be deemed compliance with the requirements of 40 CFR Part 60, Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984, as of the date of permit issuance.

II.H. Operational Flexibility

1. 502(b)(10) Changes [40 CFR § 71.6(a)(13)(i)]

- (a) The permittee is allowed to make a limited class of changes under Section 502(b)(10) of the Clean Air Act within this permitted facility that contravene the specific terms of this permit without applying for a permit revision, provided the changes do not exceed the emissions allowable under this permit (whether expressed therein as a rate of emissions or in terms of total emissions) and are not Title I modifications. This class of changes does not include:
 - (i) Changes that would violate applicable requirements; or
 - (ii) 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 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 Conditions

Conditions in this section of the permit (Section III) apply to all emissions units located at the facility, including any units not specifically listed in Table 1 of this permit. [See § 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, PWCC shall comply with the following generally applicable recordkeeping requirements:

1. PWCC 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. PWCC 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.

III.B. Reporting Requirements [40 CFR § 71.6 (a)(3)(iii)]

1. The permittee shall submit reports of any monitoring required under § 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 begin on the effective date of this permit and end on December 31, 2003. All reports shall be submitted to EPA and shall be postmarked by the 30th 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.
 - a. A monitoring report under this section must include the following:
 - (1) The company name and address;
 - (2) The beginning and ending dates of the reporting period;
 - (3) The emissions unit or activity being monitored;

- (4) The emissions limitation or standard, including operational requirements and limitations (such as parameter ranges), specified in the permit for which compliance is being monitored;
 - (5) 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;
 - (6) 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;
 - (7) 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;
 - (8) All other monitoring results, data, or analyses required to be reported by the applicable requirement;
 - (9) 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.B.1.a(1) through (9) above shall satisfy the requirement under III.B.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 § 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:
- (1) A situation when emissions exceed an emission limitation or standard;

- (2) A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met;
 - (3) 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.
 - (4) 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 EPA Regional Office 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 will be submitted based on the following schedule:
 - (1) For emissions of a hazardous air pollutant or a toxic air pollutant(as identified in the applicable regulation) that continue for more than one hour in excess of permit requirements, the report must be made within 24 hours of the occurrence.
 - (2) 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.
 - (3) For all other deviations from permit requirements, the report shall be submitted with the semi-annual monitoring report required in paragraph III.B.1 of this permit.
3. If any of the conditions in III.C.2.b(1) or (2) of this permit are met, the source must notify the permitting authority by telephone, facsimile, or electronic mail sent to r9.aeo@epa.gov, based on the timetable listed. A written notice, certified consistent with paragraph III.C.4 of this permit section 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 section.

4. Any application form, monitoring report, or compliance certification required to be submitted by this permit shall contain certification by the permit-designated responsible official of truth, accuracy and completeness consistent with Section IV.E. of this permit and 40 CFR § 71.5(d). 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. PWCC 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 § 82.156.
 - b. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to § 82.158.
 - c. Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to § 82.161.

III.D. Chemical Accident Prevention [CAA §112(r)(1), 112(r)(3), 112(r)(7) & 40 CFR 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. An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 CFR §68.115, shall comply with the requirements of the Chemical Accident Prevention Provisions at 40 CFR Part 68 no later than the latest of the following dates:
 - a. June 21, 1999;

- b. Three years after the date on which a regulated substance is first listed under 40 CFR § 68.130; or
- c. The date on which a regulated substance is first present above a threshold quantity in a process. [See 40 CFR § 68.10.]

III.E. Asbestos Removal and Disposal

- 1. The permittee shall comply with 40 CFR Part 61, Subpart M when conducting any renovation or demolition at the facility. [40 CFR Part 61, Subpart M]

IV. Title V Administrative Requirements

IV.A. Fee Payment [40 CFR §71.6(a)(7) and 40 CFR §71.9]

- 1. PWCC shall pay an annual permit fee in accordance with the procedures outlined below. [See § 71.9(a).]
- 2. PWCC shall pay the annual permit fee by October 20 of each year.
- 3. The fee payment shall be in United States currency and shall be paid by money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the order of the U.S. Environmental Protection Agency.
- 4. PWCC shall send fee payment and a completed fee filing form to

Mellon Bank
U.S. EPA -- Region 9
P.O. Box 360863M
Pittsburgh, PA 15251
- 5. PWCC shall send an updated fee calculation worksheet form and a photocopy of each fee payment check (or other confirmation of actual fee paid) submitted annually by the same deadline as required for fee payment to the address listed in Section IV.E. of this permit. [Permittees should note that an annual emissions report, required at the same time as the fee calculation worksheet by § 71.9(h), has been incorporated into the fee calculation worksheet form as a convenience.]
- 6. Basis for calculating annual fee:
 - a. The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all “regulated pollutants (for fee calculation)” emitted from the source by the presumptive emissions fee (in dollars/ton) in effect at the time of calculation.

- (1) “Actual emissions” means the actual rate of emissions in tpy of any regulated pollutant (for fee calculation) 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. [See § 71.9(c)(6).]
 - (2) Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data. [See § 71.9(h)(3).]
 - (3) If actual emissions cannot be determined using the compliance methods in the permit, PWCC shall use other federally recognized procedures. § 71.9(e)(2).
 - (4) The term “regulated pollutant (for fee calculation)” is defined in § 71.2.
 - (5) PWCC should note that the presumptive fee amount is revised each calendar year to account for inflation, and it is available from EPA prior to the start of each calendar year.
- b. PWCC shall exclude the following emissions from the calculation of fees:
- (1) The amount of actual emissions of each regulated pollutant (for fee calculation) that the source emits in excess of 4,000 tons per year. See § 71.9(c)(5)(i);
 - (2) Actual emissions of any regulated pollutant (for fee calculation) already included in the fee calculation, see § 71.9(c)(5)(ii); and
 - (3) The quantity of actual emissions (for fee calculation) of insignificant activities [defined in § 71.5(c)(11)(i)] or of insignificant emissions levels from emissions units identified in PWCC’s application [pursuant to § 71.5(c)(11)(ii)]. [See § 71.9(c)(5)(iii).]
7. Fee calculation worksheets shall be certified as to truth, accuracy, and completeness by a responsible official. [Permittees should note that the fee calculation worksheet form already incorporates a section to help you meet this responsibility.]
 8. PWCC shall retain 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 EPA and used by PWCC for fee calculation purposes, emissions-related spreadsheets, and emissions-related data, such as records of emissions monitoring data and related support information required to be kept in accordance with § 71.6(a)(3)(ii). [See § 71.9(i).]

9. Failure of PWCC to pay fees in a timely manner shall subject PWCC to assessment of penalties and interest in accordance with § 71.9(l).
10. When notified by EPA of underpayment of fees, PWCC shall remit full payment within 30 days of receipt of notification. [See § 71.9(j)(1) and (2).]
11. A permittee who thinks an EPA assessed fee is in error and who wishes to challenge such fee, shall provide a written explanation of the alleged error to EPA along with full payment of the EPA assessed fee. [See § 71.9(j)(3).]

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

1. PWCC 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. [§ 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. [Section 113(a) and 113(e)(1) of the Act, § 51.212, § 52.12, § 52.33, § 60.11(g), and § 61.12.]

IV.C. Compliance Certifications [40 CFR § 71.6(c)(5)]

1. PWCC shall submit to EPA Region 9 a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 of each year and covering the previous calendar year, except that the first certification shall cover the period from the effective date of this permit through December 31, 2003. The compliance certification shall be

certified as to truth, accuracy, and completeness by a responsible official consistent with Section IV.E. of this permit and section 114(a)(3) of the Clean Air Act.

2. 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, and whether such methods or other means provide continuous or intermittent data. 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) §71.5(b)]

PWCC shall furnish to EPA, within a reasonable time, any information that EPA 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, PWCC shall also furnish to the EPA 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 Part 2, subpart B. PWCC, 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. PWCC 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 [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:

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)]

This permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by PWCC 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. Reopening for Cause [40 CFR §71.7(f)]

1. EPA shall reopen and revise the permit prior to expiration under any of the following circumstances:
 - a. Additional applicable requirements under the Act become applicable to a major Part 71 source with a remaining permit term of 3 or more years.
 - b. 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.
 - c. EPA 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.
 - d. EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

IV.I. 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.J. Inspection and Entry [40 CFR §71.6(c)(2)]

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

1. Enter upon PWCC'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.K. Emergency Provisions [40 CFR §71.6(g)]

1. In addition to any emergency or upset provision contained in any applicable requirement, PWCC may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, PWCC shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. an emergency occurred and that PWCC 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 PWCC took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and
 - d. PWCC submitted notice of the emergency to EPA within 2 working days of the time when emission 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 in which PWCC attempts to establish the occurrence of an emergency, PWCC 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 emission 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.L. Transfer of Ownership or Operation [40 CFR §71.7(d)(1)(iv)]

1. A change in ownership or operational control of this facility may be treated as an administrative permit amendment if the EPA 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 EPA.

IV.M. Off Permit Changes [40 CFR §71.6(a)(12)]

PWCC 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. PWCC must provide contemporaneous written notice to EPA of each change, except for changes that qualify as insignificant activities under §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;
6. PWCC 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.N. 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), §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.N.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 PWCC'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 PWCC submits a timely and complete permit application for renewal, consistent with § 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 § 71.6(f) may extend beyond the original permit term until renewal.
4. PWCC's failure to have a Part 71 permit is not a violation of this part until EPA takes final action on the permit renewal application. This protection shall cease to apply if, subsequent to the completeness determination, PWCC fails to submit any additional information identified as being needed to process the application by the deadline specified in writing by EPA.
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.

IV.O Administrative Permit Amendments [40 CFR § 71.7(d)]

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

- (a) Corrects typographical errors.
- (b) 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.
- (c) Requires more frequent monitoring or reporting by the permittee.
- (d) Allows for a change in ownership or operational control of a source where the EPA 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 EPA.
- (e) 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 §§ 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 § 71.6.
- (f) Incorporates any other type of change which EPA has determined to be similar to those listed above in subparagraphs (a) through (e).

IV.P. Minor Permit Modifications [40 CFR § 71.7(e)(1)]

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 emission 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:

- (1) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I; and
 - (2) 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 condition IV.P.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 §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 § 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 § 71.8.
4. 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 § 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.
5. The permit shield under § 71.6(f) may not extend to minor permit modifications.

[See § 71.7(e)(1)(vi)].

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

1. Group processing of modifications by EPA may be used only for those permit modifications:
 - a. That meet the criteria for minor permit modification procedures under condition IV.P.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 § 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, shall meet the requirements of §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 §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 subparagraph IV.Q.1.b. above.
 - e. Completed forms for the permitting authority to use to notify affected States as required under § 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 § 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 § 71.6(f) may not extend to group processing of minor permit modifications. [See § 71.7(e)(1)(vi)].

IV.R. Significant Permit Modifications [40 CFR § 71.7(e)(3)]

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.
 - 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. Permittees 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 § 71.5(c) for permit issuance and renewal, but only that information that is related to the proposed change. [See § 71.7(e)(3)(ii) and § 71.5(a)(2).]