



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

March 12, 2008

Charlene Nelson
Program Supervisor
Navajo Air Quality Control Program
P.O. Box 529
Fort Defiance, AZ 86504

Dear Ms. Nelson:

Thank you for the opportunity to review the Navajo Nation Environmental Protection Agency's (NNEPA) proposed Part 71 permit renewals for El Paso Natural Gas' (EPNG) Leupp and Window Rock compressor stations.

During our review, we identified several corrections that NNEPA must make before issuing the permits. These corrections include annual NO_x source testing in the Leupp permit, ensuring that there are no gaps in the periods of time covered by the compliance certifications and monitoring reports, incorporation of all conditions from the PSD permit EPA issued to the Window Rock facility, and discussing NNEPA's permit shield decision in the statement of basis that supports the Window Rock permit. We have enclosed our comments, which describe these corrections in detail and also include suggestions for improving the clarity and enforceability of the permits.

Please contact Roger Kohn at (415) 972-3973 or kohn.roger@epa.gov if you have any questions concerning our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gerardo C. Rios".

Gerardo C. Rios
Chief, Permits Office
Air Division

EPA Region 9 Comments
Proposed Part 71 Permit Renewals – El Paso Natural Gas

Leupp Compressor Station

1. The statement of basis that supports the Leupp permit states that the facility will demonstrate compliance with the New Source Performance Standard (NSPS) Subpart GG NO_x emission limit for turbine D-01 by conducting performance testing. However the proposed permit lacks a condition requiring source testing. The permit has boilerplate language regarding testing requirements in condition III.A, but does not have a separate condition that specifically requires the facility to conduct performance tests for NO_x on D-01 on an annual basis. NNEPA must add such a condition to the permit to assure compliance with the NO_x limit.

2. The proposed permit requires the permittee to submit compliance certifications to NNEPA on a semi-annual basis. Part 71 requires permitted sources to submit certifications annually. NNEPA's operating permit regulations require semiannual submittal (Part H of NNEPA's air quality control regulations). Since Part H is not part of an EPA-approved Part 70 program, neither EPA nor citizens can enforce the semiannual requirement. While NNEPA may require more frequent compliance certifications than Part 71 requires, it should do so in a separate condition that is marked as tribally enforceable only. EPA recommends revising condition IV.C.1. to require annual submittals, postmarked by January 30. The new tribally enforceable condition would require a submittal by July 31 and cover the period from January 1 through June 30. See comment #3 below for suggested language.

3. EPNG's most recent compliance certification for the Leupp facility covered a one year period that ended on May 11, 2007. The renewal permit must ensure that as the facility is converted to calendar year based certifications, there are no gaps in the periods of time for which the facility must certify compliance. To avoid a gap in compliance certification coverage while converting to calendar year certifications, condition IV.C.1. should be revised to allow for two special reporting periods. We suggest this additional language:

The permittee shall submit to NNEPA and US EPA Region 9 a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 and covering the previous calendar year, except that the first reporting period shall cover the period from May 12, 2007 through May 11, 2008 and shall be postmarked by June 10, 2008, and the second reporting period shall cover the period from May 12, 2008 through December 31, 2008 and shall be postmarked by January 30, 2009.

Please note that the first two reporting periods are necessary not only to convert the source to a calendar year schedule, but also because a certification cannot cover a period of more than one year (because this would be less stringent than Part 71 requires).

4. The semi-annual monitoring reporting condition (III.C.1.) should also be revised to allow for the first reporting period to be shorter than the subsequent periods, i.e., from the effective date of the permit through June 30, 2008.

We note that the initial permit EPA issued to this facility in 2000 was “hollow,” i.e., did not contain any applicable requirements and therefore did not include the monitoring reporting requirement. For that reason, there is no need to ensure that no gap exists between the reporting periods covered by the initial and proposed permits.

5. To provide practical enforceability to the 100 hour operation limit for AUX D-01 that EPNG needs to avoid triggering permitting under the Prevention of Significant Deterioration (PSD) program, NNEPA should add a condition that requires the facility to install, operate, and properly maintain a dedicated non-resettable elapsed time meter to record the total number of hours that AUX D-01 operates.

In addition, the record-keeping requirement for the engine hours of operation (condition II.C.2.) should be more specific. We recommend that the condition require the permittee to maintain a log, to be updated monthly by the end of the first week of each month, that includes both the number of hours AUX D-01 operated during the previous month and the cumulative hours for the last 12 months.

We also note that these PSD avoidance conditions lack a citation of origin and authority. NNEPA should cite CAA 304(f) and 40 C.F.R. 71.6(b) for these requirements.

Finally, we recommend that the statement of basis explain that any relaxation of the PSD avoidance conditions would trigger PSD review pursuant to 40 C.F.R. 52.21(r)(4).

6. Three conditions in the proposed permit have language that do not contain any requirements for the facility. This language should be removed from the permits and incorporated into the statement of basis. Here is a strikeout version of the conditions showing the deleted language:

condition II.B.2.:

Gas turbine D-01 is exempt from Condition II.B.1 of this permit when being fired with an emergency fuel. ~~According to 40 CFR § 60.60.331(r),~~

~~“emergency fuel” is defined as “a fuel fired by a gas turbine only during circumstances, such as natural gas supply curtailment or breakdown of delivery system, that make it impossible to fire natural gas in the gas turbine.~~

condition II.B.4.:

~~The permittee has elected not to monitor the total sulfur content of the gaseous fuel combusted in the turbine by combusting only the natural gas which meets the definition of natural gas in §60.331(u). The permittee shall use one of the following sources of information to make the required demonstration...~~

condition II.C.1.:

~~In order to render the requirements of 40 CFR 52.21 (PSD) not applicable to the modification project occurred in 2001, † The operating hours for the auxiliary engine AUX D-01 shall not exceed 100 hours per twelve (12) consecutive month period with compliance determined at the end of each month.~~

7. Condition III.C.3. requires the permittee to report certain types of deviations to NNEPA by telephone, facsimile, or electronic mail. NNEPA should revise this condition to require that these deviations be reported to both NNEPA and EPA. The e-mail address for reporting to EPA is r9.aeo@epa.gov.
8. Section 1.d. of the statement of basis incorrectly states that the 2001 modification did not trigger PSD “because the PTE of emission units at D plant is less than the PSD significant modification thresholds.” Similarly, section 3 incorrectly states that the “modifications that commenced in 1988 did not have potential to emit greater than the significant modification thresholds in 40 CFR 52.21.” PSD is triggered at an existing major source by a “significant” emission increase, as that term is defined in 40 C.F.R 52.21, not by having a “potential to emit greater than the significant modification thresholds.” NNEPA should correct the PSD applicability language in these sections of the statement of basis.
9. Section 1.l(c) of the statement of basis states that “fugitive NO_x and SO₂ emissions from this source are counted toward determinations of PSD review.” Since the facility is currently a major source under the Prevention of Significant Deterioration program due its potential to emit (PTE) of criteria pollutants and is not making a physical change or a change in its method of operation, and it is not clear that the facility has any fugitive NO_x and SO₂ emissions, there is no need to address how fugitive emissions are evaluated for PSD applicability purposes. For greater clarity, we recommend deleting section (c).

Window Rock Compressor Station

1. Comment #2 in the Leupp section above, which addresses the semi-annual compliance certification requirement, also applies to Window Rock.
2. Comment #3 in the Leupp section above, which addresses the annual compliance certification requirement, also applies to Window Rock. However, this facility's most recent compliance certification covered a period that ended on December 25, 2007. To avoid a gap in the periods of time for which the facility must certify compliance and convert the facility to a calendar year certification schedule, the permit must require that the first two certifications cover periods shorter than one year, .e.g., December 26, 2007 through June 30, 2008, and July 1, 2008 through December 31, 2008. Two certifications are necessary because, as noted above, a certification cannot cover a period that exceeds one year.
3. Comment #4 in the Leupp section above, which addresses the need for the first monitoring report to cover a period shorter than 6 months, also applies to Window Rock. However, since the initial permit issued by EPA to the Window Rock facility did contain a semi-annual monitoring reporting requirement, NNEPA must structure the permit to avoid any gaps in the period of time covered by the reports. The semi-annual monitoring reporting condition (III.C.1.) should be revised to require that the first reporting period cover the period starting on the day following the end of the period covered by the facility's most recent monitoring report and ending on June 30, 2008. Note that if this period is longer than six months, then two reporting periods will be necessary to convert the facility to a calendar year based reporting schedule.
4. In its comments on the draft permit, EPNG reiterated its request for a permit shield. Sources may request, and permitting authorities may grant at their discretion, permit shields under two circumstances. A permitting authority may grant a shield from an applicable requirement if it has been incorporated into the permit, or if the permitting authority determines that a requirement is not applicable to the source.

The shield language proposed by EPNG is unacceptable because it is much too broad. In addition to requesting a shield from EPA-issued PSD permit AZP 90-1, EPNG's language goes far beyond the PSD permit and shields the facility from "any applicable requirements in effect as of the date of permit issuance" and "other requirements specifically identified in the permit." While it may be EPNG's intent to limit the shield to the PSD permit, this language is ambiguous at best and suggests broad shield coverage for unidentified applicable requirements.

Furthermore, EPNG's attempt to strike the PSD language that requires notification of the Arizona Department of Environmental Quality (ADEQ) is wrong on two counts. First, the requirement to submit copies of reports to ADEQ

in EPA's PSD permit does not mean that ADEQ has any jurisdiction over the facility, as EPNG asserts. Second, the PSD condition is an applicable requirement that cannot be modified by NNEPA.

NNEPA may grant a shield to EPNG for the EPA-issued PSD permit provided that all conditions of that permit are incorporated into the Part 71 permit. Regardless of its decision, NNEPA must address its decision to grant or deny EPNG's shield request in the statement of basis. If NNEPA decides to grant the shield, EPA respectfully requests the opportunity to help develop the shield language.

5. Condition IV of the EPA-issued PSD permit AZP 90-1, which requires the facility to notify EPA by telephone within 48 hours of a malfunction, is missing from the proposed permit. NNEPA must add this condition, and ensure that all conditions from the PSD permit are included in the Part 71 permit. If NNEPA grants the facility a permit shield for the PSD permit, NNEPA must pay special attention to the requirement to include every PSD condition in the Part 71 permit.
6. Condition II.A.7. incorporates a condition from the EPA-issued PSD permit regarding notification prior to source tests. However, NNEPA has revised the condition to require the facility to notify NNEPA instead of EPA. This and other PSD conditions are applicable requirements that cannot be modified by NNEPA. NNEPA must incorporate the exact text of this PSD condition, which requires notification of EPA. However, NNEPA could add a separate condition requiring notification of NNEPA.
7. It appears that NNEPA is streamlining NO_x emission limits from the EPA-issued PSD Permit and NSPS Subpart GG in condition II.A.1. It is appropriate to streamline multiple overlapping applicable requirements in this fashion, with the less stringent limit being subsumed under the most stringent limit. However, the statement of basis is silent on this issue. NNEPA should document this and any other streamlining determinations it makes with a side-by-side comparison of the emission limits and associated monitoring and recordkeeping in the statement of basis, as described in EPA's March 5, 1996 guidance memorandum, "White Paper Number 2 for Improved Implementation of The Part 70 Operating Permit Program."
8. Condition II.D.1. presents information about AUX-01, AUX-02, and AUX-03 but does not contain any obligation for the source. This language is appropriate for a statement of basis, but not a permit. We recommend deleting this condition.

We also recommend deleting conditions II.D.2. and II.D.22, which contain the NESHAP subpart ZZZZ initial compliance requirements, because the initial compliance date of June 15, 2007 and the deadline to demonstrate compliance within 180 days of that date have passed. Rather than include these past

compliance obligations in the permit, NNEPA should discuss the facility's subpart ZZZZ compliance status in the statement of basis.

9. NNEPA should add a citation of origin and authority for condition II.D.29, the NESHAP alternative monitoring method. In addition to EPA's September 21, 2007 approval letter, NNEPA should cite 40 C.F.R. 63.8(f)(2).