

**MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
OPERATING PERMIT TECHNICAL REVIEW DOCUMENT**

**Air, Energy, & Mining Division  
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Helena, Montana 59620-0901**

**Northern Border Pipeline Company  
dba Northern Border Pipeline  
Compressor Station No. 3  
NE¼ of the NE¼, of Section 6, Township 28 North, Range 57 East  
Roosevelt County, Montana**

The following table summarizes the air quality programs testing, monitoring, and reporting requirements applicable to this facility.

<b>Facility Compliance Requirements</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Source Tests Required	xx		Portable Analyzer
Ambient Monitoring Required		xx	
COMS Required		xx	
CEMS Required		xx	
Schedule of Compliance Required		xx	
Annual Compliance Certification and Semiannual Reporting Required	xx		
Monthly Reporting Required		xx	
Quarterly Reporting Required		xx	
<b>Applicable Air Quality Programs</b>			
ARM Subchapter 7 – Montana Air Quality Permit (MAQP)	xx		MAQP #2974-03
New Source Performance Standards (NSPS)	xx		40 CFR 60, Subpart GG
National Emission Standards for Hazardous Air Pollutants (NESHAPS)		xx	
Maximum Achievable Control Technology (MACT)	xx		40 CFR 63 Subpart ZZZZ
Major New Source Review (NSR) – includes Prevention of Significant Deterioration (PSD) and/or Non-attainment Area (NAA) NSR		xx	
Risk Management Plan Required (RMP)		xx	
Acid Rain Title IV		xx	
Compliance Assurance Monitoring (CAM)		xx	
State Implementation Plan (SIP)	xx		General SIP

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## SECTION I: GENERAL INFORMATION

### A. Purpose

This document establishes the basis for the decisions made regarding the applicable requirements, monitoring plan, and compliance status of emissions units affected by the operating permit proposed for this facility. The document is intended for reference during review of the proposed permit by the Environmental Protection Agency (EPA) and the public. It is also intended to provide background information not included in the operating permit and to document issues that may become important during modifications or renewals of the permit. Conclusions in this document are based on information provided in the change of Responsible Official notice received March 25, 2009, and Title V Renewal application received by the Department of Environmental Quality (Department) on May 5, 2009, renewal application received on March 19, 2015, and additional information received on August 6, 2015, September 4, 2015, and March 9, 2016.

### B. Facility Location

NBPL owns and operates the Compressor Station No. 3. This facility is located in the NE<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 6, Township 28 North, Range 57 East, in Roosevelt County, Montana. This site is approximately 4 miles north of Culbertson, Montana. The total property area covered by this facility is 20 acres. Roosevelt County is designated as an Unclassifiable/Attainment area for National Ambient Air Quality Standards (NAAQS) for all criteria pollutants.

### C. Facility Background Information

#### Montana Air Quality Permit History

**Montana Air Quality Permit (MAQP) #2974-00** was issued to NBPL for the operation of a natural gas turbine and associated equipment located in the NE<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 6, Township 28 North, Range 57 East, in Roosevelt County. This facility is known as Compressor Station No. 3 and includes one 40,350-horsepower (hp) Cooper Rolls natural gas turbine, one 300-kilowatt (kW) emergency backup generator engine, one 1.706-MMBtu/hr heating boiler, and one 15-kW Onan emergency backup generator.

On February 21, 2001, the Department received a request from NBPL for a revision of MAQP #2974-00 to alter the custom fuel monitoring schedule and equipment for Compressor Station No. 3 located in Roosevelt County, Montana. The chromatograph was replaced with a hydrogen sulfide (H<sub>2</sub>S) and Total Sulfur Analyzer and the custom fuel schedule was structured to allow a representative sample to be recorded every 2 weeks with an option of extending the sampling schedule to once every 6 months as approved by the Department. **MAQP #2974-01** replaced MAQP #2974-00.

On March 16, 2004, the Department received a complete permit application from NBPL for changes to MAQP #2974-01. The changes include a modification to the original oxides of nitrogen (NO<sub>x</sub>) Best Available Control Technology (BACT) determination by the Department. NBPL Source #01 (40,350-hp) natural gas turbine) was unable to operate the dry low NO<sub>x</sub> combustion system (DLE), determined by the Department to be BACT, every hour and at all conditions for which the turbine operates. The modification allowed NBPL to operate Source

#01 up to 750 hours per year while the DLE was not in operation. Reasons for non-DLE operation shall include only start-up and shutdown, when operation is required during downstream maintenance requirements, and operation during low ambient temperatures at the site. New carbon monoxide (CO) emissions limits for Source #01 of 460 pounds per hour (lb/hr) when the ambient temperature is 20 degrees Fahrenheit (°F) or colder, 56 lb/hr when the ambient temperature is 20°F or warmer, and 109.5 tons per rolling 12-month time period replaced Section II.A.2 that limited the operation of Source #01 to running at 80% or greater load when the ambient temperature is below 5°F. The new 109.5 tons per year CO limit was made enforceable by monitoring a combination of ambient and turbine parameters. Cooper-Rolls, the manufacturer of the turbine, will test the turbine under different operating scenarios to develop a correlation between the monitored parameters and CO emissions. **MAQP #2974-02** replaced MAQP #2974-01.

On December 12, 2014, the Department received an application to modify MAQP #2974-02 to change the long-term turbine carbon monoxide (CO) emission limit from 109.5 tons per rolling 12-month period to 162 tons per rolling 12-month period. The change in the long-term CO emissions limit was proposed to more accurately reflect actual CO emissions from the turbine based on operating experience and methods of operation. The permit action changed the CO emission limit to 162 tons per rolling 12-month period and updated the permit to reflect the current permit language and rule references used by the Department. **MAQP #2974-03** replaced MAQP#2974-02.

#### Title V Operating Permit History

On December 23, 1996, NBPL submitted a complete permit application to construct and operate Compressor Station No. 3 in Roosevelt County, Montana. This facility consists of one 40,350-hp Cooper-Rolls, 6562-DLE Coberra; one 245-kW emergency backup generator engine; one 1.706-MMBtu/hr hydronic boiler; and one 15-kW emergency backup generator. The application stated the estimated start date as August 1997 and the estimated completion date as November 1998. An MAQP was issued for this facility on March 9, 1997. This facility had the potential to emit greater than 100 tons per year of NO<sub>x</sub> and was therefore required to obtain an Operating Permit. This facility was an NSPS Subpart GG affected source because the Cooper-Rolls Coberra met the definition of a stationary gas turbine and was manufactured after October 3, 1997. The Cooper-Rolls Coberra was required to have an internal dry low NO<sub>x</sub> combustion as its control device, which constitutes BACT for this facility. **Operating Permit #OP2974-00** was issued final and effective September 10, 1998.

On February 21, 2001, the Department received a request from NBPL for a revision of MAQP #2974-00 and Operating Permit #OP2974-00 to alter the custom fuel monitoring schedule and equipment for Compressor Station No. 3 located in Roosevelt County, MT. The chromatograph was replaced with an H<sub>2</sub>S and Total Sulfur Analyzer and the custom fuel schedule was structured to allow a representative sample to be recorded every 2 weeks with an option of extending the sampling schedule to once every 6 months as approved by the Department. **Operating Permit #OP2974-01** replaced Operating Permit #OP2974-00.

On October 9, 2001, the Department received a request from NBPL for a modification to Operating Permit #OP2974-01. The modification was an administrative amendment, which changed the responsible official for the facility. **Operating Permit #OP2974-02** replaced Operating Permit #OP2974-01.

On February 3, 2003, the Department received a request from NBPL for a modification to Operating Permit OP2974-02. The modification was an administrative amendment, which changed the responsible official and the corporate office address for the facility. **Operating Permit #OP2974-03** replaced Operating Permit #OP2974-02.

On February 3, 2003, the Department received a request from NBPL for a modification to Operating Permit #OP2974-03. The modification was an administrative amendment. The responsible official's name was changed in error on Operating Permit #OP2974-03. Operating Permit #OP2974-04 changed the responsible official from Jay Muschenheim back to Randy Rice and changed the facility contact from Ruth Jensen to Jay Muschenheim. **Operating Permit #OP2974-04** replaced Operating Permit #OP2974-03.

On October 17, 2003, the Department received a request from NBPL for an administrative amendment of Operating Permit #OP2974-04 to update Section V.B.3 of the General Conditions incorporating changes to federal Title V rules 40 CFR 70.6(c)(5)(iii)(B) and 70.6(c)(5)(iii)(C) (to be incorporated into Montana's Title V rules at ARM 17.8.1213) regarding Title V annual compliance certifications. **Operating Permit #OP2974-05** replaced Operating Permit #OP2974-04.

On March 11, 2003, the Department received a renewal application from NBPL. The Department had been in the process of permitting action #2974-02 and waited until the completion of permitting action #2974-02 to proceed with the renewal. MAQP #2974-02 was final June 18, 2004. **Operating Permit #OP2974-06** replaced Operating Permit #OP2974-05.

On December 6, 2004, the Department received a request from NBPL for an administrative amendment to Operating Permit #OP2974-06. The administrative amendment changed the responsible official from Randy Rice to Michel E. Nelson. **Operating Permit #OP2974-07** replaced Operating Permit #OP2974-06.

On April 9, 2007, the Department received a request from NBPL for an administrative amendment to Operating Permit #OP2974-07. The administrative amendment changed the responsible official from Michel E. Nelson to Jim Krause. **Operating Permit #OP2974-08** replaced Operating Permit #OP2974-07.

On March 25, 2009, the Department received a request from NBPL for an administrative amendment to Operating Permit #OP2974-08 to change the responsible official from Jim Krause to Jeff Gravelle. The Department did not issue an Administrative Amendment in anticipation of receiving a Title V Renewal Application. The Renewal Application for NBPL's Title V Operating Permit was received on May 5, 2009. **Operating Permit #OP2974-10** renewed NBPL's Title V Operating Permit, incorporated the change of the Responsible Official, and updated the permit to the current format used by the Department. Some of the changes included updates to general permit conditions, facility wide conditions, identification of the emergency generator by horsepower instead of electrical generation, and minor changes on the information required for recording during testing. NBPL's Operating Permit #OP2974-10 replaced Operating Permit #OP2974-08. The numbering skipped from -08 to -10 to designate that the Department combined the responsible official change request and the renewal application into one permitting action.

On August 21, 2008, the Department received a request for concurrence that no permit modifications would be needed for a waste heat recovery and electrical generation facility on an easement on the facility property. The project would recover the waste heat from the exhaust from the turbine to produce electrical power. The Department determined that while several stack parameters would change as a result, including stack height, stack diameter, and stack exhaust temperature, none of these changes would violate an existing condition in the permit, nor would these changes affect air pollutant emissions. Therefore, this action did not prompt an amendment to the permit at that time. No changes in the Title V Operating Permit from this de minimis action were required.

On December 6, 2010, the Department received notification from NBPL that the Responsible Official had changed. The permit was updated to reflect the change in responsible official from Jeff Gravelle to Kenneth Leier. **Operating Permit #OP2974-11** replaced Operating Permit #OP2974-10.

**D. Current Permit Action**

On March 19, 2015, the Department received an application for Renewal of the Title V Operating Permit. Additional pertinent information was received on August 6, 2015, September 4, 2015, and March 9, 2016. The current permit action renews the Title V Operating Permit, with Operating Permit #OP2979-13 replacing Operating Permit #OP2979-12. Changes include an update of the Responsible Official, update to the mailing address, and an update to the company name to reflect the name registered with the Montana Secretary of State. **Operating Permit #OP2974-12** will replace #OP2974-11.

**E. Taking and Damaging Analysis**

HB 311, the Montana Private Property Assessment Act, requires analysis of every proposed state agency administrative rule, policy, permit condition or permit denial, pertaining to an environmental matter, to determine whether the state action constitutes a taking or damaging of private real property that requires compensation under the Montana or U.S. Constitution. As part of issuing an operating permit, the Department is required to complete a Taking and Damaging Checklist. As required by 2-10-101 through 2-10-105, MCA, the Department conducted the following private property taking and damaging assessment.

YES	NO	
xx		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	xx	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	xx	3. Does the action deny a fundamental attribute of ownership? (ex.: right to exclude others, disposal of property)
	xx	4. Does the action deprive the owner of all economically viable uses of the property?
	xx	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If no, go to (6)].
		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?

	xx	6. Does the action have a severe impact on the value of the property? (consider economic impact, investment-backed expectations, character of government action)
	xx	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally?
	xx	7a. Is the impact of government action direct, peculiar, and significant?
	xx	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged or flooded?
	xx	7c. Has government action lowered property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?
	xx	Takings or damaging implications? (Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b; the shaded areas)

Based on this analysis, the Department determined there are no taking or damaging implications associated with this permit action.

## F. Compliance Designation

The Department conducted a full compliance Evaluation for the period from May 28, 2013 through May 28, 2015. Based upon the information gathered during the facility inspection, the observations made at the facility, and the review of facility records, the Department found NBPL to be in compliance with all applicable requirements.

On June 17, 2011, Violation Letter #VLKD11-15 was issued to NBPL for exceeding the NO<sub>x</sub> ppm<sub>vd</sub> emission limit during the May 5, 2011, compliance source testing on EU001. On April 5, 2012, the Department initiated an enforcement action (FID 2160) against NBPL to resolve the air quality violation underlying Violation Letter #VLKD11-15. On June 21, 2012, an Administrative Order of Consent (Docket No. AQ-12-06) was executed to resolve Violation Letter #VLKD11-15. NBPL submitted the penalty payment and completed the quarterly emission tests on the turbine (EU001) that were required in the Administrative Order of Consent (Docket No. AQ-12-06). On November 15, 2013, the Department closed case file (FID 2160) and considered this matter to be resolved.

On April 9, 2009, the facility was inspected. No compliance issues were noted.

The facility was inspected July 17, 2007. The inspection report acknowledged a violation letter was issued to NBPL on April 27, 2006, for a violation of the permitted NO<sub>x</sub> emission limit that occurred during a compliance test. The issue was resolved with the Department through an Administrative Order on Consent that was finalized on October 4, 2006. The inspection report indicated that subsequent compliance tests completed on the Cooper-Rolls Coberra 6562-DLE Turbine since the failed compliance test have shown compliance with the emission limits.

The facility was inspected on May 26, 2005. Based on the results of the inspection, the facility appeared to be in compliance with all applicable requirements.

## SECTION II. SUMMARY OF EMISSION UNITS

### A. Facility Process Description

The NBPL Compressor Station No. 3 is a natural gas pipeline transmission station with one Cooper-Rolls Coberra, natural gas fired turbine. A hot water boiler provides the heat to the various station facilities.

The Standard Industrial Classification (SIC) for this facility is "Natural Gas Transmission" which has an SIC Code of 4922.

### B. Emission Units and Pollution Control Device Identification

The NBPL Compressor Station No. 3 application identified one 40,350 hp Cooper-Rolls Coberra 6562 Compressor Turbine, one 350 bhp emergency backup generator engine, and one 1.67-MMBtu/hr hydronic boiler.

The Cooper-Rolls Coberra is equipped with a dry low NO<sub>x</sub> combustion system as part of the turbine design. This design and operating practice constitutes BACT for this facility. No pollution control devices exist on the emergency backup generator engine or the hydronic boiler.

### C. Categorically Insignificant Sources/Activities

The Administrative Rules of Montana ((ARM) 17.8.120 (22)(a)) defines an insignificant emissions unit as one that emits less than 5 tons per year of any regulated pollutant, has the potential to emit less than 500 pounds per year of lead or any hazardous air pollutant, and is not regulated by an applicable requirement other than a generally applicable requirement.

This facility has a 1.67-MMBtu/hr Hydronic Boiler, used for heating buildings and fuel preheat as needed. This boiler meets the definition of an insignificant emissions unit.

<b>Emissions Unit ID</b>	<b>Description</b>
IEU01	1.67-MMBtu/hr natural gas fired heater boiler
IEU02	In-plant vehicle traffic
IEU03	Fugitive and Miscellaneous emissions

## SECTION III. PERMIT CONDITIONS

### A. Emission Limits and Standards

Emission limits for the 40,350 hp Cooper-Rolls Coberra Compressor Turbine were established by a BACT determination under the authority of ARM 17.8.715 (the predecessor to ARM 17.8.752). The compressor turbine initially had an emission limit of 40 ppm<sub>vd</sub>, 51.5 lb/hr and 78 lb/hr for NO<sub>x</sub>; 460 lb/hr, 56 lb/hr, and 109.5 ton per rolling 12-month time period for CO; and 3.00 lb/hr for volatile organic compounds (VOC). On December 12, 2014, the Department received an application to modify MAQP #2974-02 to change the long-term turbine carbon monoxide (CO) emission limit from 109.5 tons per rolling 12-month period to 162 tons per rolling 12-month period. The change in the long-term CO emissions limit was proposed to more accurately reflect actual CO emissions from the turbine based on operating experience and methods of operation. The permit action changed the CO emission limit to 162 tons per rolling 12-month period.

Sulfur content in the fuel shall not exceed 0.08% by weight and sulfur dioxide content in the fuel shall not exceed 0.015% by volume at 15% oxygen on a dry basis. The emergency generator engine is limited to 500 hours of operation per year in order to comply with the EPA definition of an "emergency back up generator." The permit further requires the emergency generator to operate only as necessary for emergency use or maintenance related operation.

NBPL shall comply with all applicable standards, limitations, and the reporting, recordkeeping, and notification requirements contained in 40 CFR 60, Subpart GG unless otherwise specified (ARM 17.8.340 and 40 CFR Part 60).

### B. Monitoring Requirements

ARM 17.8.1212(1) requires that all monitoring and analysis procedures or test methods required under applicable requirements are contained in Operating Permits. In addition, when the applicable requirement does not require periodic testing or monitoring, periodic monitoring must be prescribed that is sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit.

The requirements for testing, monitoring, recordkeeping, reporting, and compliance certification sufficient to assure compliance do not require the permit to impose the same level of rigor for all emission units. Furthermore, they do not require extensive testing or monitoring to assure compliance with the applicable requirements for emission units that do not have significant potential to violate emission limitations or other requirements under normal operating conditions. When compliance with the underlying applicable requirement for an insignificant emissions unit is not threatened by lack of regular monitoring and when periodic testing or monitoring is not otherwise required by the applicable requirement, the status quo (**i.e., no monitoring**) will meet the requirements of ARM 17.8.1212(1). Therefore, the permit does not include monitoring for insignificant emission units.

The permit includes periodic monitoring or recordkeeping for each applicable requirement. The information obtained from the monitoring and recordkeeping will be used by the permittee to periodically certify compliance with the emission limits and standards. However, the Department may request additional testing to determine compliance with the emission limits and standards.

### **C. Test Methods and Procedures**

NBPL shall conduct an emissions test with a portable analyzer in order to determine the NO<sub>x</sub> emissions from the turbine once every 6 months. The portable analyzer shall be capable of achieving performance specifications equivalent to EPA traditional methods defined in 40 CFR 60, Appendix A, or shall be capable of meeting the requirements of EPA Conditional Test Method 022 for the "Determination of Nitric Oxide, Nitrogen Dioxide, and NO<sub>x</sub> Emissions from Stationary Combustion Sources by Electrochemical Analyzer." NBPL shall monitor compliance with the NO<sub>x</sub> and CO limitations by converting the emissions test results (ppm) to a mass emissions rate (lb/hr). Stack gas flow rates shall be determined using EPA Test Methods in 40 CFR 60, Appendix A. NBPL may use another testing procedure as approved in advance by the Department (ARM 17.8.105 and ARM 17.7.106).

### **D. Recordkeeping Requirements**

The permittee is required to keep all records listed in the operating permit as a permanent business record for at least 5 years following the date of the generation of the record.

### **E. Reporting Requirements**

Reporting requirements are included in the permit for each emissions unit and Section V of the operating permit "General Conditions" explains the reporting requirements. However, the permittee is required to submit semi-annual and annual monitoring reports to the Department and to annually certify compliance with the applicable requirements contained in the permit. The reports must include a list of all emission limit and monitoring deviations, the reason for any deviation, and the corrective action taken as a result of any deviation.

### **F. Public Notice**

In accordance with ARM 17.8.1232, a public notice was published in the *Glasgow Courier* newspaper on April 6, 2016. The Department provided a 30-day public comment period on the draft operating permit from April 6, 2016 to May 6, 2016. ARM 17.8.1232 requires the Department to keep a record of both comments and issues raised during the public participation process. The comments and issues received by May 6, 2016 will be summarized, along with the Department's responses, in the following table. All comments received during the public comment period will be promptly forwarded to NBPL so they may have an opportunity to respond to these comments as well.

### Summary of Public Comments

Person/Group Commenting	Comment	Department Response

### G. Draft Permit Comments

Summary of Permittee Comments

Permit Reference	Permittee Comment	Department Response

### Summary of EPA Comments

Permit Reference	EPA Comment	Department Response

#### **SECTION IV. NON-APPLICABLE REQUIREMENT ANALYSIS**

Section IV of the operating permit "Non-Applicable Requirements" contains the requirements that the Department determined were non-applicable. This section is intentionally left blank as this section typically summarizes the requirements that the applicant identified as non-applicable and contains the reasons that the Department did not include these requirements as non-applicable in the permit. No such scenario occurred during the renewal.

## SECTION V. FUTURE PERMIT CONSIDERATIONS

### A. MACT Standards

On March 5, 2009, EPA published in the Federal Register a proposed rule to amend 40 CFR 63, Subpart ZZZZ. This rule has since become final, and requires specific maintenance practices of the emergency generator engine.

### B. NESHAP Standards

As of the draft date of Operating Permit #OP2974-12, the Department is unaware of any future NESHAP Standards that may be promulgated that will affect this facility.

### C. NSPS Standards

This facility is currently subject to 40 CFR 60, Subpart GG, Standards of Performance for Stationary Gas Turbines. As of the draft date of OP2974-12, the Department is unaware of future NSPS Standards that may be promulgated that will affect this facility.

### D. Risk Management Plan

This facility does not exceed the minimum threshold quantities for any regulated substance listed in 40 CFR 68.115 for any facility process. NBPL has not notified the department of any change to applicability of this requirement. This facility is not required to submit a Risk Management Plan.

If a facility has more than a threshold quantity of a regulated substance in a process, the facility must comply with 40 CFR 68 requirements no later than June 21, 1999; 3 years after the date on which a regulated substance is first listed under 40 CFR 68.130; or the date on which a regulated substance is first present in more than a threshold quantity in a process, whichever is later.

### E. CAM Applicability

An emitting unit located at a Title V facility that meets the following criteria listed in ARM 17.8.1503 is subject to Subchapter 15 and must develop a CAM Plan for that unit:

- The emitting unit is subject to an emission limitation or standard for the applicable regulated air pollutant (other than emission limits or standards proposed after November 15, 1990, since these regulations contain specific monitoring requirements);
- The emitting unit uses a control device to achieve compliance with such limit; and
- The emitting unit has potential pre-control device emissions of the applicable regulated air pollutant that are greater than major source thresholds.

NBPL does not currently have any emitting units that meet all the applicability criteria in ARM 17.8.1503, and is therefore not currently required to develop a CAM Plan.

## F. Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule

On May 7, 2010, EPA published the “light duty vehicle rule” (Docket # EPA-HQ-OAR- 2009-0472, 75 FR 25324) controlling greenhouse gas (GHG) emissions from mobile sources, whereby GHG became a pollutant subject to regulation under the Federal and Montana Clean Air Act(s). On June 3, 2010, EPA promulgated the GHG “Tailoring Rule” (Docket # EPA-HQ-OAR-2009-0517, 75 FR 31514) which modified 40 CFR Parts 51, 52, 70, and 71 to specify which facilities are subject to GHG permitting requirements and when such facilities become subject to regulation for GHG under the PSD and Title V programs.

Under the Tailoring Rule, any PSD action (either a new major stationary source or a major modification at a major stationary source) taken for a pollutant or pollutants other than GHG that was not final prior to January 2, 2011, would be subject to PSD permitting requirements for GHG if the GHG increases associated with that action were at or above 75,000 tons per year (tpy) of carbon dioxide equivalent (CO<sub>2</sub>e). Similarly, if such action were taken, any resulting requirements would be subject to inclusion in the Title V Operating Permit. Starting on July 1, 2011, PSD permitting requirements would be triggered for modifications that were determined to be major under PSD based on GHG emissions alone, even if no other pollutant triggered a major modification. In addition, sources that are not considered PSD major sources based on criteria pollutant emissions would become subject to PSD review if their facility-wide potential emissions equaled or exceeded 100,000 TPY of CO<sub>2</sub>e and 100 or 250 TPY of GHG on a mass basis depending on their listed status in ARM 17.8.801(22) and they undertook a permitting action with increases of 75,000 TPY or more of CO<sub>2</sub>e and greater than 0 TPY of GHG on a mass basis. With respect to Title V, sources not currently holding a Title V permit that have potential facility-wide emissions equal to or exceeding 100,000 TPY of CO<sub>2</sub>e and 100 TPY of GHG on a mass basis would be required to obtain a Title V Operating Permit.

The Supreme Court of the United States (SCOTUS), in its *Utility Air Regulatory Group v. EPA* decision on June 23, 2014, ruled that the Clean Air Act neither compels nor permits EPA to require a source to obtain a PSD or Title V permit on the sole basis of its potential emissions of GHG. SCOTUS also ruled that EPA lacked the authority to tailor the Clean Air Act’s unambiguous numerical thresholds of 100 or 250 TPY to accommodate a CO<sub>2</sub>e threshold of 100,000 TPY. SCOTUS upheld that EPA reasonably interpreted the Clean Air Act to require sources that would need PSD permits based on their emission of conventional pollutants to comply with BACT for GHG. As such, the Tailoring Rule has been rendered invalid and sources cannot become subject to PSD or Title V regulations based on GHG emissions alone. Sources that must undergo PSD permitting due to pollutant emissions other than GHG may still be required to comply with BACT for GHG emissions.