MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OPERATING PERMIT TECHNICAL REVIEW DOCUMENT

Air, Energy & Mining Division
1520 E. Sixth Avenue
P.O. Box 200901
Helena, Montana 59620-0901

Basin Creek Equity Partners, LLC
NW ¼ of the NW ¼ of Section 18, Township 2 North, Range 7 West, Silver Bow County, MT
65 East Broadway Street
Butte, MT 59701

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

Facility Compliance Requirements	Yes	No	Comments
Source Tests Required	X		Methods 5, 7E, 10, and 18
Ambient Monitoring Required		X	
COMS Required		X	
CEMS Required		X	
Schedule of Compliance Required		X	
Annual Compliance Certification and Semiannual Reporting Required	X		
Monthly Reporting Required		X	
Quarterly Reporting Required		X	
Applicable Air Quality Programs			
ARM Subchapter 7 – Montana Air Quality Permit (MAQP)	X		MAQP #3211-04
New Source Performance Standards (NSPS)		X	
National Emission Standards for Hazardous Air Pollutants (NESHAPS)		X	Except for 40 CFR 61, Subpart M
Maximum Achievable Control Technology (MACT)	X		40 CFR 63, Subpart ZZZZ
Major New Source Review (NSR) – includes Prevention of Significant Deterioration (PSD) and/or Non-attainment Area (NAA) NSR		X	
Risk Management Plan Required (RMP)		X	
Acid Rain Title IV	X		Exempt New LME Unit
Compliance Assurance Monitoring (CAM)	X		Oxidation Catalyst for CO Control
State Implementation Plan (SIP)	X		General SIP

TABLE OF CONTENTS

SECTION I. GENERAL INFORMATION **3**

A. PURPOSE 3
B. FACILITY LOCATION 3
C. FACILITY BACKGROUND INFORMATION 3
D. CURRENT PERMIT ACTION 6
E. TAKING AND DAMAGING ANALYSIS 6
F. COMPLIANCE DESIGNATION 7

SECTION II. SUMMARY OF EMISSION UNITS **8**

A. FACILITY PROCESS DESCRIPTION 8
B. EMISSION UNITS AND POLLUTION CONTROL DEVICE IDENTIFICATION 8
C. CATEGORICALLY INSIGNIFICANT SOURCES/ACTIVITIES 8

SECTION III. PERMIT CONDITIONS **9**

A. EMISSION LIMITS AND STANDARDS 9
B. MONITORING REQUIREMENTS 10
C. TEST METHODS AND PROCEDURES 10
D. RECORDKEEPING REQUIREMENTS 10
E. REPORTING REQUIREMENTS 10
F. PUBLIC NOTICE 11
G. DRAFT PERMIT COMMENTS 11

SECTION IV. NON-APPLICABLE REQUIREMENT ANALYSIS **12**

SECTION V. FUTURE PERMIT CONSIDERATIONS **15**

A. MACT STANDARDS (PART 63). 15
B. NESHAP STANDARDS (PART 61). 15
C. NSPS STANDARDS 15
D. RISK MANAGEMENT PLAN 15
E. CAM APPLICABILITY 15
F. PSD AND TITLE V GREENHOUSE GAS TAILORING RULE 16

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 original application submitted by BCEP on February 24, 2004 and an additional renewal submittal on March 4, 2010. A subsequent renewal application was also submitted on March 3, 2016.

B. Facility Location

The proposed BCEP facility is located approximately 2 miles south of the Bert Mooney Airport in the Butte, Montana, Industrial Park. The total property area is approximately 20 acres with the facility occupying approximately 10 acres. The legal description of the site is the NW ¼ of the NW ¼ of Section 18. Township 2 North, Range 7 West, Silver Bow County, Montana.

C. Facility Background Information

Montana Air Quality Permit History

On November 19, 2002, Basin Creek Power Services (BCP) was issued final Montana Air Quality Permit (MAQP) **#3211-00**. Under the initial permitting action BCP proposed the construction and operation of four nominal 23.9-megawatt (MW) simple cycle turbines to produce electrical power for the grid. The plant design scenario included two Pratt and Whitney FT8-1 twin pacs with each twin pac consisting of two simple cycle turbines and a single electric generator capable of combusting natural gas or distillate fuel oil #2. The electric generation system was permitted to operate as a "peaking unit" or "load following unit.". Emissions of oxides of Nitrogen (NO_x) from the turbines were required by permit to be controlled with a water injection system that was an integral part of the design of the Pratt and Whitney FT8-1 units. In addition, BCP proposed the installation of a catalyst to control at least 80% of the carbon monoxide (CO) emissions from each twin pack.

On March 5, 2003, BCP submitted a complete permit application for the modification of Montana Air Quality MAQP #3211-00. Specifically, the current permit action would allow for the replacement of the four previously permitted Pratt and Whitney natural gas fired simple-cycle turbines (95.6 MW combined capacity) with three reciprocating internal combustion engines (RICE) (48.3 MW combined capacity).

BCP was required to comply with all applicable requirements of the Acid Rain Program (Title IV of the Federal Clean Air Act (FCAA)) as set forth in 40 CFR Parts 72-78. The acid rain provisions can be summarized into three major or primary programs: 1) sulfur dioxide (SO_2) allowance system; 2) NO_x emission standards; and 3) applicable emissions monitoring.

Under the first primary acid rain program listed above, BCP was required to obtain the necessary number of SO_2 allowances to operate the facility. Allowance trading is the centerpiece of EPA's Acid Rain Program and allowances are the currency, with which compliance with the SO_2 emissions requirements is achieved. Through the market-based allowance trading system, utilities regulated under the program, rather than a governing agency, decide the most cost-effective way to use available resources to comply with the acid rain requirements of the FCAA. Utilities can reduce emissions by employing energy conservation measures, increasing reliance on renewable energy, reducing usage, employing pollution control technologies, switching to lower sulfur fuel, or developing other alternate strategies. Units that reduce their emissions below the number of allowances they hold may trade allowances with other units in their system, sell them to other utilities on the open market or through EPA auctions, or bank them to cover emissions in future years. Allowance trading provides incentives for energy conservation and technology innovation that can both lower the cost of compliance and yield pollution prevention benefits.

In addition, under the second primary acid rain program, BCP was not subject to the provisions of 40 CFR Part 76 because these provisions apply to coal-fired utility units only. BCP does not combust coal in the affected units, rather, the RICE are operated in a dual-fuel capability mode (natural gas and distillate fuel oil #2) with a combined RICE distillate fuel oil #2 combustion limit of 259,200 gallons during any rolling 12-month time period (approximately 1% of total fuel combustion) with the remainder of the fuel required to be pipeline quality natural gas (approximately 99% of total fuel combustion) to ensure compliance with the applicable permitted NO_x emission limits.

Furthermore, regarding NO_x emissions from the affected units, BCP accepted federally enforceable permit conditions limiting annual potential NO_x emissions from the facility. Potential NO_x emissions from each RICE were limited to 99 tons per year (tpy) in order for the affected units to be classified as low mass emitting units (LME) under the Acid Rain Program (40 CFR 75.19(a)(1)(i)(A)(1)). The method for achieving this limit was established as an operating limit of 3850 hours per RICE during any rolling 12-month time period in conjunction with the previously described fuel specific limits. Also, BCP proposed conditional facility-wide potential NO_x emission limits at levels below the NSR/PSD permitting threshold of 250 tpy per pollutant. The method for achieving this limit was established as a combined RICE operating limit of 9600 hours during any rolling 12-month time period in conjunction with the previously described fuel specific limits.

Under the third primary acid rain program discussed above, BCP would be required to install operate, and maintain a continuous emission monitoring system (CEMS) to track NO_x and SO_2 emissions. CEMS provide continuous measurement of pollutants emitted into the atmosphere in exhaust gases from combustion or industrial processes. EPA established requirements for the continuous monitoring of SO_2, volumetric flow, NO_x, diluent gas, and opacity for units regulated under the Acid Rain Program. In addition, procedures for monitoring or estimating carbon dioxide (CO_2) are specified in the Acid Rain Program. However, the provisions contained in 40 CFR Part 75.19(c) allow sources that qualify as LMEs to utilize applicable methodologies to calculate hourly SO_2 and NO_x mass emissions in lieu of CEMS. As previously described, the RICE at the BCP facility qualified as LME, and thus BCP proposed an operational limit to ensure that the applicable SO_2 and NO_x LME thresholds (25 tpy and 100 tpy, respectively) were not reached or exceeded.

Further, in accordance with the provisions of the Administrative Rules of Montana (ARM) Chapter 17.8, Subchapter 15, Compliance Assurance Monitoring (CAM), because the proposed RICE units incorporate a CO control device (oxidation catalyst (OxiCat) - see Section III.B of the Permit Analysis for a discussion of controls) and potential uncontrolled CO emissions from each RICE unit exceed 100 tpy, the RICE units are subject to CAM, as applicable. Also, because lean burn technology (NO_x emission control) is integral to the design of the proposed RICE, the Department does not consider lean burn control technology to be a control device as defined in ARM 17.8.1501(5). Therefore, in accordance with ARM 17.8.1503, even though potential uncontrolled NO_x emissions from the RICE units exceeded the CAM threshold of 100 tpy, NO_x emissions from the proposed RICE units are not subject to CAM because the units do not incorporate a control device.

An emission inventory showing that potential emissions are lower than the Acid Rain Program LME threshold and the NSR/PSD permitting emission thresholds was contained in Section IV, Emission Inventory, of the Permit Analysis to MAQP #3211-01. MAQP **#3211-01** was issued final on May 8, 2003, and replaced MAQP #3211-00.

On February 24, 2004, BCP submitted a complete permit application for the modification of Montana Air Quality MAQP #3211-01. Specifically, the permit action allowed BCP to replace the three previously permitted RICE (48.3 MW combined capacity) with nine RICE (54.9 MW combined capacity).

BCP requested federally enforceable permit conditions to limit the annual potential NO_x emissions from the facility to a level less than the NSR/PSD permitting threshold of 250 tpy per pollutant. The permit limited the combined RICE operation to 34,600 hours during any rolling 12-month time period and restricted BCP to the use of pipeline quality natural gas only. Further, since potential NO_x emissions from each RICE are less than 100 tpy, the units remained under the LME classification of the Acid Rain Program (Title IV of the FCAA), thereby eliminating the requirement(s) for compliance with various provisions of the Acid Rain Program. **MAQP #3211-02** was issued final on May 6, 2004 and replaced MAQP #3211-01.

On February 14, 2005, the Department received a request for an administrative amendment to MAQP #3211-02 to change the facility name from BCP to Basin Creek Equity Partners, LLC (BCEP). **MAQP #3211-03** was issued final on June 25, 2005, and replaced MAQP #3211-02.

On November 28, 2005, the Department received a request for an administrative amendment to MAQP #3211-02 to change the reference for the RICE from LME units to exempt new units. Basin Creek submitted an acid rain monitoring plan and LME unit certification to the United States Environmental Protection Agency (EPA). Through correspondence with the USEPA, an understanding was reached that the RICE qualify for a new unit exemption under the Acid Rain Program. **MAQP #3211-04** was issued final on April 18, 2006, and replaced MAQP #3211-03.

Title V Operating Permit History

On September 7, 2005, BCEP was issued final and effective Title V Operating Permit **#OP3211-00**.

On April 19, 2006, the Department received a request from BCEP for an administrative amendment to Title V Operating Permit #OP3211-00. Specifically, BCEP requested that the Department correct a typographical error contained in the table in Section III.B. The table specified that BCEP must use EPA Method 6 to demonstrate compliance with the applicable VOC emission limit for the RICE engines. EPA Method 6 is a source test used to monitor compliance with SO_2 emissions limits. As requested in the application for administrative amendment, the appropriate VOC source test is EPA Method 18. The permit action modified the table in Section III.B, as requested. Permit **#OP3211-01** replaced Permit #OP3211-00.

On March 4, 2010, the Department received an application from BCEP for renewal of Title V Operating Permit #OP3211-01. BCEP provided the requisite Compliance Assurance Monitoring (CAM), and requested that fugitive emissions from plant site vehicle traffic be changed to an insignificant emitting unit. The permit renewal incorporated the CAM plan, identified new or revised applicable federal standards for existing RICE, and reclassified fugitive emission from vehicle traffic at the site. Permit **#OP3211-02** replaced Permit #OP3211-01.

D. Current Permit Action

On March 3, 2016, the Department received an application from BCEP for renewal of Title V Operating Permit #OP3211-02. BCEP provided the Certification of Truth and Accuracy and requested minor clerical corrections related to two permit conditions for the engines. Permit **#OP3211-03** replaces Permit #OP3211-02.

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	
X		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	X	3. Does the action deny a fundamental attribute of ownership? (ex.: right to exclude others, disposal of property)
	X	4. Does the action deprive the owner of all economically viable uses of the property?
	X	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?

YES	NO	
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	X	6. Does the action have a severe impact on the value of the property? (consider economic impact, investment-backed expectations, character of government action)
	X	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?
	X	7a. Is the impact of government action direct, peculiar, and significant?
	X	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged or flooded?
	X	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?
	X	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 prior full compliance evaluation (FCE) conducted by DEQ for BCEP's electrical power generation facility was documented by a CMR dated June 27, 2013. The FCE covered the period from July 1, 2011 to June 27, 2013. The CMR stated DEQ's finding that BCEP's facility was in compliance with the applicable requirements at the time of the report. This current CMR documents an FCE covering the period from June 27, 2013, through March 10, 2015.

SECTION II. SUMMARY OF EMISSION UNITS

A. Facility Process Description

The RICE operates similar to a dual fuel compressor engine, except that the RICE produces electricity rather than compressing gas. The engine shaft rotates an electric generator instead of a compressor. The RICE will be fired exclusively on natural gas fuel. The RICE will incorporate an OxiCat for the control of CO, VOC, and Hazardous Air Pollutant (HAP) emissions. No add-on control will be incorporated for NO_x emissions, as the combustion of pipeline quality natural gas inherently results in low NO_x emissions and the permitted RICE operating limit of 34,200 combined operating hours during any rolling 12-month time period will provide for reduced NO_x emissions. Similarly, particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM_{10}) emissions from the combustion of natural gas are inherently low; therefore, no add-on PM_{10} controls are required for BCEP RICE operations. Further, the RICE will not incorporate add-on controls for SO_2 as BCEP is required by permit to combust only low-sulfur fuels (i.e. pipeline quality natural gas), which will result in very low SO_2 emissions. A Best Available Control Technology (BACT) analysis and determination was conducted for Montana Air Quality Permit #3211-02 and is contained in the Permit Analysis to that document.

In addition, because BCEP accepted permit conditions limiting potential facility wide and RICE unit specific NO_x emissions, the facility is classified as a LME facility, as defined under the federal Title IV Acid Rain Program and a minor source as defined under the NSR/PSD permitting program.

B. Emission Units and Pollution Control Device Identification

The emission units regulated by this permit are the following (ARM 17.8.1211):

Emissions Unit ID	Description	Pollution Control Device/Practice
EU001	Caterpillar Lean-Burn Natural Gas-fired RICE (9 RICE @ 6.1 MW/RICE)	• CO, VOC, HAPs: Oxidation Catalyst • PM/PM_{10}, NO_x: Lean-Burn Technology Firing Pipeline Quality Natural Gas Only, Operational Limits

C. Categorically Insignificant Sources/Activities

The following table of insignificant sources and/or activities were provided by BCEP. Because there are no requirements to update such a list, the emission units and/or activities may change from those specified in the table.

Emissions Unit ID	Emissions Unit Description
IEU001	9 – Natural Gas-Fired Furnace Heaters @ 2.0 MMBtu/hr/heater
IEU002	9 – Natural Gas-Fired Combustion Air Pre-Heaters @ 2.5 MMBtu/hr/Unit
IEU003	Fugitive Emissions: Haul Roads/Vehicle Traffic

SECTION III. PERMIT CONDITIONS

A. Emission Limits and Standards

All emission limits and standards in Title V Operating Permit #OP3211-03 are derived from Montana Air Quality Permit #3211-04. BCEP requested permit conditions limiting potential facility wide and RICE specific NO_x emissions to a level qualifying BCEP as an exempt new unit facility, in accordance with the applicable provisions of the federal Acid Rain Program. Further, BCEP's permitted allowable emissions are less than the applicable major source NSR permitting thresholds; therefore, BCEP is a minor source as defined under the NSR permitting program. The Department is unaware of any other outstanding documents containing additional BCEP requirements pertaining to air quality.

- The Department determined that the emission limits that apply to EU001 – the Caterpillar RICE (9 RICE @ 6.1 MW/RICE) are as follows:

    1. The opacity limit was established in accordance with the provisions of ARM 17.8.304. The applicable opacity limit is less than or equal to 20% opacity.

    2. BCEP RICE operations are not subject to a specific PM_{10} emission limit since BCEP is required to combust only pipeline quality natural gas, which results in relatively low particulate emissions. This determination is consistent with BACT analyses and determinations made for other recently permitted similar sources of PM_{10}.

    3. The NO_x limit was established through a BACT analysis and determination process conducted in accordance with the provisions of ARM 17.8.752. The applicable NO_x limit is 14.40 lb/hr calculated on a 1-hour averaging period.

    4. The CO limit was established through a BACT analysis and determination process conducted in accordance with the provisions of ARM 17.8.752. The applicable CO limit is 5.10 lb/hr calculated on a 1-hour averaging period.

    5. The VOC limit was established through a BACT analysis and determination process conducted in accordance with the provisions of ARM 17.8.752. The applicable VOC limit is 2.60 lb/hr calculated on a 1-hour averaging period.

BCEP RICE operations are not subject to a specific SO_2 emission limit since BCEP is required to combust only pipeline quality natural gas, which is relatively low in sulfur content. This determination is consistent with BACT analyses and determinations made for other recently permitted similar sources of SO_2.

BCEP RICE are also affected sources under 40 CFR 63, Subpart ZZZZ and shall comply with emission standards, testing, record keeping and reporting as applicable.

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 emissions units. Furthermore, they do not require extensive testing or monitoring to assure compliance with the applicable requirements for emissions 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 a 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 emissions 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

The operating permit may not require testing for all sources if routine monitoring is used to determine compliance, but the Department has the authority to require testing if deemed necessary to determine compliance with an emission limit or standard. In addition, the permittee may elect to voluntarily conduct compliance testing to confirm its compliance status.

D. Recordkeeping Requirements

The permittee is required to keep all records listed in the operating permit as a permanent business record for at least five 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 *Butte Standard* newspaper on or before August 16, 2016. The Department provided a 30-day public comment period on the draft operating permit from August 16, 2016 to September 15, 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 September 15, 2016, are summarized, along with the Department's responses, in the following tables.

All comments received during the public comment period will be promptly forwarded to BCEP so they may have an opportunity to respond to these comments as well.

Summary of Public Comments

Person/Group Commenting	Comment	Department Response
	None Received	

G. Draft Permit Comments

Summary of Permittee Comments

Permit Reference	Permittee Comment	Department Response
	None Received	

Summary of EPA Comments

Permit Reference	EPA Comment	Department Response

SECTION IV. NON-APPLICABLE REQUIREMENT ANALYSIS

Section IV of the operating permit discussing "Non-applicable Requirements" contains the requirements that BCEP identified as non-applicable and for which the Department concurred. The following table summarizes the requirements that BCEP identified as non-applicable but for which the Department did not agree with the applicability determination.

Applicable Requirement	Reason
Sub-Chapter 1 General Provisions	
ARM 17.8.120 to 121 Variance Procedures ARM 17.8.130 and ARM 17.8.131 Enforcement Procedures – Appeal to Board ARM 17.8.140 Rehearing Procedures – Form and Filing of Petition ARM 17.8.141 Rehearing Procedures – Filing Requirements	These are procedural rules that have specific requirements that may become relevant to a major source during the permit span.
ARM 17.8.142 Rehearing Procedures – Board Review	These rules contain requirements for the regulatory authorities and not major sources; however, they can be used as authority to impose specific requirements on a major source.
Sub-Chapter 5 Air Quality Permit Application, Operation and Open Burning Fees	
ARM 17.8.510 Annual Review	This rule contains requirements for the regulatory authorities and not major sources; however, it can be used as authority to impose specific requirements on a major source.
ARM 17.8.511 Air Quality Permit Application/Operation Fee Assessment Appeal Procedures ARM 17.8.514 Air Quality Open Burning Fees ARM 17.8.515 Air Quality Open Burning Fees for Conditional, Emergency, Christmas Tree Waste, and Commercial Film Production Open Burning Permits	These are procedural rules that have specific requirements that may become relevant to a major source during the permit span.
Sub-Chapter 6 Open Burning	
ARM 17.8.611 Emergency Open Burning Permits ARM 17.8.612 Conditional Air Quality Open Burning Permits ARM 17.8.613 Christmas Tree Waste Open Burning Permits ARM 17.8.614 Commercial Film Production Open Burning Permits ARM 17.8.615 Firefighter Training	These are procedural rules that have specific requirements that may become relevant to a major source during the permit span.
Sub-Chapter 8 Prevention of Significant Deterioration	
ARM 17.8.Subchapter 8	These are rules that consist of either a statement of purpose, applicability statement, regulatory definitions or a statement of incorporation by reference. These types of rules do not have specific requirements associated with them.
Sub-Chapter 9 Permit Requirements for Major Stationary Sources or Major Modifications Located Within Nonattainment Areas	

Applicable Requirement	Reason
ARM 17.8. Subchapter 9	These are rules that consist of either a statement of purpose, applicability statement, regulatory definitions or a statement of incorporation by reference. These types of rules do not have specific requirements associated with them.
Sub-Chapter 10 Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Located Within Attainment or Unclassified Areas	
ARM 17.8.Subchapter 10	These are rules that consist of either a statement of purpose, applicability statement, regulatory definitions or a statement of incorporation by reference. These types of rules do not have specific requirements associated with them.
Sub-Chapter 11 Visibility Impact Assessment	
ARM 17.8 Subchapter 11	These are rules that consist of either a statement of purpose, applicability statement, regulatory definitions or a statement of incorporation by reference. These types of rules do not have specific requirements associated with them.
Sub-Chapter 15 Compliance Assurance Monitoring	
ARM 17.8.1501 *et seq.*	These regulations may not be applicable to the source at this time; however, these regulations may become applicable during the life of the permit.

Applicable Requirement	Reason
40 CFR **50** National Primary and Secondary Ambient Air Quality Standard for Sulfur Oxides, PM10, PM2.5, Carbon Monoxide, Ozone, Nitrogen Dioxide, Lead 40 CFR **51,** Requirements for Preparation, Adoption, and Submittal of Implementation Plans 40 CFR **53,** Ambient Air Monitoring Reference and Equivalent Methods 40 CFR **54,** Prior Notice of Citizen Suits 40 CFR **56,** Regional Consistency 40 CFR **58,** Ambient Air Quality Surveillance 40 CFR **67,** EPA Approval of State Noncompliance Penalty Program 40 CFR **81,** Designation of Areas for Air Quality Planning Purposes	These rules contain requirements for the regulatory authorities and not major sources; however, they can be used as authority to impose specific requirements on a major source.
40 CFR **60,** Subpart A General Provisions 40 CFR **61,** Subpart A General Provisions 40 CFR **63**, Subpart B Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)	These are procedural rules that have specific requirements that may become relevant to a major source during the permit span.

Applicable Requirement	Reason
40 CFR **52,** Approval and Promulgation of Implementation Plans 40 CFR **62,** Approval and Promulgation of State Plans for Designated Facilities and Pollutants 40 CFR **66,** Assessment and Collection of Noncompliance Penalties by EPA Programs	These rules do not have specific requirements but may or may not be relevant to a major source.
40 CFR **82**, Subpart F Recycling and Emissions Reduction	These are rules that are always applicable to a major source and may contain specific requirements for compliance.
40 CFR 63, Subpart C, List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List	These are rules that consist of either a statement of purpose, applicability statement, regulatory definitions or a statement of incorporation by reference. These types of rules do not have specific requirements associated with them.

SECTION V. FUTURE PERMIT CONSIDERATIONS

A. MACT Standards (Part 63): As of the draft issuance date of Operating Permit #OP3211-03, the Department is unaware of any future MACT Standards that may be promulgated that will affect this facility.

B. NESHAP Standards (Part 61): As of the draft issuance date of Operating Permit #OP3211-03, the Department is unaware of any future NESHAP Standards that may be promulgated that will affect this facility.

C. NSPS Standards: As of the draft issuance date of Operating Permit #OP3211-03, the Department is unaware of any future NSPS Standards that may be promulgated that will affect this facility.

D. Risk Management Plan

As of the draft issuance date of Operating Permit #OP3211-03 this facility does not exceed the minimum threshold quantities for any regulated substance listed in 40 CFR 68.115 for any facility process. Consequently, 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; three 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 (unless the limitation or standard that is exempt under ARM 17.8.1503(2));
- The emitting unit uses a control device to achieve compliance with such limit; and
- The emitting unit has potential pre-control device emission of the applicable regulated air pollutant that is greater than major source thresholds.

BCEP is required to use an OxiCat for the control of both CO and VOC emissions. Since uncontrolled VOC emissions from each RICE are less than 100 tpy, the CAM rules are not applicable to VOC emissions from the RICE. In contrast, uncontrolled CO emissions from each RICE do exceed the applicable CAM threshold of 100 tpy; therefore, BCEP is subject to CAM for CO emissions from the RICE. The CO CAM plan is included as Appendix E of Operating Permit #OP3211-03.

BCEP is not subject to the CAM rules for PM_{10}, NO_x, and SO_2 emissions because the RICE units do not incorporate pollutant specific controls for these pollutants and the unit specific uncontrolled PTE of these pollutants is less than 100 tpy.

F. 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 would become final on or after 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 TPY of carbon dioxide equivalent (CO_2e) and greater than 0 TPY on a mass basis. Similarly, if such action were taken, any resulting requirements would be subject to inclusion in the Title V Operating Permit. Facilities which hold Title V permits due to criteria pollutant emissions over 100 TPY would need to incorporate any GHG applicable requirements into their operating permits for any Title V action that would have a final decision occurring on or after January 2, 2011.

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_2e 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_2e 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_2e 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_2e 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.