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MELISSA HOLYOAK, United States Attorney (9832)
CARRA S. CADMAN, Assistant United States Attorney (16266)
Attorneys for the United States of America
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 524-5682
Carra.Cadman@usdoj.gov

SEALED

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

IN THE MATTER OF:

ENVIRONMENTAL PROTECTION
AGENCY ADMINISTRATIVE INSPECTION
ON UTE TRIBAL LAND

Chipeta Gas Plant
40.038007, -109.420447

Walker Hollow CS
40.1851, -109.3040

Wexpro Island CS
39.9600, -109.7170

Berry Petroleum LLC and Berry Corporation
Facilities

SM Energy Facilities

FILED UNDER SEAL

**UNITED STATES' *EX PARTE*
APPLICATION FOR ADMINISTRATIVE
WARRANT FOR ENTRY AND
INSPECTION PURSUANT TO 42 U.S.C.
§ 7414**

Case No. 2:26-mj-00149-CMR

Magistrate Judge Cecilia M. Romero

INTRODUCTION

COMES NOW the United States of America on behalf of the Environmental Protection Agency (EPA), by and through Melissa Holyoak, United States Attorney for the District of Utah, and Assistant United States Attorney Carra Cadman, and files this *Ex Parte* Application for Administrative Warrant for Entry and Inspection pursuant to 42 U.S.C. § 7414 (Application).

The United States Environmental Protection Agency's (EPA) Region 8 Office directly implements the Clean Air Act (CAA) on the Ute Indian Tribe's Uintah & Ouray Reservation (Reservation), as no other governmental entity is authorized to do so. On January 16, 2026, EPA Region 8 sent the Tribe an Inspection Coordination Letter describing CAA inspections planned for February 16-19, 2026, on the Uintah & Ouray Reservation.¹ EPA intended to inspect the following sites:

- 1) Wexpro Company's Island Compressor Station,
- 2) Western Midstream's Chipeta Gas Plant,
- 3) Harvest Midstream's Walker Hollow Compressor Station, and
- 4) Various well sites owned and operated by Berry Petroleum LLC, Berry Corporation, and SM Energy (collectively, "the Facilities").

The letter was addressed to the Tribe's Chairman, the entire Business Committee that governs the Tribe, the Directors of the Tribe's Air Quality Program and Energy and Minerals Department, and other Tribal officials. The letter described which EPA inspectors would perform the inspections, invited Tribal officials and staff to accompany EPA on the inspections, and offered those individuals entrance and exit briefings from the EPA inspectors.

In response to this letter and related emails sent by an EPA inspector to Tribal staff, Tribal staff responded on February 9, 2026, that to be granted access to the Tribe's Reservation, EPA inspectors "will need to apply for an access permit through the Tribal Business Committee."²

¹ Exhibit A.

² Exhibit B.

This assertion followed years of threats by the Ute Tribe to deny access to EPA inspectors,³ which had thus far been resolved through the Tribe acknowledging that EPA did not require Tribal access permits to conduct inspections. The threats finally culminated in the Tribe's actions in 2025 that stopped or interrupted the last two CAA inspections that EPA inspectors attempted to perform on the Reservation and in a formal denial of access.

On September 16, 2025, Tribal staff from the Energy and Minerals Department stopped an EPA CAA inspection at MPLX's Ironhorse gas plant and stated that the Tribe required EPA inspectors to get a Tribal access permit or leave. On the same day, a Tribal attorney forwarded an EPA attorney a letter dated September 10, 2025, from the Ute Indian Tribe to Karin Koslow, Acting Director EPA Office of Civil Enforcement, which denied EPA inspectors access to the Reservation. EPA officials then directed the EPA inspectors to leave the Reservation and the EPA inspectors departed without performing the inspection.⁴ On December 16, 2025, when EPA inspectors returned with a Bureau of Indian Affairs police escort, Tribal staff from the Energy and Minerals Department again interrupted the CAA inspection at the same facility and again asserted that EPA inspectors were required to have a Tribal access permit. Ultimately, the EPA inspectors were able to resume and conclude the inspection.⁵

To avoid yet another incident all but guaranteed by the Tribe's February 9, 2026, email, on Tuesday, February 10, the Acting Regional Counsel for EPA Region 8 emailed attorneys for the Tribe and copied the Ute Indian Tribe Chairman and all members of the Tribe's Business

³ See, e.g., Exhibit C (July 24, 2018, letter from Ute Indian Tribe Chairman to Region 8 Regional Administrator) (requiring "the EPA seek specific permission from the Ute Indian Tribe Business Committee before any future inspections take place on our reservation.").

⁴ Attachment A, Wilwerding Decl., ¶¶ 9-13; Exhibit D (on the same day CAA inspectors were told to leave, the Tribal Chairman sent a letter dated September 10, 2025, to EPA denying EPA inspectors access to the Reservation).

⁵ Attachment A, Wilwerding Decl., ¶ 19.

Committee stating that EPA inspectors are not required to obtain Tribal access permits and requesting that the Tribal attorneys confirm by close of business Thursday, February 12, 2026, that the Tribe would allow access to the Reservation for the EPA's CAA inspections the following week.⁶ At 8:05 AM on Friday, February 13, 2026, the Acting Regional Counsel for EPA Region 8 again emailed Tribal authorities, indicating that if EPA did not receive a response by 12:00 PM Mountain Time that same day, EPA would interpret the Tribe's refusal to respond as constructive denial of access.⁷ The Tribal attorneys did not respond before either the Thursday deadline or the Friday afternoon deadline, and have not responded at the time of filing this Warrant Application.

EPA inspectors have traveled from the Region 8 office in Denver and are presently in Utah. They are performing inspections off the Reservation while awaiting the Court's issuance of a warrant to proceed with inspections at the Facilities on the Reservation. The timely issuance of a warrant is needed to avoid the unnecessary expenditures of public resources associated with paying for a future trip back to the Reservation to perform the planned inspections at the Facilities, especially when EPA already has incurred unnecessary expenditures associated with the inspection the Tribe stopped in September 2025.

Because the Ute Indian Tribe has denied EPA inspectors access to perform CAA inspections—in person, by formal letter, and constructively—and because EPA has Congressional authority to implement the CAA and conduct inspections at regulated facilities in the Uintah & Ouray Reservation, the government respectfully requests that the Court immediately issue an administrative warrant pursuant to 42 U.S.C. § 7414, authorizing EPA and its agents, including the United States Marshals Service (if necessary):

⁶ Exhibit E.

⁷ Exhibit F.

1. To enter the Facilities during reasonable business hours, which includes entry to, upon, and through the Uintah & Ouray Reservation in which the Facilities are located;
2. To inspect and obtain samples from the air, surfaces, and materials from the Facilities;
3. To record observations and collect data, documents, and information to determine the Facilities' compliance with federal environmental laws;
4. To question privately any owner, operator, agent, or employee at the Facilities; and
5. To take photographs and videos of the Facilities.

STATEMENT OF LAW AND FACTS

As provided in CAA Section 101, the objective of the CAA is “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population[.]”⁸ The CAA sets many requirements for stationary sources of pollution, which include the Facilities. These requirements include New Source Performance Standards (NSPS) for many types of facilities.⁹ The CAA also requires major sources of air pollutants to obtain and comply with a Title V permit.¹⁰ Major sources include any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons or more per year of any air pollutant.¹¹ It is unlawful for any new source to operate in violation

⁸ CAA § 101; 42 U.S.C. § 7401.

⁹ CAA § 111; 42 U.S.C. § 7411.

¹⁰ CAA § 502(a); 42 U.S.C. § 7661a(a).

¹¹ CAA §§ 501 and 302; 42 U.S.C. §§ 7661(2) and 7602(j).

of any NSPS applicable to such source,¹² and it is unlawful for any major source to operate except in compliance with a Title V permit.¹³

The EPA may delegate to States, Tribes, and local agencies the authority to implement certain CAA programs, including Title V permitting and NSPS compliance.¹⁴ Where no such delegation has occurred, the EPA implements the program in Indian country.¹⁵ Regardless of the implementing authority, EPA always retains authority to enforce any CAA requirement.¹⁶ CAA Section 114(a)(2) provides EPA broad access authorities to perform inspections of facilities regulated under the CAA.¹⁷ EPA has a CAA Compliance Monitoring Strategy that directs inspectors to monitor major facilities with Title V permits every two years.¹⁸ CAA Section 113 authorizes EPA to issue an order to enforce the terms of a CAA permit, pursue injunctive relief to remedy the environmental and human health damages resulting from CAA violations, and assess monetary penalties against any person who violates the CAA.¹⁹

Here, EPA directly implements the Title V program and NSPS standards, as the Tribe has not sought EPA approval to do so.²⁰ The Facilities are all located on the Reservation and three of the Facilities are major sources with Title V permits issued by EPA. EPA last inspected the Chipeta Gas Plant on September 17, 2024. EPA last inspected the Island and Walker Hollow Compressor Stations on September 18, 2024.

¹² CAA § 111(e); 42 U.S.C. § 7411(e).

¹³ CAA § 502(a); 42 U.S.C. § 7661a.

¹⁴ CAA §§ 301(d), 111(c), and 501(d); 42 U.S.C. §§ 7601(d), 7411(c), 7661a(d); 40 C.F.R. §§ 49.6, 71.10.

¹⁵ See CAA §§ 502(d)(3) and 301(d); 42 U.S.C. §§ 7661a(d)(3) and 7601(d).

¹⁶ CAA § 113(a)(3); 42 U.S.C. § 7413(a)(3).

¹⁷ CAA § 114(a)(2); 42 U.S.C. § 7414(a)(2).

¹⁸ Exhibit G at 11-12.

¹⁹ CAA § 113; 42 U.S.C. § 7413.

²⁰ See CAA § 301(d); 42 U.S.C. § 7601(d) (allowing tribes to seek EPA approval to implement CAA programs); 40 C.F.R. part 49 (regulations implementing CAA § 301(d)).

On November 20, 2025, EPA and Berry Petroleum LLC and Berry Corporation (Berry) entered into a Consent Agreement to resolve alleged NSPS violations regarding Berry’s facilities located on the Reservation.²¹ EPA inspectors need to evaluate Berry’s performance with the conditions of the settlement.²² Likewise, EPA inspectors need to evaluate SM Energy’s compliance with NSPS.²³

The Facilities have not denied EPA access; only the Tribe has denied EPA inspectors access to the Reservation to perform the inspections, as described above. In order to avoid additional unnecessary investment of public resources, to allow EPA inspectors who have gathered in Utah to conduct the inspections of the Facilities, and to avoid delay in addressing harm to human health or the environment from any violations at the Facilities, the United States respectfully seeks an administrative warrant to enter the Facilities as soon as practicable.

ANALYSIS

A. Clean Air Act Access Authority

CAA Section 114(a) provides access authorities to “the Administrator or his authorized representative”²⁴ which courts have interpreted to include EPA inspectors.²⁵ EPA inspectors:

shall have a right of entry to, upon, or through any premises of such person or in which any records required to be maintained under paragraph (1) of this section are located, and

²¹ Exhibit H.

²² These five facilities are located at the following latitude and longitude coordinates: 40.09978, -110.206366; 39.967681, -110.491377; 39.975627; -110.49253; 40.007959, -110.568269; and 39.979924, -110.492015.

²³ These seven facilities are located at the following latitude and longitude coordinates: 40.25577, -109.999807; 40.255925, -110.022787; 40.259911, -109.982966; 40.293326, -110.16016; 40.25961, -110.036775; 40.292699, -110.197609; and 40.287692, -110.144668.

²⁴ CAA § 114(a)(2); 42 U.S.C. § 7414(a)(2).

²⁵ See, e.g., *Stauffer Chemical Co. v. EPA*, 647 F.2d 1075, 1078 (10th Cir. 1981) (indicating that “authorized representatives” include “EPA personnel”).

may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which such person is required to sample under paragraph (1).²⁶

The Supreme Court and the United States Court of Appeals for the Tenth Circuit have upheld EPA inspectors' access rights under this section.²⁷ Courts have granted EPA administrative warrants for inspectors to perform CAA inspections.²⁸

CAA Section 114(a)(1) defines the categories of “such person” whose properties EPA has access to, which includes any person “who owns or operates any emission source[,]” or “who is subject to any requirement of this chapter [i.e., the CAA.]”²⁹ There is no dispute that each of the Facilities constitutes a “premises” of “such person” who “owns or operates an emission source;” a “premises” of “such person” who “is subject to any requirements” of the CAA; or a “premises” where “any records required to be maintained” under CAA Section 114(a) are located. Indeed, each of the Facilities satisfies all three of these conditions, any one of which is sufficient to grant EPA inspectors access. Moreover, the CAA grants EPA inspectors access “upon and through” these premises, and also “to” them.³⁰ These words are meaningful, as the Supreme Court has stated its “reluctan[ce] to treat statutory terms as surplusage in any setting.”³¹ The Tribe cannot frustrate

²⁶ CAA § 114(a)(2); 42 U.S.C. § 7414(a)(2) (emphasis added).

²⁷ *Dow Chem. Co. v. United States*, 476 U.S. 227, 233-34 (1986) (“Under § 114(a)(2), the Clean Air Act provides that ‘upon presentation of ... credentials,’ EPA has a ‘right of entry to, upon, or through any premises.’”); *Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410, 425 (2011) (even after delegation, “the Agency retains the power to inspect and monitor regulated sources”); *Stauffer Chemical Co. v. EPA*, 1981, 647 F.2d 1075 (10th Cir. 1981) (holding EPA employees have access rights).

²⁸ *Bunker Hill Co. Lead & Zinc Smelter v. EPA*, 658 F.2d 1280, 1285 (9th Cir. 1981) (“[The EPA] relies on the power of entry granted by section 114(a)(2) [of the Clean Air Act]. That is sufficient authority to justify obtaining inspection warrants.”); *Ced's, Inc. v. EPA*, 745 F.2d 1092 (7th Cir. 1984) (upholding magistrate judge’s grant of an administrative warrant).

²⁹ CAA § 114(a)(1); 42 U.S.C. § 7414(a)(1).

³⁰ CAA § 114(a)(2); 42 U.S.C. § 7414(a)(2).

³¹ *Duncan v. Walker*, 533 U.S. 167, 174 (2001) (internal citation omitted).

Congress' intent for EPA inspectors to implement the CAA by denying inspectors access to the facilities via denial of access to the Reservation.

B. Authority to Perform Regulatory Inspections on Tribal Lands

“Federal law enforcement officers have the capability to respond to violations of [federal law] on Indian reservations.”³² Regulatory agencies have authority to perform statutory inspection duties on Tribal lands, and the CAA inspection requirements are generally applicable.³³

A federal law of general applicability that is silent about Native American tribes applies to them unless

- 1) the law touches an exclusive right of self-governance;
- 2) application of the law to tribes would abrogate rights guaranteed by treaties; or
- 3) there is proof by legislative history or some other means that Congress intended the law not to apply to Indians on their reservations.³⁴

In this case, the Yakama Nation located in Washington State, attempted to exclude Occupational Safety and Health Administration (OSHA) inspectors from Tribal land.³⁵ The Yakama Nation cited to a treaty between the Tribe and the federal government that included a right of exclusion to justify its exclusion of OSHA inspectors.³⁶ The United States Court of Appeals for the Ninth Circuit rejected this argument, holding that application of the treaty's general right of exclusion would effectively nullify all generally applicable federal laws.³⁷ In the present case, the

³² *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 214 n.16 (1987); *see also FPC v. Tuscarora Indian Nation*, 362 U.S. 99, 116 (1960) (“a general statute in terms applying to all persons includes Indians and their property interests”); Felix Cohen, *Cohen's Handbook of Federal Indian Law* 2005 Edition (LexisNexis2005), § 10.01[2][a], citing *Phillips Petroleum Co. v. EPA*, 803 F.2d 545 (10th Cir., 1986) (concerning the Safe Drinking Water Act).

³³ *See, e.g.*, CAA §§ 502(d)(3) and 301(d); 42 U.S.C. §§ 7661a(d)(3) and 7601(d).

³⁴ *In re Accident Inspection of Yakama Forest Prods.*, No. CV-10-3004-EFS, 2010 U.S. Dist. LEXIS 148329, at *3-4 (E.D. Wash. Feb. 3, 2010) (citing *Donovan v. Coeur d'Alene Tribal Farm*, 751 F.2d 1113, 1115 (9th Cir. 1985); *see also Shivwits Band of Paiute Indians v. Utah*, 428 F.3d 966, 984 (10th Cir. 2005) (Lucero, J., concurring).

³⁵ *In re Accident Inspection of Yakama Forest Prods.*, No. CV-10-3004-EFS, 2010 U.S. Dist. LEXIS 148329, at *3-4 (E.D. Wash. Feb. 3, 2010).

³⁶ *Id.* at *4.

³⁷ *Id.* at *5.

Ute Indian Tribe’s insistence that EPA inspectors obtain access permits prior to entry under CAA Section 114 is akin to the assertion of a general right of exclusion, which the Tribe relinquished regarding the United States in treaties³⁸ and the CAA otherwise abrogates, and to which the EPA is not subject for purposes of carrying out its CAA Section 114 authority.³⁹

C. Issuance of *Ex Parte* Warrants

If the EPA is denied entry to a facility to conduct its statutory inspection responsibilities, it must take reasonable steps to fulfill its inspection obligation. The Supreme Court has approved the use of *ex parte* warrants for administrative inspections.⁴⁰ Indeed, *ex parte* administrative inspection warrants are the customary instrument to ensure that the EPA can carry out its enforcement authority.⁴¹ The *ex parte* warrant procedure under the CAA “strikes the correct balance between the public and private interests,” in part because “Congress did not intend to limit pollution only when notice of an agency inspection was received.”⁴²

Ex parte administrative inspection warrants are appropriate even when surprise is not necessary to accomplish an inspection.⁴³ In *Bunker Hill Co.*—similar to the case at hand—the Ninth Circuit upheld the validity of an *ex parte* administrative inspection warrant even though the

³⁸ 1863 Treaty with the Utah, 13 Stat. 673 (providing access “to all persons who may be legally authorized by the U.S. to pass through their reservation”); 1868 Treaty with the Ute, 15 Stat. 619 (the Ute Indian Tribe cannot exclude “employees of the Government as may be authorized to enter upon Indian reservations in discharge of duties.”).

³⁹ *U.S. v. Fourpoint Res., LLC*, 2025 U.S. Dist. LEXIS 148572, *8 n. 45 (2015) (“The [Ute Indian] Tribe may not enforce tribal law against the United States because ‘tribes are subject to plenary control by Congress.’”) (appeal docketed) (quoting *Ute Indian Tribe v. Lawrence*, 875 F.3d 539, 542 (10th Cir. 2017) (quoting *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 788 (2014))).

⁴⁰ *Marshall v. Barlow’s, Inc.*, 436 U.S. 307, 320 (1978).

⁴¹ *In re Order Pursuant to Section 3013(d) RCRA*, 42 U.S.C., 550 F. Supp. 1361, 1364 (W.D. Wash. 1982); see also *Boliden Metech, Inc. v. United States*, 695 F. Supp. 77 (D.R.I. 1988).

⁴² *United States v. Stauffer Chem. Co.*, 511 F. Supp. 744, 749-50 (M.D. Tenn. 1981).

⁴³ *Bunker Hill Co. Lead & Zinc Smelter v. EPA*, 658 F.2d 1280, 1285 (9th Cir. 1981).

agency had apprised the entity of its intent to inspect the property, and the inspector already had sought entry before obtaining the warrant.⁴⁴ That an administrative inspection warrant is obtained *ex parte* is not a sufficient reason to quash the warrant.⁴⁵

CONCLUSION

For the reasons set forth herein, the United States respectfully requests that this Court issue an Administrative Warrant for Entry and Inspection pursuant to 42 U.S.C. § 7414. A proposed form of Warrant is filed herewith.

DATED this 17th day of February, 2026.

Respectfully submitted,

MELISSA HOLYOAK
United States Attorney

/s/ Carra S. Cadman
CARRA S. CADMAN
Assistant United States Attorney

⁴⁴ *Id.*; Attachment A, Wilwerding Decl., ¶¶ 9-13, 19.

⁴⁵ *In re Order Pursuant to Section 3013(d) RCRA*, 42 U.S.C., 550 F. Supp. 1361, 1364 (W.D. Wash. 1982).

EXHIBIT A



REGION 8

DENVER, CO 80202

January 16, 2026

Ref: 8ENF-AT

SENT VIA EMAIL
READ RECEIPT REQUESTED

The Honorable Shaun Chapoose, Chairman
Ute Indian Tribe
shaunc@utetribes.com

Re: Inspection Coordination Letter for Clean Air Act Inspections on the Uintah & Ouray Reservation

Dear Chairman Chapoose:

I am writing to coordinate the inspection dates for the U.S. Environmental Protection Agency to conduct Clean Air Act inspections on the Uintah & Ouray Reservation. We identified **February 16-19, 2026**, as the inspection dates. The EPA will be inspecting a gas plant, various well sites, and compressor stations to assess compliance with their Clean Air Act Title V permits and Consent Agreements. Members of the Ute Business Committee, the Ute Tribal Air Program, and the Ute Tribal Energy and Minerals Program are invited to participate in the inspections. EPA staff from the Air & Toxics Technical Enforcement Branch are coordinating inspection details with Lonnie Favel, Director of the Ute Indian Tribe Air Quality Division. Please let us know if you are interested in attending or if the Tribe has concerns about these dates so we can finalize the inspection planning.

This letter also provides notice of the facilities we intend to inspect and requests information about whether the facilities listed below are owned, managed or controlled by the Ute Indian Tribe.

Scope of Inspections

EPA staff intend to conduct inspections at the following locations:

- **Various Well Sites:** Berry Petroleum and nearby producers
- **WexPro Company:** Island Compressor Station
- **Western Midstream:** Chipita Gas Plant

Re: *Inspection Coordination Letter for Clean Air Act Inspections on the Uintah & Ouray Reservation*

- **Harvest Midstream:** Walker Hollow Compressor Station

Names and contact information of EPA Region 8 inspectors entering the Reservation:

Colin LeCortz; (303) 312-6043; lecortz.colin@epa.gov
Joseph Wilwerding; (303) 312-6729; wilwerding.joseph@epa.gov

Vehicle information: white, 2019 Chevrolet Silverado, License # G62-4554X

Inspection Policies and Protocols

Consistent with the EPA's well-established practice, our intent is to follow the [*EPA Region 8 Policy for Environmental Protection in Indian Country*](#) (Policy). As stated in the Policy, the EPA inspectors intend to follow protocols including, but not limited to, the following:

- Notification of inspections, including specific locations, will be provided to you as the Tribal Chair and to the Tribal environmental director at least seven calendar days prior to conducting routine inspections.
- Entrance and exit briefings will be offered to you as the Tribal Chair and to the Tribal Environmental Director regarding the inspection trip.
- Photographs will be limited to those for official government use.
- Consultation with the Tribe will be offered if state inspector(s) request to accompany the EPA inspectors on Tribal lands.

Please note that for environmental emergency situations, the EPA may not be able to provide the Tribe at least seven days' advance notice of an inspection but will coordinate with the Tribe as soon as possible. In all circumstances, information about upcoming inspections is intended for internal purposes only and should not be shared with the facilities or the regulated community. The EPA believes that unannounced inspections generally are the best way to determine compliance.

The EPA will collect data to determine the compliance status with federal environmental laws during the inspections and subsequently take appropriate action to address the noncompliance. EPA action and coordination with the Tribal government may depend on the status of the facilities. The EPA may address noncompliance at a non-Tribally-owned facility by issuing a letter, an order, or taking other administrative or judicial enforcement action while keeping the Tribal government informed of our efforts and progress. This is typically the most expeditious way to return a facility to compliance and to deter it and other similar facilities from violating the law in the future.

If, on the other hand, any facility is owned (51 percent or more) or managed or controlled by the Tribal government, either directly or through one or more intermediaries or affiliates (this does not include ownership, management, or control by an individual Tribal member), consistent with the Federal government's trust responsibility, the EPA will offer appropriate assistance to the Tribal government in the matter prior to considering formal

Re: *Inspection Coordination Letter for Clean Air Act Inspections on the Uintah & Ouray Reservation*

enforcement action. The EPA will work together with the Tribal government to assist the facility in achieving compliance.

Information Needed from Tribal Government

We also request your cooperation in determining the status of the facilities. Accordingly, we now ask if the Tribal government owns, manages or controls the facilities and seek any other facts or information you wish to provide in writing to aid the EPA in our efforts to address any noncompliance that may be found. Other information could include any Tribal ownership interest (including less than 51 percent), substantial economic benefit the facility provides your Tribal government (but not individuals), essential or unique services it provides the Tribal government, whether the facilities are located on Tribal trust land, or any other information you would like to share. The EPA will consider any such information submitted when making its decision regarding the appropriate enforcement response for any facility found to be in noncompliance with federal environmental laws.

Please email Colin LeCortz of my staff at lecortz.colin@epa.gov with such information within two weeks of receipt of this letter.

If you have any questions regarding this letter, please contact me at (303) 312-6925. If you or your staff would like to schedule an entrance or exit briefing with the EPA inspectors, please contact Colin LeCortz at (303) 312-6043 or by email at lecortz.colin@epa.gov.

Thank you in advance for your partnership in protecting public health and the environment on the Uintah & Ouray Reservation.

Sincerely,

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance
Division

cc:

Michael Natchees, Ute Indian Vice-Chairman
Julius Murray, Ute Indian Tribe Councilman
Percel Cesspooch, Ute Indian Tribe Councilwoman
Cleveland Murray, Ute Indian Tribe Councilman
Emmett Duncan, Sr., Ute Indian Tribe Councilman
Cindy Wopsock, Executive Director
Amanda Jenks, Assistant Executive Director
Lonnie Favel, Director, Ute Tribe Air Quality Program Director
David Murray, Director, Ute Indian Tribe Energy and Minerals Department
Sonja Willie, Ute Indian Tribe Energy and Minerals Department
Luana Thompson, Director, Ute Indian Tribe Natural Resources Department
Jeremy Patterson, Attorney, Patterson, Earnhart, Real Bird & Wilson LLP

EXHIBIT B

From: [Bohan, Suzanne](#)
To: [Talbert, Stephanie](#); [Swanson, Amy](#); [Castelli, Matthew](#)
Subject: February 9, 2026 Ute Tribe Email (for warrant application)
Date: Sunday, February 15, 2026 6:34:55 AM

From: Sonja Willie <sonjaw@utetribes.com>
Sent: Monday, February 9, 2026 11:56 AM
To: Lecortz, Colin <Lecortz.Colin@epa.gov>
Cc: Shaun Chapoose <shaunc@utetribes.com>; Cindy Wopsock <cindywopsock@utetribes.com>; David Murray <davidm@utetribes.com>; Lonnie Favel <lonnief@utetribes.com>; Stephanie Runs Through <StephanieRunsThrough@utetribes.com>
Subject: RE: Inspections February 16-19
Importance: High

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Mr. Lecortz,

Please know that EPA Region 8 Air Quality Program will need to apply for an access permit through the Tribal Business Committee. The Tribal Energy & Minerals Department, due to the government-government relationship between the Tribe and EPA, will no longer process access permit applications for EPA Region 8.

Thank you.

Sonja E. Willie

Energy & Minerals Assistant Director
PO Box 70
Fort Duchesne UT 84026
(435) 725-4967

EXHIBIT C



UTE INDIAN TRIBE

P. O. Box 190

Fort Duchesne, Utah 84026

Phone (435) 722-5141 • Fax (435) 722-5072

July 24, 2018

Doug Benevento
Assistant Regional Administrator
Environmental Protection Agency – Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

RE: EPA Inspections on the Uintah and Ouray Reservation

Dear Regional Administrator Benevento:

It has come to the attention of the Ute Indian Tribe Business Committee that the Environmental Protection Agency (“EPA”) has conducted inspections of certain oil and gas facilities on the Uintah and Ouray Reservation without the Business Committee or Ute Indian Tribe Energy and Minerals Department’s knowledge or consent. The EPA did not have permission from the Business Committee to perform these inspections, which were conducted in June of this year. This is particularly concerning to the Tribe as the EPA continues to rely upon these inspections in carrying out enforcement activities against the owners of these facilities without proper consultation with the Ute Indian Tribe.

The Business Committee requests proper government-to-government consultation occur before EPA enters the reservation to conduct inspections or carry out enforcement actions. The EPA should *not* continue to seek permission from tribal employees or staff to perform any inspection, as individual tribal employees are not authorized to provide access to the reservation for these inspections. We would request the EPA seek specific permission from the Ute Indian Tribe Business Committee before any future inspections take place on our reservation. The Business Committee also requests a copy of the EPA report generated from the June inspection.

We would like to discuss this matter further with you as part of our scheduled meeting with Region 8 on August 17, 2018.

Thank you for your attention in this matter.



Luke Duncan
Chairman, Ute Tribal Business Committee

EXHIBIT D



UTE INDIAN TRIBE

P. O. Box 190
Fort Duchesne, Utah 84026
Phone (435) 722-5141 • Fax (435) 722-5072

September 10, 2025

Via Email and U.S. Certified Mail

Karin Koslow, Acting Director
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Ave.
Washington, DC 20460.
Koslow.karin@epa.gov

Re: Denial of Access to Ute Tribal Lands for RCRA Inspections and Response to Final Q&A on Tribal Enforcement Process

Dear Acting Director Koslow:

As Chairman of the Ute Tribal Business Committee, I am writing to address two serious issues that have arisen in relation to the U.S. Environmental Protection Agency's entry onto our Uintah and Ouray Reservation homelands to conduct inspections and carry out enforcement actions.

First, the Ute Indian Tribe ("Tribe") is in receipt of a letter dated September 3, 2025, from EPA Region 8, providing notice of upcoming Resource Conservation and Recovery Act ("RCRA") inspections of oilfield waste disposal facility on Tribal lands. Pursuant to duly enacted Tribal ordinance, all persons entering our Reservation must obtain a Tribal Access Permit. In relation to the forthcoming planned RCRA inspections, EPA has asserted it is under no obligation to obtain a Tribal Access Permit. The Business Committee strongly disagrees with this assertion and denies access to anyone who fails to follow the Tribe's access permit requirements, duly adopted pursuant to its authority as a sovereign government.

It has long been EPA's practice to ignore Tribal law – and, by extension, its trust responsibility to the Tribe – when conducting inspections on our Reservation lands. While other federal agencies have readily complied with the Tribe's Access Permit procedure when performing official governments functions on our lands, EPA has resisted or otherwise outright ignored Tribal

law. In hopes of resolving this issue, the Tribe and EPA Region 8 entered into a Memorandum of Agreement (“MOA”) in 2023. Under the MOA, the Tribe provided its conditional consent for EPA to enter Tribal lands to conduct inspections and carry out civil enforcement action without obtaining a Tribal Access Permit, *provided* that EPA must meaningfully engage with the Tribe at every stage of a civil enforcement proceeding on or affecting Tribal lands and prioritize the implementation of Tribal input on appropriate recourse to help advance the Tribe’s goals and priorities concerning its lands, waters, and airspace.

Unfortunately, EPA Region 8 has failed to uphold its commitments under the MOA. Since the MOA was executed, Region 8 has carried out multiple civil enforcement actions for facilities located on our lands while making no effort whatsoever to engage or obtain input from the Tribe. This continued course of action directly contravenes the terms of the MOA.

Because Region 8 has treated the MOA as an optional document to be applied only when doing so serves the agency’s interests and agenda, the Tribe will follow suit. Therefore, it is and remains the position of the Tribe that EPA and its officials must obtain a Tribal Access Permit before entering our lands, just like any other person, business, or government agency. The Tribe will take all actions within its authority to enforce its duly enacted Tribal laws and pursue legal recourse for noncompliance.

Separately, the Business Committee is in receipt of EPA’s final published document titled Updated Questions and Answers on the Tribal Enforcement Process (hereinafter “Q&A Memo”) and your accompanying letter responding to the comments submitted by the Ute Indian Tribe.

As you know, the Tribe’s comments raised three interrelated issues with the draft Q&A Memo. First, the Tribe rejected EPA’s conclusion that Tribal ownership of the facility subject to the EPA inspection or enforcement action is the salient issue in determining whether and to what degree the agency should consult with and obtain input from the Tribe. Second, the Tribe requested more information on the statutory basis for EPA’s emphasis on Tribal ownership of the affected facility. Third, the Tribe reminded EPA that its trust responsibility to the Tribe does not begin and end with check-the-box consultation; rather, EPA must take affirmative steps to promote and advance the Tribe’s environmental goals and priorities.

It appears none of the Tribe’s concerns raised in its comments were addressed in any meaningful way in the final version of the Q&A Memo.

The updated definition of “Tribal Facility” does nothing to address the Tribe’s main concern with EPA treating Tribal ownership of the facility as determinative of EPA’s level of engagement with the Tribal government, which is that EPA is treating tribes like economic stakeholders instead of sovereign governments. The Tribe retains inherent sovereign authority not only to regulate its lands, waters, and airspace, but to do so in a manner that serves the particularized needs of the Tribal membership. EPA has a trust responsibility to uphold and support Tribal self-government, and this duty is wholly independent of the Tribe’s ownership stake in any production facility.

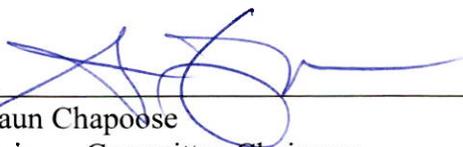
Further, while the Business Committee acknowledges Answer 34 in the Q&A Memo, stating that EPA “should offer to consult with an affected Tribe prior to taking a formal civil

administrative enforcement action to address noncompliance at the non-Tribal facility,” this Answer goes on to state that such consultation can only address publicly available information, because the Tribe would be “considered an outside party” if it does not have an ownership stake in the facility. This is largely a restatement of Answer 6 of the Q&A Memo, which suggests that Tribes should be treated in the same manner as members of the general public, even if the enforcement action is taking place on the Tribe’s lands. This position is unacceptable and wholly inconsistent with EPA’s trust responsibility and government-to-government relationship with the Tribe.

EPA’s actions and omissions addressed in this letter, including (i) Region 8’s longstanding refusal to comply with the Tribe’s Access Permit Ordinance, (ii) Region 8’s failure to uphold its commitments under its MOA with the Tribe, and (iii) EPA’s dismissal of the Tribe’s comments to the Q&A Memo on enforcement actions in Indian Country, each exemplify EPA’s longstanding position that Tribal sovereignty is subservient to agency practices and policies. The Ute Indian Tribe vehemently rejects this position and will continue to implement and enforce duly adopted Tribal laws pursuant to its inherent authority as a sovereign. The Tribe will not hesitate to take legal action if necessary to uphold and protect its fundamental rights.

Thank you for your immediate attention to this letter.

On Behalf of the Ute Indian Tribe Business Committee:



Shaun Chapoose
Business Committee Chairman

Cc: Victoria Tran, Principal Deputy Assistant Administrator, EPA Office of International and Tribal Affairs
Tran.victoria@epa.gov

Cyrus Western, Regional Director, EPA Region 8
Western.cyrus@epa.gov

Suzanne Bohan, Director, EPA Region 8 Enforcement and Compliance Division
Bohan.suzanne@epa.gov

Annette Maxwell, EPA Region 8 RCRA Enforcement Section
Maxwell.annette@epa.gov

EXHIBIT E

From: [Talbert, Stephanie](#)
To: [jpatterson@nativegroup.com](#); [mholditch@nativegroup.com](#); [jgardner@nativegroup.com](#)
Cc: [shaunc@utetribel.com](#); [miken@utetribel.com](#); [juliusm@utetribel.com](#); [percelcesspooch@utetribel.com](#); [clevelandm@utetribel.com](#); [emmettd@utetribel.com](#); [cindywopsock@utetribel.com](#); [amandaj@utetribel.com](#); [lonnief@utetribel.com](#); [sonjaw@utetribel.com](#); [MarthaMountainlion@utetribel.com](#); [StephanieRunsThrough@utetribel.com](#); [Western, Cyrus](#); [Bohan, Suzanne](#); [Schefski, Kenneth \(KC\)](#); [Woodward, Christy](#); [Castelli, Matthew](#)
Subject: EPA Inspector Access on the Uintah & Ouray Reservation

Jeremy, Mitch, and Jane –

Yesterday, Ute Tribal staff emailed EPA stating that EPA inspectors “will need to apply for an access permit” for inspections on the Uintah & Ouray Reservation.

As we’ve previously communicated, EPA inspectors are not required to obtain and will not apply for Tribal access permits. EPA inspectors will be performing Clean Air Act inspections on the Reservation next week. Please respond to this email by close of business Thursday, February 12, 2026, to confirm that the Tribe will allow us access for these inspections.

Sincerely,

Stephanie

Stephanie J. Talbert
Acting Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 8
303-312-6481

EXHIBIT F

From: [Talbert, Stephanie](mailto:Stephanie.Talbert@epa.gov)
To: jpatterson@nativelawgroup.com; mholditch@nativelawgroup.com; jgardner@nativelawgroup.com
Cc: shaunc@utetribe.com; miken@utetribe.com; juliusm@utetribe.com; percelcesspooch@utetribe.com; clevelandm@utetribe.com; emmettd@utetribe.com; cindywopsock@utetribe.com; amandaj@utetribe.com; lonnief@utetribe.com; sonjaw@utetribe.com; MarthaMountainlion@utetribe.com; StephanieRunsThrough@utetribe.com; [Western, Cyrus](mailto:Western.Cyrus@epa.gov); [Bohan, Suzanne](mailto:Bohan.Suzanne@epa.gov); [Schefski, Kenneth \(KC\)](mailto:Schefski.Kenneth@epa.gov); [Woodward, Christy](mailto:Woodward.Christy@epa.gov); [Castelli, Matthew](mailto:Castelli.Matthew@epa.gov)
Subject: RE: EPA Inspector Access on the Uintah & Ouray Reservation

Jeremy, Mitch, and Jane –

We did not receive a response from you yesterday. If we do not hear from you by noon moutain time today, we will construe the lack of response as a constructive denial of access and will take appropriate action.

Sincerely,

Stephanie

Stephanie J. Talbert
Acting Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 8
303-312-6481

From: Talbert, Stephanie
Sent: Tuesday, February 10, 2026 9:05 PM
To: 'jpatterson@nativelawgroup.com' <jpatterson@nativelawgroup.com>; 'mholditch@nativelawgroup.com' <mholditch@nativelawgroup.com>; 'jgardner@nativelawgroup.com' <jgardner@nativelawgroup.com>
Cc: 'shaunc@utetribe.com' <shaunc@utetribe.com>; 'miken@utetribe.com' <miken@utetribe.com>; 'juliusm@utetribe.com' <juliusm@utetribe.com>; 'percelcesspooch@utetribe.com' <percelcesspooch@utetribe.com>; 'clevelandm@utetribe.com' <clevelandm@utetribe.com>; 'emmettd@utetribe.com' <emmettd@utetribe.com>; 'cindywopsock@utetribe.com' <cindywopsock@utetribe.com>; 'amandaj@utetribe.com' <amandaj@utetribe.com>; 'lonnief@utetribe.com' <lonnief@utetribe.com>; 'sonjaw@utetribe.com' <sonjaw@utetribe.com>; 'MarthaMountainlion@utetribe.com' <MarthaMountainlion@utetribe.com>; 'StephanieRunsThrough@utetribe.com' <StephanieRunsThrough@utetribe.com>; 'Western, Cyrus' <Western.Cyrus@epa.gov>; 'Bohan, Suzanne' <Bohan.Suzanne@epa.gov>; 'Schefski, Kenneth (KC)' <Schefski.Kenneth@epa.gov>; 'Woodward, Christy' <Woodward.Christy@epa.gov>; 'Castelli, Matthew' <Castelli.Matthew@epa.gov>
Subject: EPA Inspector Access on the Uintah & Ouray Reservation

Jeremy, Mitch, and Jane –

Yesterday, Ute Tribal staff emailed EPA stating that EPA inspectors “will need to apply for an access permit” for inspections on the Uintah & Ouray Reservation.

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Sincerely,

Stephanie

Stephanie J. Talbert
Acting Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 8
303-312-6481

EXHIBIT G



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 04 2016

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Issuance of the Clean Air Act Stationary Source Compliance Monitoring Strategy

FROM: David A. Hindin 
Director
Office of Compliance

TO: Regional Compliance/Enforcement Division Directors

Attached is a copy of the revised Clean Air Act Stationary Source Compliance Monitoring Strategy (CAA CMS). In replacing the 2014 CMS, this strategy has been revised to take into account a recently released EPA Office of Inspector General (OIG) report concerning the CAA compliance monitoring program. The CMS also has been revised to expand the strategy to apply to the EPA Regions that have direct implementation authority in Indian country and territories of the United States.

The OIG report *Clean Air Act Facility Evaluations are Conducted, but Inaccurate Data Hinder EPA Oversight and Public Awareness* (No.16-P-0164; May 3, 2016; <https://www.epa.gov/office-inspector-general/report-clean-air-act-facility-evaluations-are-conducted-inaccurate-data>) documented that CAA evaluations are generally being conducted and completed in accordance with the CMS. However, in its report, the OIG also noted that the CMS did not provide specific instruction on how long compliance monitoring reports (CMRs) should be retained. To address this concern, the OIG provided the following recommendation: "*Update the EPA's CMS to specify the length of time that states and local air districts should retain evaluation records.*" In response to this recommendation, we agreed as a Corrective Action to revise the CMS accordingly by October 1, 2016. The attached CMS which includes recommended retention time frames for CMRs satisfies this Corrective Action. See Page 16 of the strategy. The revised CMS recommends that delegated agencies retain CMRs in accordance with their respective policies, processes, and requirements or, in the absence of such directives, consistent with EPA records policy.

In revising the CMS to address the above concern identified by the OIG, we also have taken the opportunity to extend the CMS to include the EPA Regions that have direct implementation in Indian country and territories of the United States. This extension establishes for the applicable Regions the same recommended evaluation frequencies for the CMS universe of sources located in Indian country and territories for which they have direct implementation responsibilities.

The revisions to this strategy reflect feedback from the Regions, the national and regional CAA organizations, as well as individual state and local agencies. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, we provided Tribal governments with delegated authority the opportunity to comment on the revisions. I appreciate your Region's continued efforts in working with your delegated agencies to ensure the CMS is being implemented, and your efforts to now follow the minimum evaluation frequencies for CMS sources in Indian country for which the Region has CAA direct implementation.

Please share this revised strategy (<https://www.epa.gov/compliance/clean-air-act-stationary-source-compliance-monitoring-strategy>) with your counterpart at all state, local, tribal, and territorial agencies in your Region. If you or your staff has any questions concerning the CAA CMS, please contact Robert Lischinsky at 202-564-2628 or at lischinsky.robert@epa.gov.

Attachment

cc: Cynthia Giles, Assistant Administrator, OECA
Susan Shinkman, Director, OCE
Betsy Smidinger, Deputy Director, OC
Mamie R. Miller, Associate Director, OC
Edward J. Messina, Director, MAMPD, OC
Jonathan Binder, OECA Indian Program Manager
Phillip Brooks, Director, AED, OCE
Peter Tsirigotis, Director, SPPD, OAQPS
Richard Wayland, Director, AQAD, OAQPS
Pat Childers, OID, OAQPS
Regional Enforcement Coordinators (I-X)
Regional Air Enforcement Managers (I-X)
Gwendolyn Spriggs, OECA Audit Follow Up Coordinator
Mary Sullivan Douglass, NACAA
Clint Woods, AAPCA

EXHIBIT H

CLEAN AIR ACT
STATIONARY SOURCE COMPLIANCE MONITORING STRATEGY
October 2016

DISCLAIMER

The discussion in this document is intended solely as guidance. This document is not a regulation. It does not impose legally binding requirements on the United States Environmental Protection Agency (EPA), States, federally-recognized Indian tribes, or the regulated community. This policy does not confer legal rights or impose legal obligations upon any member of the public. The general description provided here may not apply to a particular situation based on the circumstances. Interested parties are free to raise questions and objections about the substance of this policy and the appropriateness of the application of this policy to a particular situation. EPA retains the discretion to adopt approaches on a case-by-case basis that differ from those described in this policy where appropriate. This document may be revised periodically without public notice. EPA welcomes public input on this document at any time.

Please direct questions concerning this policy to Robert Lischinsky of the Monitoring, Assistance, and Media Programs Division in the Office of Compliance at (202) 564-2628 or at Lischinsky.robert@epa.gov.

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ACRONYMS

ACS	Annual Commitment System
CAA	Clean Air Act
CMS	Compliance Monitoring Strategy
CEM	Continuous Emissions Monitoring
CMR	Compliance Monitoring Report
ECHO	Enforcement and Compliance History Online
EPA	Environmental Protection Agency
FCE	Full Compliance Evaluation
HON	Hazardous Organic NESHAP
HPV	High Priority Violator
ICIS	Integrated Compliance Information System
ICR	Information Collection Request
MACT	Maximum Available Control Technology
MDR	Minimum Data Requirement
NACAA	National Association of Clean Air Agencies
NESHAP	National Emission Standards for Hazardous Air Pollutants
NPMG	National Program Managers Guidance
NPMS	National Performance Measures Strategy
NSPS	New Source Performance Standards
NSR	New Source Review
OC	Office of Compliance
OECA	Office of Enforcement and Compliance Assurance
PCE	Partial Compliance Evaluation
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
QA	Quality Assurance
SM	Synthetic Minor
SIP	State Implementation Plan
SRF	State Review Framework

CLEAN AIR ACT STATIONARY SOURCE COMPLIANCE MONITORING STRATEGY October 2016

I. INTRODUCTION

- The Clean Air Act (CAA) Stationary Source Compliance Monitoring Strategy (CMS) was last revised in July 2014. The EPA revised the CMS to provide increased flexibility to states, local government agencies, federally-recognized Indian tribes (tribes) and territories of the United States to maximize resources and expand coverage of regulated facilities with the most potential for significant impact on human health and the environment. Such flexibility included an expanded set of tools for determining compliance and took into account opportunities created by advanced monitoring technologies such as geospatial measurement of air pollution, fence-line monitoring, infrared cameras, and photoionization detectors.
- The CMS is a dynamic, evolving document as the Agency obtains additional input from the delegated agencies and assesses their experiences in implementing compliance monitoring programs. The CMS also reflects continued feedback from regional state/local air organizations as well as other oversight mechanisms such as the EPA State Review Framework (SRF), the Office of Inspector General (OIG) evaluations as well as the Government Accountability Office evaluations.
- Since the 2014 CMS revision, the OIG released a report documenting that CAA evaluations were found to generally be conducted and completed in accordance with the CMS. *See Clean Air Act Facility Evaluations are Conducted, but Inaccurate Data Hinder EPA Oversight and Public Awareness* (No. 16-P-0164; May 3, 2016; <https://www.epa.gov/office-inspector-general/report-clean-air-act-facility-evaluations-are-conducted-inaccurate-data>).
- As part of the overall OIG review of CAA evaluations, the OIG noted that the 2014 CMS provided guidance that compliance monitoring reports (CMRs) should be maintained as a record of compliance monitoring activities. However, the OIG also noted the CMS did not provide specific instruction on how long to retain the CMRs and recommended the CMS be updated to specify a retention period.
- As a result of the OIG recommendation, the CMS includes a specified time frame for retaining CMRs. In revising the CMS to account for the OIG review, the EPA is taking this opportunity to update the document to reflect current policies and practices, as well as to recognize the increased emphasis to integrate Next Generation Compliance into compliance monitoring activities. Through this revised CMS, EPA continues to encourage utilization of next generation approaches and innovative compliance monitoring activities to promote and enhance compliance within the regulated community. Such approaches include advanced monitoring, electronic reporting, and expanded transparency to more effectively and efficiently identify and address potential noncompliance.
- In addition, the CMS has been extended to include the EPA Regions that have direct implementation authority in Indian country and territories of the United States.

- With this revision, the CMS continues to have a focus on the primary goals of compliance monitoring which include:
 - assessing and documenting compliance with permits and regulations,
 - supporting the enforcement process through evidence collection and case development,
 - monitoring compliance with enforcement orders and decrees,
 - deterring noncompliance, and
 - providing feedback to permit and rule writers to develop permits and regulations that can be more effectively and efficiently implemented.

- The major elements of the CMS are as follows:
 - (1) Emphasis is placed on Title V major sources and a limited subset of synthetic minor sources.

 - (2) Minimum frequencies for compliance evaluations to be conducted by states/locals/tribes/territories are recommended for making compliance determinations at facilities covered by the policy. However, alternative evaluation frequencies may be negotiated with the Regions to enable states/locals/tribes/territories to address important local compliance issues. Regarding the minimum frequencies, the time frames are based on Federal fiscal year, not state fiscal year or calendar year. While CMS plans and commitments of states/locals/tribes/territories are developed consistent with the EPA planning process, the policy still allows flexibility in planning compliance evaluations.

 - (3) The policy explicitly recognizes that a variety of tools ranging from self-certifications to traditional stack tests are available and should be used to evaluate compliance. The use of all such tools can help achieve efficiencies and reduce expenses. It further recognizes that, in limited circumstances, on-site visits may not be necessary to evaluate the compliance status of a facility given the wide range of self-reported information such as Title V annual compliance certifications, deviation reports, and semi-annual monitoring reports. However, to ensure a compliance presence in the field, a minimum frequency for on-site visits is recommended.

 - (4) Three types of compliance monitoring are provided to encompass all of the means used to make a compliance determination. The compliance monitoring types are Full Compliance Evaluations (FCEs); Partial Compliance Evaluations (PCEs); and Investigations.

 - (5) We recognize that there are advantages to the Regions and states/locals/tribes/territories in developing CMS plans annually and encourage the Regions and states/locals/tribes/territories to continue with that frequency, as appropriate. The minimum frequency is once every two years unless otherwise negotiated with the Region and approved by the Office of Enforcement and

Compliance Assurance/Office of Compliance (OECA/OC).

(6) Evaluation and oversight is through the establishment and use of the SRF as the tool for the Regions to conduct oversight of compliance and enforcement programs of the states/locals/tribes/territories that would include in-depth evaluations of CMS implementation.

- Through the establishment of the three compliance monitoring types and the recognition of the variety of compliance monitoring tools available to evaluate compliance beyond the traditional on-site evaluations, the CAA CMS promotes the use of flexibility in developing alternative CMS plans. However, electronic reporting and the use of new technologies and advanced emissions monitoring create additional compliance monitoring opportunities and provide the potential to collect a wider array of compliance information. It is important that states/locals/tribes/territories be able to utilize these new technologies and information to target and assess compliance. EPA encourages states/locals/tribes/territories to make compliance monitoring and enforcement information available to the public where feasible and appropriate.
- The CMS provides for a broader range of compliance monitoring activities and encourages the use of next generation approaches and tools, as appropriate, to allow agencies to further focus on their most significant environmental concerns and pollution problems in the most efficient manner.

II. GOALS OF THE COMPLIANCE MONITORING STRATEGY

- The five major goals are as follows:
 - (1) Provide national consistency in developing stationary source air compliance monitoring programs, while at the same time provide states/locals/tribes/territories with flexibility to address local air pollution and compliance concerns.
 - (2) Improve communication between states/locals/tribes/territories and Regions on stationary source air compliance monitoring programs, and enhance EPA oversight of these programs.
 - (3) Provide a framework for developing stationary source air compliance monitoring programs that focuses on achieving measurable environmental results.
 - (4) Provide a mechanism for recognizing and utilizing the wide range of tools available for evaluating and determining compliance.
 - (5) Establish a consistent level of evaluation coverage and environmental and public health protection by all delegated agencies, including EPA where EPA has direct implementation authority.

III. OVERALL PROCESS

- The overall process is described below:

(1) CMS plans are submitted based upon the Federal fiscal year for discussion with and approval by the Regions. Alternative CMS plans (as discussed in Section VII) are to be forwarded by the Regions to OC for review prior to regional approval. During the discussion of the CMS plans, Regions should share their priorities and focus areas with their states/locals/tribes/territories to optimize resources, avoid duplication of effort, and provide opportunities for collaboration. CMS plans for the EPA Regions with direct implementation authority in Indian country and territories will be satisfied via the EPA Annual Commitment System (ACS) process. Alternative regional CMS plans are to also be forwarded to OC for approval.

(2) Each year, the Regions incorporate the CMS plans into the ACS. Separate commitments should be made for states/locals/tribes/territories and the Regions that are consistent with the OECA National Program Managers (NPM) Guidance and any identified OECA CAA National Initiatives.

(3) States/locals/tribes/territories and Regions maintain records of their compliance monitoring activities, and enter facility-specific compliance and enforcement data in the national air compliance and enforcement data system, ICIS-Air.

(4) Each year, states/locals/tribes/territories and Regions review the results of the compliance monitoring activities and prepare an annual update to the plan as necessary. Major redirections should be discussed as they arise.

(5) Regions conduct in-depth evaluations of the overall compliance monitoring program of the state/local/tribe/territory utilizing SRF. Headquarters conducts evaluations of the Regional programs as part of routine oversight activities. Regions may also conduct oversight or joint evaluations to obtain insight into the quality of state/local/tribe/territory-led evaluations.

IV. SCOPE OF POLICY

- EPA recognizes that states/locals/tribes/territories perform additional compliance monitoring activities beyond those addressed by this policy. This policy is not designed to preclude those activities, which may be statutorily driven by individual states/locals/tribes/territories, but focuses on federally enforceable requirements for the following source categories: (1) Title V major sources (as defined in CAA §501(2)); and

(2) synthetic minor sources that emit or have the potential to emit (PTE) at or above 80 percent of the Title V major source threshold (SM-80s).

For purposes of this policy, PTE means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or

operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable or legally and practicably enforceable by an air pollution control agency of a state/local/tribe/territory.

The 80 percent threshold was selected to ensure that those facilities that either have the potential to emit or actually emit pollutants close to the major source threshold are evaluated periodically. This enables states/locals/tribes/territories to focus resources on those facilities that are most environmentally significant. In determining whether a synthetic minor source falls within the scope of this policy, all facilities with the potential to emit at or above the 80 percent threshold are included regardless of whether their actual emissions are lower. If a state/local/tribe/territory does not differentiate facilities based on potential to emit, all synthetic minors should be designated as SM-80s.

- This policy also recognizes that some Regions have direct implementation of the CAA in Indian country and territories. The CMS recommended minimum evaluation frequencies for Title V major and SM-80 sources are applicable to such Regions to establish a consistent level of evaluation coverage and environmental and public health protection by all delegated agencies, including the EPA where EPA has direct implementation authority.
- Please note that this policy does not include the following specific CAA programs:
 - 40 CFR Part 60 Standards of Performance for New Residential Wood Heaters (Wood Heater NSPS)
 - 40 CFR Part 63 National Emission Standard for Asbestos (Asbestos NESHAP)
 - 40 CFR Part 63 Area Sources
 - 42 USCA Section 7412(r) Prevention of Accidental Releases
 - 40 CFR Part 98 Mandatory Greenhouse Gas Reporting Rule
 - 42 USCA Section 7651 Acid Deposition Control

V. COMPLIANCE MONITORING TYPES

- States/locals/tribes/territories and Regions are encouraged to use a variety of techniques to determine compliance, and utilize the full range of self-monitoring information stemming from the 1990 CAA Amendments. They also are encouraged, when feasible, to use advanced emissions/pollutant detection technology and electronic reporting.
 - In support of the EPA strategy of Next Generation Compliance (<https://www.epa.gov/compliance/next-generation-compliance>), the CMS recognizes today's challenges require a modern approach to compliance monitoring and promotes to, the fullest extent possible, the use of new and emerging monitoring and information technologies as well as increased transparency. Through modern and innovative approaches, EPA and the

delegated agencies are better able to protect public health and the environment.

- Compliance monitoring activities, as discussed below, encompass all of the means used to make a facility specific compliance determination. These activities can include both on-site compliance evaluations and off-site record reviews. The activities can be initiated based on a variety of factors such as the CMS plan of a state/local/tribe/territory, priorities of the state/local/tribe/territory, citizen tips and complaints, or for cause.
- Consistent with this approach, there are three types of compliance monitoring: Full Compliance Evaluations (FCEs), Partial Compliance Evaluations (PCEs), and Investigations. Each of these types of compliance monitoring is defined below:

(1) Full Compliance Evaluations

A Full Compliance Evaluation (FCE) is a comprehensive evaluation to assess compliance of the facility as a whole and resulting in a compliance determination. For the purposes of this policy, “facility” is used in the broadest sense of the term incorporating all regulated emission units within the facility. An FCE addresses all regulated pollutants at all regulated emission units. Furthermore, an FCE addresses the current compliance of each emission unit, as well as the continuing ability of the facility to maintain compliance at each emission unit.

An FCE includes the following:

- A review of all required reports or other documents, and to the extent necessary, the underlying records. This includes all monitored data reported to the regulatory agency (e.g., continuous emissions monitoring system (CEM) and continuous parameter monitoring reports, malfunction reports, excess emission reports). It also includes a review of Title V self-certifications, semi-annual monitoring and periodic monitoring reports, and any other reports required by permit.
- An assessment of control device and process operating conditions as appropriate. An on-site visit to make this assessment may not be necessary based upon factors such as the availability of continuous emission and periodic monitoring data, compliance certifications, and deviation reports. The implementation of Next Generation Compliance will assist in compliance monitoring by allowing, whenever suitable, innovative and modern approaches that go beyond single facility on-site evaluations. Examples of regulated facilities that may not require an on-site visit to assess compliance include, but are not limited to, a gas-fired compressor station, a boiler in a large office or apartment building, a peaking station, and a gas turbine. However, decisions on whether an on-site evaluation is not necessary should be made on a facility-specific basis.
- A visible emission observation as needed.

- A review of facility records and operating logs.
- An assessment of process parameters such as feed rates, raw material compositions, and process rates.
- An assessment of control equipment performance parameters (e.g., water flow rates, pressure drop, temperature, and electrostatic precipitator power levels).
- A stack test where there is no other means for determining compliance with the emission limits. In determining whether a stack test is necessary, states/locals/tribes/territories should consider factors such as: size of emission unit; time elapsed since last stack test; results of that test and margin of compliance; condition of control equipment; and availability and results of associated monitoring data.
- A stack test whenever a state/local/tribe/territory deems it appropriate.

For additional guidance on conducting stack tests, please see the April 27, 2009 Clean Air Act National Stack Testing Guidance at: <http://www.epa.gov/compliance/resources/policies/monitoring/caa/stacktesting.pdf>

- Where appropriate and feasible, the utilization of advanced monitoring technologies to detect and document emissions and record ambient conditions. The use of advanced emissions/pollutant detection technology is valuable as a screening tool to identify pollution problems and better focus field activities on the pollutant, process, and equipment of concern. It also may be useful to identify and measure noncompliance. Examples of such technologies include infrared cameras, fenceline monitors, sensor network-based leak detection systems, mobile methane monitors, and photoionization detectors. The use of advanced emissions and pollutant detection technology that, for example, find pollution that was previously “invisible” can assist states/locals/tribes/territories and Regions to more effectively target and monitor compliance and protect communities.

An FCE should be completed within the Federal fiscal year in which the commitment is made. However, flexibility is provided in the case of extremely large, complex facilities (hereafter referred to as mega-sites). Regulatory agencies may take up to three Federal fiscal years to complete an FCE at a mega-site, provided the agency is conducting frequent on-site visits or PCEs throughout the entire evaluation period.

In reviewing the required records and reports necessary to complete an FCE, regulatory agencies may use discretion in determining whether to review the documentation on hand, or wait until the most recent records/reports become available. For example, an agency may complete an FCE on October 15 by

reviewing a facility's annual compliance certification that was submitted on September 1 of the prior fiscal year. The agency need not delay completion of the FCE by waiting until the annual certification for the present fiscal year is submitted the following September 1. In another example, a facility's annual certification is submitted on April 1 of each year. On March 1, an agency would be able to complete an FCE at the facility by reviewing the annual certification submitted the previous April 1. However, in this situation, the agency may prefer to wait one month to complete the FCE in order to review the most current certification rather than review a certification that is eleven months old.

An FCE may be done piecemeal through a series of PCEs. States/locals/tribes/territories and Regions may wish to institute internal processes to review compliance monitoring files to ensure that FCEs have been completed at a given facility. If instituted, such processes should be designed in such a way that reviews are conducted throughout the year, rather than at the end of the year. This ensures that FCEs are reported in a timely manner to the national database, and the public has access to the most current information on compliance status.

An on-site FCE should be conducted by an authorized inspector. EPA employees and individuals of states/locals/tribes/territories authorized to conduct evaluations on behalf of EPA using EPA Federal inspector credentials should be conducting evaluations consistent with appropriate federal requirements. See EPA Order 3500.1 (*Training Requirements for EPA Personnel Who Are Authorized to Conduct Civil Compliance Inspections/Field Investigations and EPA Inspector Supervisors*); EPA Order 3510 (*EPA Federal Credentials for Inspections and Enforcement of Federal Environmental Statutes and Other Compliance Responsibilities*); and the CAA stationary source training requirements. An authorized inspector may include an approved third party.¹ Inspectors conducting evaluations for states/locals/tribes/territories should be compliant with their respective agency policies and processes. An off-site FCE should be conducted by an authorized inspector or other credible regulator (e.g., an individual designated by the EPA or state/local/tribe/territory with sufficient knowledge, training, and experience to assess compliance).

(2) Partial Compliance Evaluations

A Partial Compliance Evaluation (PCE) is a documented compliance evaluation conducted for the purpose of making a compliance determination and focusing on

¹ For issues concerning the use of authorized representatives for compliance monitoring activities under the Clean Air Act see *United States v. Stauffer Chem. Co.*, 464 U.S. 165 (January 10, 1984); M. Alushin and E. Reich Memorandum to Regional Counsels, et al, *Use of Contractors to Conduct Clean Air Act Inspections after the Supreme Court's Decision in United States v. Stauffer Chemical* (February 22, 1984); and D. Kling Memorandum to Regional Federal Facilities Senior and Program Managers, *Clarification on the Use of Contract Inspectors for EPA's Federal Facility Compliance Inspections/Evaluations* (September 19, 2006). See also, *Guidance for Issuing Federal EPA Inspector Credentials to Employees of Contractors to Conduct Inspections on Behalf of EPA*, (May 31, 2013); *Guidance for Issuing Federal EPA Inspector Credentials to Senior Environmental Employment Program Enrollees to Conduct Inspections on Behalf of EPA*, (September 30, 2013).

a subset of processes, regulated pollutants, regulatory requirements, or emission units at a given facility. Examples of specific activities include, but are not limited to, the following:

- conduct source performance tests, sampling, and monitoring;
- visible emission observations;
- case development evaluation, including evaluation of responses to formal information requests (e.g., CAA § 114);
- consent decree follow-up;
- Continuous Monitoring System Quality Assurance (QA) Audit;
- review of facility reports or documents such as Quarterly Excess Emission Reports and semi-annual deviation reports;
- review of facility records and operating logs, testing/sampling plans, and monitoring data;
- review of relevant process, emissions, and inventory information;
- review of facility-specific fence-line and ambient monitoring;
- ambient environmental screening using advanced monitoring technologies for a group of facilities or geographic area of interest for use in subsequent compliance evaluations.

Depending on the nature and scope of the PCE, the actions taken and observations should be included in a compliance monitoring report (CMR), or as a notation in the facility file.

A PCE may be conducted solely for the purpose of evaluating a specific aspect of a facility, or combined over the course of a Federal fiscal year (or up to three Federal fiscal years at mega-sites) to satisfy the requirements of an FCE. For example, a PCE could be used effectively to assess compliance with the Hazardous Organic NESHAP (HON) Maximum Available Control Technology (MACT) requirements if that is the primary area of concern at a chemical manufacturing facility. If at some point later in the year, the regulatory agency decided an FCE was necessary, the agency could combine the results of the MACT evaluation with subsequent evaluations focusing on the balance of CAA requirements.

PCEs are generally less time-consuming and resource-intensive than FCEs in that they are targeted evaluations used to assess compliance with targeted programs, standards, and/or processes. As a result, PCEs can be a useful tool in screening for and identifying non-compliance in a cost-effective manner.

An on-site PCE should be conducted by an authorized inspector. EPA employees and individuals of states/locals/tribes/territories authorized to conduct evaluations on behalf of EPA using EPA Federal inspector credentials should be conducting evaluations consistent with appropriate federal requirements. See EPA Order 3500.1 (*Training Requirements for EPA Personnel Who Are Authorized to Conduct Civil Compliance Inspections/Field Investigations and EPA Inspector*

Supervisors); EPA Order 3510 (*EPA Federal Credentials for Inspections and Enforcement of Federal Environmental Statutes and Other Compliance Responsibilities*); and the CAA stationary source training requirements. An authorized inspector may include an approved third party. Inspectors conducting evaluations for states/locals/tribes/territories should be compliant with their respective agency policies and processes. An off-site PCE should be conducted by an authorized inspector or other credible regulator (e.g., an individual designated by the EPA or state/local/tribe/territory with sufficient knowledge, training, and experience to assess compliance).

(3) Investigations

An Investigation can be distinguished from the other two compliance monitoring types in that, generally, it is limited to a portion of a facility, is more resource intensive, and involves a more in-depth assessment of a particular issue. It usually is based on information discovered during an FCE, or as the result of a targeted industry, regulatory, or statutory initiative. Also, an Investigation often requires the use and analysis of information not available in EPA data systems. It is best used when addressing issues that are difficult to evaluate during a routine FCE because of time constraints, the type of preliminary field work required, and/or the level of technical expertise needed to determine compliance.

Examples of this type of compliance monitoring are the in-depth New Source Review/Prevention of Significant Deterioration (NSR/PSD) and New Source Performance Standards (NSPS) reviews conducted by EPA of the pulp, utility, and petroleum refining industries. These investigations were initiated following analyses of publicly available information on growth within the industries, and a comparison of this information to data maintained by the regulatory agencies on the number of NSR/PSD permits issued during the same time frame. The analyses indicated that many facilities failed to obtain the necessary permits. As a result, the facilities had not controlled pollutant emissions as required, and thus realized significant economic benefits. These efforts resulted in significant enforcement actions protecting human health and the environment.

For a more complete definition of an Investigation, see “MOA Guidance (Air Program) Clarification and National Performance Measures Strategy (NPMS) Pilot” from Eric Schaeffer and Elaine Stanley to MOA Coordinators, Enforcement Coordinators, and RS&T Coordinators (October 26, 1998). See also, “Implementing the National Performance Measures Strategy – Second Phase (Attachment J)” from Steven A. Herman to Regional Administrators, Deputy Regional Administrators, and Regional Enforcement Division Directors and Coordinators (December 23, 1999).

VI. CLEAN AIR ACT COMPLIANCE AND ENFORCEMENT PROGRAM

CAA BASE PROGRAM COVERAGE

● Generally, the EPA base stationary source compliance and enforcement program encompasses air pollution problems for the following CAA programs:

- NSPS
- NESHAP
- MACT
- 40 CFR Part 63 Area Sources
- NSR/PSD
- State Implementation Plans (SIPs) and CAA §111(d) approved plans
- Title V Operating Permit
- Stratospheric Ozone Protection
- 42 USCA §7412(r) Prevention of Accidental Releases
- 40 CFR Part 98 Mandatory Greenhouse Gas Reporting Rule
- 42 USCA Section 7651 Acid Deposition Control

However, this policy does not include the specific CAA programs listed in Section IV.

EVALUATION FREQUENCIES:

● As stated above (Section IV), states/locals/tribes/territories may perform additional compliance monitoring activities beyond those addressed by this policy. However, this policy focuses on federally enforceable requirements for Title V major sources and SM-80s. These sources may be subject to many, if not all, of the individual CAA programs.

● Minimum frequencies are recommended as guidance for states/locals/tribes/territories when developing stationary source air compliance monitoring programs:

(1) An FCE should be conducted, at a minimum, once every two Federal fiscal years at all Title V major sources except those classified as mega-sites. For mega-sites, an FCE should be conducted, at a minimum, once every three Federal fiscal years.

Each Region, in consultation with affected states/locals/tribes/territories, has the flexibility to define and identify mega-sites as it deems appropriate within the Region. However, this universe of facilities is expected to be small. When identifying mega-sites, the Regions should consider the following factors: the number and types of emission units; the volume and character of pollutants emitted; the number and types of control and monitoring systems; the number of applicable regulatory requirements; the availability of monitoring data; the degree of difficulty in determining compliance at individual units and at the entire facility; and the footprint of the facility. Examples of industries that may have qualifying facilities are petroleum refining, integrated steel manufacturing, chemical manufacturing, and pharmaceutical production.

(2) An FCE should be conducted, at a minimum, once every five Federal fiscal

years at SM-80s.

(3) In those limited circumstances where it has been determined on a case-by-case basis that an on-site visit is not necessary to complete an FCE (see Section V), an on-site visit should still be conducted, at a minimum, once every five Federal fiscal years at all Title V major sources to ensure a compliance presence in the field, verify record reviews, observe modifications or new construction, and identify any major permit deviations.

- In those years when an FCE is not conducted, states/locals/tribes/territories should continue to review annual compliance certifications, and the underlying reports supporting those certifications (e.g., semi-annual and periodic monitoring reports, continuous emission and continuous parametric monitoring reports, and malfunction and excess emission reports).
- The above minimum evaluation frequencies are applicable to those Regions which have direct implementation of the CAA in Indian country and territories.
- When implementing the CAA base program and Agency policies outside of Indian country and territories, the Regions will continue to maintain expertise and a minimum level of activity consistent with the resources available; monitor the level and quality of effort by the states/locals/tribes/territories; and participate in national and region-specific initiatives that may require greater EPA involvement. The Regions will continue to focus on those activities that are directed to widespread noncompliance, will yield the greatest environmental benefit due to the potential for significant emission reductions, and are not duplicative of efforts by states/locals/tribes/territories. They also will monitor implementation of enforcement orders and consent decrees.

OECA NATIONAL ENFORCEMENT INITIATIVES

Background on Priority-Setting Process

- In collaboration with the states/locals/tribes/territories, EPA defines and selects national enforcement initiatives (NEIs) through the use of several screening factors and criteria. Using such information, EPA determines if significant environmental benefits can be gained, or if risks to human health or the environment can be reduced through focused EPA action. EPA also looks to uncover identifiable and important patterns of noncompliance. Furthermore, the Agency analyzes whether the environmental and human health risks or the patterns of noncompliance are sufficient in scope and scale such that EPA is best suited to take action, and whether it is appropriate for EPA to take lead responsibility.
- Using the above information to define the scope and nature of environmental problems that warrant heightened resource and commitment levels on a Federal level for a designated period of time, there are currently several NEIs with an air program component. For additional information, please visit the EPA NEI website at

<https://www.epa.gov/enforcement/national-enforcement-initiatives>. The Agency has determined that Federal attention focused on these programs results in greater deterrence and a higher level of compliance by the regulated community.

Evaluation Frequencies

- In implementing the NEIs, EPA provides an enhanced Federal presence to address the widespread non-compliance in the identified problem areas.
- Pursuant to the CMS, no minimum evaluation frequencies have been established for states/locals/tribes/territories with respect to compliance evaluations associated with the NEIs. However, the Agency does encourage participation by the states/locals/tribes/territories in EPA compliance and enforcement activities within the NEIs. Participation in such activities may be considered as a factor when evaluating a proposed alternative CMS Plan submitted by an agency. (See Section VII.)
- In carrying out the NEIs, EPA will continue to share with the states/locals/tribes/territories the compliance monitoring and enforcement experience gained, the results achieved, and the lessons learned. While engaging with the states/locals/tribes/territories in capacity building efforts, the Agency also will share all major next generation advances. It is the EPA goal that modern, advanced approaches employed to change industry behavior and improve compliance will assist in transferring the work covered by the NEIs back to the CAA base program.

VII. ALTERNATIVES TO THE RECOMMENDED EVALUATION FREQUENCIES

- States/locals/tribes/territories may develop with Regional approval alternatives to the recommended evaluation frequencies. Alternatives may be developed on a facility-by-facility basis or for an entire source category. However, in determining whether an alternative frequency is appropriate, the following factors should be considered:

Sources

- Compliance history;
- Location of facility;
- Potential environmental impact;
- Operational practices (e.g., whether operation is steady state or seasonal); and
- Use of control equipment.

Programs of States/Locals/Tribes/Territories

- Identified deficiencies in the overall compliance monitoring program of a state/local/tribe/territory (e.g., temporary resource constraints such as budget shortfall or position vacancy). The agency should be able to discuss what steps are being taken to address and resolve such deficiencies.
- Identified local air pollution and compliance concerns/priorities for which

resources are needed to be directed (e.g., air toxics PCEs at secondary aluminum facilities). The agency should be able to provide a timeframe for when such concerns/priorities will be addressed.

- Assistance provided to other states/locals/tribes/territories (e.g., leading multistate/local initiatives; lending expertise; training new inspectors).

EPA National Enforcement Initiatives

- Participation by a state/local/tribe/territory in such activities.

- Prior to granting regional approval to alternatives, the Regions should submit alternative CMS plans to Headquarters (Office of Compliance) for review. This enables Headquarters to track alternatives and maintain national consistency as appropriate.
- For those Regions with direct implementation of the CAA in Indian country and territories, Headquarter approved alternative plans may be implemented and will be assessed using the same factors listed above.

VIII. ELEMENTS OF THE CMS PLAN

- CMS plans of the state/local/tribe/territory are a building block in the OECA NPM Guidance process, and should be finalized so they can be summarized and incorporated into the Regional ACS commitments. Therefore, they should be completed prior to the beginning of the Federal fiscal year.
- A separate CMS plan is not necessary if Regions and states/locals/tribes/territories wish to continue using other formally negotiated documents (e.g., Enforcement Agreements, Performance Partnership Agreements, and Categorical Grant Agreements), provided these documents contain the same level of detail discussed below. If this approach is selected, the negotiated document should provide confirmation of adherence with the CMS policy, serve as a suitable substitute for a separate CMS plan, and be reflected in ICIS-Air. If the negotiated document is serving as an alternative CMS plan, it is to be shared with Headquarters (Office of Compliance). (See Section VII.)
- The content of CMS plans will vary depending upon whether states/locals/tribes/territories develop and negotiate alternatives to the recommended evaluation frequencies.
- In those instances where states/locals/tribes/territories meet the recommended evaluation frequencies and do not develop and negotiate alternative approaches, the plan should include the following elements:
 - (1) A facility-specific list (including the ICIS-Air Programmatic ID) of all Title V major sources. The list should identify by Federal fiscal year those facilities for which an FCE will be conducted. It should also identify those for which an on-site visit will be conducted.

(2) A facility-specific list (including the ICIS-Air Programmatic ID) of all synthetic minor sources and a list of those facilities covered by the policy (SM-80s). It also should identify by Federal fiscal year those facilities for which an FCE will be conducted.

(3) A description of how a state/local/tribe/territory will address any identified program deficiencies in its compliance monitoring program. These deficiencies can stem from evaluations conducted internally, or by outside organizations such as EPA pursuant to the SRF process.

- In those instances where the states/locals/tribes/territories propose alternatives to the recommended evaluation frequencies, states/locals/tribes/territories should provide a more detailed plan. In addition to the above elements, states/locals/tribes/territories should include a rationale describing: (1) why it is not necessary to evaluate specific facilities or source categories subject to the recommended evaluation frequencies; and (2) why it is appropriate to substitute other facilities.
- If at the end of the first year, states/locals/tribes/territories anticipate or know that they will be unable to meet their two year commitments by the end of the second year, they should notify the Region and revise their CMS plan accordingly.
- As noted earlier, CMS plans for the Regions with direct implementation in Indian country and territories will be satisfied via the ACS process. If implementing an alternative plan, the Regions should provide similar information as listed above.

IX. COMPLIANCE MONITORING REPORTS

- CMRs may continue to be formatted as deemed appropriate. However, the following basic elements should be addressed in the reports:
 - (1) General information: date, compliance monitoring type (i.e., FCE, PCE, or Investigation), and official submitting the report.
 - (2) Facility information: facility name, location, mailing address, facility contact and phone number, Title V designation and mega-site designation.
 - (3) Applicable requirements: all applicable requirements including regulatory requirements and permit conditions.
 - (4) Inventory and description of regulated emission units and processes.
 - (5) Information on previous enforcement actions.
 - (6) Compliance monitoring activities: processes and emission units evaluated; on-site observations, including documentation of observed deficiencies; whether compliance assistance was provided and if so, nature of assistance; any action taken by facility to come back into compliance during on-site visit.
 - (7) Observations and recommendations relayed to the facility during the compliance evaluation. Please note, this does not apply to information traditionally reserved for enforcement case files.

In providing the above information, states/locals/tribes/territories should reference or

attach other relevant documents as appropriate to avoid duplication. For example, the relevant section of a Title V permit could be attached to the compliance monitoring report rather than rewriting all of the applicable requirements.

- CMRs should be maintained and made available to the Regions upon request. Regions shall maintain similar files of regional activities and provide Headquarters with access upon request.

- State/locals/tribes/territories should retain their CMRs in accordance with their respective agency policies, processes, and requirements. In the absence of any such directives, the following retention timeframes are recommended consistent with EPA records policy:

- CMRs documenting evaluations that do not lead to enforcement: 5 years.
- CMRs documenting evaluations that lead to a civil administrative enforcement action: 10 years after closure of the enforcement file.
- CMRs documenting evaluations that lead to a civil judicial or criminal enforcement action: 20 years after closure of the enforcement file.

- Example CMRs documenting FCEs are posted for review by states/locals/tribes/territories on the EPA Enforcement and Compliance History Online (ECHO) website at: https://echo.epa.gov/srf_comp_mon_reports

These example reports are provided to: (1) assist inspectors in efficiently writing complete CMRs; thereby, reducing time spent writing reports and maximizing time available for field presence; and (2) improve the quality and completeness of CMRs so they can serve as valuable tools for documenting non-compliance, as well as foundations upon which to proceed with successful enforcement actions.

X. REPORTING

- To collect compliance information in a consistent format that allows EPA to evaluate and compare compliance monitoring programs, Regions and states/locals/tribes/territories will need to:

- Continue to maintain records of compliance monitoring activities, and enter facility-specific compliance and enforcement data in ICIS-Air on a routine basis. In accordance with the Source Compliance and State Action Reporting Information Collection Request (ICR), all data (except for stack test date and results, as noted below) is to be reported within 60 days.

- Any applicable source that begins operations is to be reported into ICIS-Air and given a CMS indicator and appropriate frequency flag. Those CMS facilities that have been permanently shut down are to have their CMS flags removed so they will not show as “active on CMS plan” in ICIS-Air.

- If a state/local/tribe/territory negotiates an alternative plan, which allows the agency to shift resources from Title V majors and/or SM-80s to other sources not addressed by the policy (e.g., minors), all relevant Minimum Data Requirements (MDRs) are to be reported to ICIS-Air for all sources in the alternative plan.
- Report “Federally Reportable Violations” (FRVs) and “High Priority Violations” (HPVs) in accordance with current EPA policies.
- Utilize the following compliance monitoring types to report activities at the facility level in ICIS-Air:
 - Full Compliance Evaluations
 - Partial Compliance Evaluations
 - Investigations
- FCEs are to be reported into ICIS-Air as either on-site or off-site. Off-site FCEs are to be reported only when states/locals/tribes/territories are able to complete an FCE without having to conduct an on-site visit to assess control devices and process operating conditions. Completion of an FCE without conducting an on-site visit is limited to a small universe of facilities and source categories. (See Section V.)
- Although PCEs are to be reported by the Regions, they generally are not an MDR for states/locals/tribes/territories and reporting of these actions is voluntary. A PCE becomes an MDR for states/locals/tribes/territories when the PCE is part of an alternative plan and/or when the PCE leads to discovery of an HPV. States/locals/tribes/territories may wish to report PCEs to capture the full range of their compliance monitoring activities.
- To assist in PCE reporting, the following specific PCE activities may be reported into ICIS-Air:
 - Off-site PCE
 - On-site PCE
 - On-site Record/Report Review
 - On-site Monitoring/Sampling
 - On-site Interview
 - On-site Fenceline/Ambient Monitoring
 - On-site Visible Emission Observation
 - On-site CEMS/CMS Audit
 - On-site Stack Test
 - Title V Annual Compliance Certification Review
- Report the following information for all Title V annual compliance certification reviews in ICIS-Air:
 - date due;
 - date received;

- whether deviations were reported by the facility;
 - date reviewed; and
 - results (i.e., violations)
- Please note: Regions shall enter the first three data elements for each Title V compliance certification unless otherwise negotiated with states/locals/tribes/territories.
- Enter the date and results of all stack tests in ICIS-Air within 120 days of completion of the test.
- The CMS status in ICIS-Air will automatically change to “overdue” if an FCE is not completed:
 - (1) within the recommended evaluation frequencies, or
 - (2) in accordance with negotiated alternatives that extend the recommended evaluation frequencies.
 - Standard CMS reports are available in ICIS-Air for retrieving, reviewing, and analyzing the quality of the CMS reported data (e.g., *CMS Report*, *FCE Coverage at Majors Report*, *FCE Coverage at 80% SMs Report*, and *Total Number of State-Local CAA FCEs by CMS Source Category*). These reports provide access to detailed facility-specific information such as source classification, operating status, the last Full Compliance Evaluation (FCE) reported, and the CMS status (which indicates whether a facility included in a CMS plan is overdue for an FCE). The Regions and delegated agencies should review the data provided in these reports as part of the regular communications to discuss data quality issues.
 - The Regions are to use the ACS system for the tracking of performance data against agreed-upon regional performance commitments. In addition to Region-specific performance information, the ACS is also used to provide information on state/local/tribal-specific contributions to commitments.
 - Only the Regions are required to establish ACS commitments for the OECA CAA national enforcement initiatives. These ACS commitments do not apply to the state/local/tribal agencies.
 - EPA developed ICIS-Air to accommodate the above reporting for program management and oversight. The Agency also designed ICIS-Air with the capabilities to improve data analysis and information in the future. Efforts are continuing to advance Next Generation Compliance and modernize our approach to environmental protection to make reporting easier. For example, EPA is engaged in ongoing efforts with the states/locals/tribes through the E-Enterprise initiative to facilitate increased electronic reporting in order to have more accurate, complete and timely information while minimizing reporting burden.

XI. EVALUATION/OVERSIGHT

- The primary reason for revising CMS in 2001 was to address deficiencies identified by the EPA Inspector General with respect to lack of oversight and inconsistent implementation of the policy by the Agency. Hence, it is essential that EPA provide adequate oversight of the policy.

- At the end of each Federal fiscal year, the Regions shall evaluate whether the states/locals/tribes/territories met their commitments, and in those cases where they did not, determine why and what adjustments need to be made for the following year. EPA Headquarters shall in turn conduct a similar analysis nationally assisted by data reported to ICIS-Air. This information should be transmitted back to the appropriate officials in a timely manner so that they can make mid-course corrections in their program if necessary.

- In FY 2004, OECA implemented the SRF. The SRF is a multi-program effort developed in collaboration with the Environmental Council of the States and NACAA (as well as other state media associations) to evaluate performance in the air, water, and hazardous waste compliance and enforcement programs. It is built upon a common set of data metrics, which are verified and reviewed annually and provide a summary of trends and past year performance of state activities in comparison to overall program goals, national averages, and data entry requirements. There are five nationally consistent review elements: Data, Inspections/Evaluations, Violations, Enforcement, and Penalties. The SRF provides a useful building block upon which to analyze the effectiveness of compliance and enforcement programs. This baseline analysis is based on media-specific guidance such as the CMS for the air program. While CMS provides the national performance expectations for the delegated agencies, the SRF is the instrument used to consistently assess their performance.

The CAA SRF reviews will enable Regions to evaluate whether:

- States/locals/tribes/territories conduct and accurately report FCEs, and that such reported evaluations meet the definition of an FCE as provided in Section V above.

- States/locals/tribes/territories identify and document violations and provide sufficient documentation to determine whether violations meet the definition of an FRV and/or HPV.

- State/locals/tribes/territories fully report compliance monitoring/enforcement activities and outcomes in ICIS-Air consistent with Section X above.

- Compliance monitoring commitments have been successfully completed and whether such commitments are in the CMS Plan or other formally negotiated document as discussed in Section VIII above.

- To assist Regions in conducting an SRF review, guidance and documentation is available at: https://echo.epa.gov/srf_help
- Headquarters shall conduct evaluations of each Region, and use the information to: monitor implementation of the policy; identify program deficiencies and successes; establish national trends; compare programs; and develop new national initiatives. To the extent possible, Headquarters will inform Regions in advance of the criteria that will be used in evaluating Regional programs.

FILED

Nov 17, 2025

4:28 pm

**U.S. EPA REGION 8
HEARING CLERK**



REGION 8

DENVER, CO 80202

<p>IN THE MATTER OF:</p> <p>Berry Petroleum Company, LLC and Berry Corporation (bry)</p> <p>11117 River Run Blvd Bakersfield, CA 93311</p> <p>Respondents</p>	<p>Docket No. CAA-08-2026-0002</p> <p>CONSENT AGREEMENT</p>
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Complainant, the authorized representative of the United States Environmental Protection Agency (“EPA”), and Respondents, Berry Petroleum Company, LLC, and Berry Corporation (bry), by their undersigned representatives, hereby consent and agree as follows:

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order is an administrative penalty assessment proceeding brought under section 113(d) of the Clean Air Act (“Act”), 42 U.S.C. § 7413(d), entered into by the EPA, by its duly delegated officials, and by Respondents for the purposes of commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and pursuant to 40 C.F.R. § 22.18(b)(2)-(3)
2. Complainant and Respondents, (together, the “Parties”) having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement (“Consent Agreement” or “Agreement”) and the entry of a final order (“Final Order”) without adjudication of any issues of law or fact herein, and Respondents agree to comply with the terms of this Consent Agreement and the Final Order issued by the Regional Judicial Officer (“RJO”) approving this Consent Agreement.
3. The Parties consent to service of the Final Order by email at the following valid email addresses: dimascio.nicholas@epa.gov (for Complainant), and mferrier@bry.com with a copy to eric.waeckerlin@gtlaw.com and courtney.shephard@gtlaw.com (for Respondents).

II. JURISDICTION

4. This Consent Agreement is entered into under the authority vested in the Administrator of the EPA by Section 113(d) of the Act, 42 U.S.C. § 7413(d). The undersigned EPA official has been duly authorized to institute this action. The alleged violations in this Consent Agreement are pursuant to Section 113(a)(3)(A) of the Act.
5. The EPA and the United States Department of Justice jointly determined this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment, as authorized by Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d), 40 C.F.R. § 19.4.
6. In satisfaction of the requirement in Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), on August 5, 2024, the EPA issued to Respondents a notice of violation (“NOV”) and provided a copy of the NOV to the State of Utah, providing notice to both that the EPA found Respondents committed the alleged violations described in this Agreement and providing Respondents an opportunity to confer with the EPA. Meetings regarding those issues subsequently took place between the EPA, the Utah Division of Air Quality (“UDAQ”), and Respondents.
7. The EPA Region 8 RJO is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondents in a Final Order. 40 C.F.R. §§ 22.18(b), 22.4.
8. The Final Order issued by the RJO approving this Agreement simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

III. RESPONDENTS

9. Respondents are Berry Petroleum Company, LLC, and Berry Corporation (bry).
10. Berry Petroleum Company, LLC, is a limited liability company incorporated in the State of Delaware and at all relevant times to this Agreement was and is doing business in the State of Utah.
11. Berry Petroleum Company, LLC, is a subsidiary of Berry Corporation (bry), which is a publicly traded corporation incorporated in the State of Delaware. Berry Corporation (bry) is the sole member of its subsidiary, Berry Petroleum Company, LLC.
12. Each Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

IV. DEFINITIONS

13. “Appendix A” means the identified Engines subject to the conditions of this Agreement.

14. “Assessed Penalty” means the civil penalty assessed in Paragraph 83 of this Agreement.
15. “Convert,” “Conversion,” “Converting,” or “Converted”: The process of using manufacturer-approved parts to increase the maximum Engine power of any Engine listed in Appendix A to greater than 19 KW (25 HP), as described in Paragraph 84.d.
16. “Day” or “day” shall mean any of the seven days of the week. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until 11:59 p.m. Mountain Time of the next day that is not a Saturday, Sunday, or federal holiday.
17. “Effective Date” shall have the definition provided in Section XVI (Effective Date) of this Agreement.
18. “Engine” or “Engines” means a stationary spark ignition internal combustion engines subject to this Agreement and listed in Appendix A.
19. “Normal Operations” means the burning of any fuel gas in an engine for any purpose at a well pad, including to provide artificial lift to a well for it to produce oil as well as providing power to heat trace pumps and heat the Tank System.
20. “Proof of Payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondents’ names.
21. “Reporting Period” means the half of the calendar year (*i.e.*, January through June, and July through December) included in each Semi-Annual Report required by Paragraph 84.h of this Agreement.
22. “Semi-Annual Report” means the semi-annual report required by Paragraph 84.h of this Agreement.

V. GOVERNING LAW

23. As set forth in Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1), the purpose of the Act is to protect and enhance the quality of the nation’s air, so as to promote the public health and welfare and the productive capacity of its population.
24. Section 108 of the Act, 42 U.S.C. § 7408, directs the EPA to identify those air pollutants which “may reasonably be anticipated to endanger public health or welfare” and to issue air quality criteria for them based on “the latest scientific knowledge” about the effects of the pollutants on public health and the environment. The pollutants identified as such are called “criteria pollutants.”

25. Section 109 of the Act, 42 U.S.C. § 7409, requires the EPA to promulgate regulations establishing national ambient air quality standards (“NAAQS”) for criteria pollutants. The primary NAAQS must be set at the level “requisite to protect the public health” with an adequate margin of safety, and the secondary NAAQS are intended to protect “the public welfare.” Public welfare effects include, but are not limited to, “effects on soils, water, crops, vegetation, . . . animals, wildlife, weather, visibility, and climate, damage to and deterioration of property . . . as well as effects on economic values” 42 U.S.C. § 7602(h).
26. Ground-level ozone is one of six criteria pollutants for which the EPA has promulgated national standards, due to its adverse effects on human health and the environment. Short-term exposures (1 to 3 hours) to ground-level ozone can cause acute health effects observed even at low concentrations, including temporary pulmonary inflammation. Long-term exposure (months to years) may cause permanent damage to lung tissue. Children and adults who are active outdoors are particularly susceptible to the adverse effects of exposure to ozone. *See* 73 Fed. Reg. 16,436 (Mar. 27, 2008).
27. Ozone is not emitted directly from sources of air pollution. Ozone is a photochemical oxidant, formed when certain chemicals in the ambient air react with oxygen in the presence of sunlight. These chemicals – VOC and nitrogen oxides (“NO_x”) – are called “ozone precursors.” Sources that emit ozone precursors are regulated to reduce ground-level ozone. *See* 62 Fed. Reg. 38,856 (July 18, 1997), and 80 Fed. Reg. 65292, 65299 (October 26, 2015).
28. Section 110(a)(2)(C) of the Act requires that every state implementation plan for national primary and secondary ambient air quality standards include a program to regulate the construction and modification of stationary sources; this includes a permitting program as required by parts C and D of Title I of the Act. *See* 42 U.S.C. § 7410(a)(2)(C).
29. Section 111(b) of the Act authorizes the Administrator of the EPA to promulgate standards of performance applicable to “new sources” (“New Source Performance Standards” or “NSPS”) within categories of sources that cause “air pollution which may reasonably be anticipated to endanger public health or welfare.” 42 U.S.C. § 7411(b).
30. A “stationary source” is a building, structure, facility, or installation that emits or may emit any air pollutant. 42 U.S.C. § 7411(a)(3).
31. In 1979, the EPA listed “Crude Oil and Natural Gas Production” as a source category that contributes significantly to air pollution and for which standards of performance would be established. 44 Fed. Reg. 49,222 (Aug. 21, 1979).
32. It is unlawful for owners and operators of any new source to operate in violation of applicable standards of performance after the standards have gone into effect. 42 U.S.C. § 7411(e).

33. A “new source” is any stationary source, the construction or modification of which is commenced after the promulgation of the standards of performance that will apply to such source. 42 U.S.C. § 7411(a)(2).
34. In 2008, the EPA promulgated “Subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines” under Section 111 of the Act, 73 Fed. Reg. 3591 (Jan. 18, 2008) (“NSPS Subpart JJJJ”). These standards are set forth in 40 C.F.R., Part 60, Subpart JJJJ.
35. The provisions of NSPS Subpart JJJJ are applicable to manufacturers, owners, and operators of stationary spark ignition (“SI”) internal combustion engines (“ICE”).
36. The “date that construction commences” is the date the engine is ordered by the owner or operator. 40 C.F.R. § 60.4230(a).
37. Owners and operators of stationary SI ICE are subject to the requirements of NSPS Subpart JJJJ if the maximum engine power is less than 500 horsepower (“HP”) and the stationary SI ICE is manufactured on or after July 1, 2008. 40 C.F.R. § 60.4230(a)(4)(iii).
38. Owners and operators of stationary SI ICE with a maximum engine power less than or equal to 19 kilowatts (kW) (25 HP) manufactured on or after July 1, 2008, must comply with the same emission standards as manufacturers of such engines stated in 40 C.F.R. § 60.4231(a). 40 C.F.R. § 60.4233(a).
39. Stationary SI ICE with engine displacement at or above 225 cubic centimeters (“cc”) that were manufactured January 1, 2011, or later must meet the Phase 3 non-handheld emission standards identified in 40 C.F.R. part 1054. 40 C.F.R. § 60.4231(a).
40. Under those Phase 3 standards, exhaust emissions from Class II non-handheld engines may not exceed 8.0 g/kW-hr (5.97 g/HP-hr) for the sum of hydrocarbons plus NO_x (“HC + NO_x”) and 610 g/kW-hr (454.88 g/HP-hr) for carbon monoxide (“CO”). 40 C.F.R. § 1054.105(a) & Table 1. *See also id.* § 1054.801 (defining hydrocarbon). These emissions standards apply to all testing, including certification, production-line, and in-use testing. *Id.* § 1054.105(e).
 - a. Emissions must be measured using the applicable steady-state test procedures described in 40 C.F.R. Part 1054, Subpart F. 40 C.F.R. § 1054.105(a).
 - b. Class II nonhandheld engines are nonhandheld engines with total displacement above 225 cc. 40 C.F.R. § 1054.801.
 - c. When calculating the HC + NO_x emissions limit for nonhandheld engines fueled by natural gas, the applicable hydrocarbon group is nonmethane hydrocarbons (“NHMC”). 40 C.F.R. § 1054.105(a).
 - d. NHMC is the sum of all hydrocarbon species except methane. 40 C.F.R. § 1054.801 (referring to 40 C.F.R. § 1065.1001).

41. An owner or operator of a stationary SI ICE that must comply with the emission standards in 40 C.F.R. § 60.4233(a) must purchase an engine certified to the emission standards in 40 C.F.R. § 60.4231(a) for the same engine class and maximum engine power. 40 C.F.R. § 60.4243(a).
42. If an owner or operator operates and maintains the certified stationary SI ICE and associated control device according to the manufacturer's emission-related written instructions, they must keep records of conducted maintenance to demonstrate compliance, but no performance testing is required as to the owner or operator. 40 C.F.R. § 60.4243(a)(1).
43. If an owner or operator does not operate and maintain the certified stationary SI ICE and associated control device according to the manufacturer's emission-related written instructions, the engine will be considered a non-certified engine. 40 C.F.R. § 60.4243(a)(2).
44. Owners and operators of non-certified stationary SI ICE less than 100 HP must keep a maintenance plan and records of conducted maintenance to demonstrate compliance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions, but the owner or operator is not required to conduct performance testing. 40 C.F.R. § 60.4243(a)(2)(i).
45. All potential sources of air pollution subject to the State of Utah's air quality regulations must submit a notice of intent and receive an Approval Order ("AO") from the State prior to initiation of construction, modification, or relocation, unless exempt under the regulations. *See* Utah Admin. Code r. R307-401.
46. The EPA approved the State of Utah's notice of intent and AO requirements into Utah's State Implementation Plan minor new source review program. *See* 79 Fed. Reg. 7,072 (Feb. 6, 2014). Requirements in AOs are therefore federally enforceable. *See* 40 C.F.R. § 52.23.

VI. FINDINGS OF FACT

A. The Inspections

47. Respondents own and/or operate oil and natural gas production facilities located in the Uinta Basin.
48. A pumpjack is a device used to extract crude oil from an oil well where there is not high enough pressure in the well to force the oil to the surface. A pumpjack engine powers the pumpjack and also may provide power to the heat-trace pumps, which provide heat to the rest of the natural gas production facility. All pumpjack engines operated by Respondents are fueled with casing gas, which is field-quality natural gas. *See* 40 C.F.R. § 60.4248 ("Natural gas may be field or pipeline quality.").
49. Respondents operate the engines continuously. When the production of oil and natural gas is down, the engines are still operated to generate power for heat trace

circulation pumps or other onsite operations. In the response received from Respondents on September 7, 2022, Respondents noted that “the engines are operated at varying schedules from continuous operations to 25% operation.” However, Respondents do not maintain records to support engine operating status, such as hour meters or continuous parameter monitoring systems.

50. On September 8, 2021, and September 27, 2021, the EPA, UDAQ, and the Ute Indian Tribe Air Quality Department jointly conducted inspections of Respondents’ oil and natural gas production facilities in the Uinta Basin. Alliance Source Testing, LLC, an EPA contractor, performed EPA Test Methods 3A, 7E, 10, 19, and 25A (“stack testing”) for 10 engines located at the oil and natural gas production facilities.
51. On November 15, 2021, the EPA sent an inspection report to Respondents describing the September 8 and 27, 2021, inspection findings.
52. On July 19, 2022, and July 20, 2022, the EPA conducted inspections of Respondents’ oil and natural gas production facilities in the Uinta Basin. Alliance Source Testing, LLC, performed stack testing for 16 engines located at the oil and gas production facilities.
53. On November 15, 2022, the EPA sent an inspection report to Respondents describing the July 19, 2022, and July 20, 2022, inspection findings.
54. The pumpjack engines inspected were manufactured by Arrow Engine Company and bore markings for both the Arrow C-106 and Arrow C-101 model engines.
55. According to Arrow Engine Company’s C-Series Overview specification sheet publicly posted to their website, the Arrow C-106 has a maximum engine power of 32 HP, whereas the Arrow C-101 has a maximum engine power of 24.5 HP.
56. The Arrow C-101 engine is an Arrow C-106 engine except that the inlet valve to the carburetor is designed to restrict fuel flow, which purportedly reduces the maximum engine power to 24.5 HP.
57. After the inspection, Respondents provided a maintenance spreadsheet purporting to show 2021 and 2022 maintenance dates for 16 of the engines inspected. The records provided do not show that Respondents performed all required maintenance according to the maintenance schedule Arrow Engine Company specifies for its C-101 engines.
58. Additionally, the inspected engines have exceeded the useful life period for the Arrow C-101 engine, which is 1,000 hours or 5 years.
59. Respondents have not operated and maintained the engines according to Arrow Engine Company’s written instructions, so the engines are considered non-certified.

B. The State AOs

60. On October 27, 2016, the UDAQ issued AO DAQE-AN156290001-16 for Conolly Tribal 2-11D-54 to LINN Operating, Inc. (“Conolly AO”). This facility was subsequently sold to Respondents and notification of ownership change was filed with UDAQ on August 16, 2017. *See* Notification of Company Name and Ownership Change for Several Locations, DAQE-060-17 (Aug. 16, 2017) (“Notification of Ownership Change”). The Conolly AO was in effect at the time of the inspection and is currently in effect.
61. The Conolly AO authorizes the operation of natural gas-fired pumpjack engines at Conolly Tribal 2-11D-54. *See* Conditions II.A.2 and II.B.1.b. The Conolly AO contains conditions applicable to pumpjack engines with a maximum engine power less than or equal to 25 HP, requiring compliance with NSPS Subpart JJJJ, specifically 40 C.F.R. §§ 60.4233(f)(1), 60.4243(c) and (e), and 60.4245, *see* Condition II.B.3.b, and generally with all applicable provisions of NSPS Subpart JJJJ, *see* Section III. The Conolly AO also requires that Respondents use only natural gas as fuel in each engine on site. *See* Condition II.B.1.b.
62. Conolly Tribal 2-11D-54 has an Arrow, C-101, 2014 engine (serial number BGC101022; engine type 4SRB) with HP of 24.5 operating at the site.
63. LC Fee 8-29-45 has the site ID 15625 in the UDAQ oil and gas facilities’ registration system. It is a part of the multi-well site where each well is designated under the same site ID. On April 20, 2017, the UDAQ issued AO DAQE-AN156250001-17 for LC Fee 8-29-45 to LINN Operating, Inc. (“LC Fee AO”). This facility was subsequently sold to Respondents, and notification of ownership change was filed with UDAQ on August 16, 2017. *See* Notification of Ownership Change. The LC Fee AO was in effect at the time of the inspection and is currently in effect.
64. The LC Fee AO authorizes the operation of natural gas-fired pumpjack engines at LC Fee 8-29-45. *See* Conditions II.A.2 and II.B.1.b. The LC Fee AO contains conditions applicable to pumpjack engines with a maximum engine power less than or equal to 25 HP, requiring compliance with NSPS Subpart JJJJ, specifically 40 C.F.R. §§ 60.4233(f)(1), 60.4243(c) and (e), and 60.4245, *see* Condition II.B.3.b, and generally with all applicable provisions of NSPS Subpart JJJJ, *see* Section III. The LC Fee AO also requires that Respondents use only natural gas as fuel in each engine on site. *See* Condition II.B.1.b.
65. LC Fee 8-29-45 has an Arrow, C-101, 2012 engine (serial number 310444; engine type 4SRB) with HP of 24.5 operating at the site.
66. LC Fee 4-28D-45 has the site ID 15625 in the UDAQ oil and gas facilities’ registration system. It is a part of the multi-well site where each well is designated under the same site ID. On April 20, 2017, the UDAQ issued LC Fee AO for LC Fee 8-29-45 to LINN Operating, Inc. This AO also applies to LC Fee 4-28D-45 because LC Fee 4-28D-45 is listed under the same site ID as LC 8-29-45. The facilities with site ID 15625 were subsequently sold to Respondents, and notification of ownership

change was filed with UDAQ on August 16, 2017. *See* Notification of Ownership Change. The LC Fee AO was in effect at the time of the inspection and is currently in effect.

67. The LC Fee AO authorizes the operation of natural gas-fired pumpjack engines at LC Fee 4-28D-45. *See* Conditions II.A.2 and II.B.1.b. The LC Fee AO contains conditions applicable to pumpjack engines with a maximum engine power less than or equal to 25 HP, requiring compliance with NSPS Subpart JJJJ, specifically 40 C.F.R. §§ 60.4233(f)(1), 60.4243(c) and (e), and 60.4245, *see* Condition II.B.3.b, and generally with all applicable provisions of NSPS Subpart JJJJ, *see* Section III. The LC Fee AO also requires that Respondents use only natural gas as fuel in each engine on site. *See* Condition II.B.1.b.
68. LC Fee 4-28D-45 has an Arrow, C-101, 2014 engine (serial number BIC 101001; engine type 4SRB) with HP of 24.5 operating at the site.
69. LC Fee 10-29D-45 has the site ID 15625 in the UDAQ oil and gas facilities' registration system. It is a part of the multi-well site where each well is designated under the same site ID. On April 20, 2017, the UDAQ issued LC Fee AO for LC Fee 8-29-45 to LINN Operating, Inc. This AO also applies to LC Fee 10-29D-45 because LC Fee 10-29D-45 is listed under the same site ID as LC 8-29-45. The facilities with site ID 15625 were subsequently sold to Respondents, and notification of ownership change was filed with UDAQ on August 16, 2017. *See* Notification of Ownership Change. The LC Fee AO was in effect at the time of the inspection and is currently in effect.
70. The LC Fee AO authorizes the operation of natural gas-fired pumpjack engines at LC Fee 10-29D-45. *See* Conditions II.A.2 and II.B.1.b. The LC Fee AO contains conditions applicable to pumpjack engines with a maximum engine power less than or equal to 25 HP, requiring compliance with NSPS Subpart JJJJ, specifically 40 C.F.R. §§ 60.4233(f)(1), 60.4243(c) and (e), and 60.4245, *see* Condition II.B.3.b, and generally with all applicable provisions of NSPS Subpart JJJJ, *see* Section III. The LC Fee AO also requires that Respondents use only natural gas as fuel in each engine on site. *See* Condition II.B.1.b.
71. LC Fee 10-29D-45 has an Arrow, C-101, 2014 engine (serial number BIC 101005; engine type 4SRB) with HP of 24.5 operating at the site.

C. Stack Test Results

72. Respondents own and/or operate the 13 engines listed in Table 1 below, which qualify as SI ICE under NSPS Subpart JJJJ.
73. The SI ICE identified in Table 1 below are subject to the requirements of NSPS Subpart JJJJ because they were manufactured on or after January 1, 2011, and have a maximum engine power less than 500 HP.

74. The SI ICE listed in Table 1 below are Arrow C-101 engines that have a maximum engine power of 24.5 HP.
75. According to the certificates of conformity for Arrow C-101 engines manufactured January 1, 2011, or later, the Engine Displacement Value is 6400 cc.
76. Accordingly, the SI ICE listed in Table 1 below are subject to the Phase III emissions standards for Class II engines stated in Table 1 of 40 C.F.R. § 1054.105(a), which includes a limit of 8.0 g/kW-hr [5.97 g/hp-hr] for HC + NO_x.
77. The stack test results from the inspections conducted on September 8, 2021, September 27, 2021, July 19, 2022, and July 20, 2022, demonstrate that the 13 SI ICE identified in Table 1 below exceeded the HC + NO_x emission standard of 8.0 g/kW-hr [5.97 g/hp-hr], as set forth in Table 1 to 40 C.F.R. § 1054.105(a).

Table 1:

Facility Name	Year Inspected	Manufacturer, Model, Year Manufactured	Serial Number	Engine Type	HP	NMHC + NO _x (g/hp-hr)
Conolly Tribal 2-11D-54	2021	Arrow, C-101, 2014	BGC101022	4SRB	24.5	17.3
Heiner Tribal 4-11-54	2021	Arrow, C-101, 2013	AIC101014	4SRB	24.5	7.44
Ute Tribal 03-10-54	2021	Arrow, C-101, 2012	310446C	4SRB	24.5	20.19
Ute Tribal 03-10-54	2022	Arrow, C-101, 2012	310441C	4SRB	24.5	46.14
State Tribal 1-18D-54	2022	Arrow, C-101, 2014	BAC 101021	4SRB	24.5	74.7

State Tribal 2-18D-54	2022	Arrow, C-101, 2014	BAC 101012	4SRB	24.5	28.72
State Tribal 8-18D-54	2022	Arrow, C-101, 2014	BAC 101005	4SRB	24.5	25.6
Appaloosa 9-12D-5-5	2022	Arrow, C-101, 2014	BIC 101013	4SRB	24.5	18.09
LC Fee 4-28D-45	2022	Arrow, C-101, 2014	BIC 101001	4SRB	24.5	106.03
LC Fee 8-29-45	2022	Arrow, C-101, 2012	310444C	4SRB	24.5	53.687
LC Fee 10-29D-45	2022	Arrow, C-101, 2014	BIC 101005	4SRB	24.5	16.85
Wilcox Eliason 7-15-56	2022	Arrow, C-101, 2011	310193C	4SRB	24.5	11.85
LC Tribal 9-22D-56	2022	Arrow, C-101, 2012	310372C	4SRB	24.5	34.85

VII. ALLEGED VIOLATIONS OF LAW

78. Respondents have operated and continue to operate Engines, including the SI ICE identified in Table 1, in violation of 40 C.F.R § 60.4233(a) and the emission standards as set forth in 40 C.F.R. § 1054.105(a) Table 1.
79. Respondents have not kept a maintenance plan and records of conducted maintenance for non-certified Engines, including the SI ICE listed in Table 1, to

demonstrate compliance with the applicable emissions standards. Nor have Respondents maintained and operated these Engines in a manner consistent with good air pollution control practices for minimizing emissions. Therefore, Respondents have operated and continue to operate the Engines in violation of 40 C.F.R. § 60.4243(a)(2)(i).

80. Accordingly, Respondents have violated and continue to violate Section 111(e) of the Act, 42 U.S.C. § 7411(e), and its implementing regulations at NSPS Subpart JJJJ, as well as federally enforceable State AOs.

VIII. TERMS OF CONSENT AGREEMENT

81. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondents:
- a. admit the EPA has jurisdiction over the subject matter alleged in this Agreement;
 - b. neither admit nor deny the alleged findings of fact and alleged violations of law stated above;
 - c. consent to the assessment of a civil penalty as stated below;
 - d. consent to the issuance of any specified compliance or corrective action order;
 - e. consent to the Conditions of Settlement specified in this Agreement;
 - f. waive any right to contest the alleged violations of law; and
 - g. waive their right to appeal the Final Order issued by the RJO approving this Consent Agreement;
 - h. agree that this Agreement states a claim upon which relief may be granted against Respondents;
 - i. consent to personal jurisdiction in any action to enforce this Agreement, in the United States District Court for the District of Utah;
 - j. acknowledge that this Agreement constitutes an enforcement action for purposes of considering Respondents' compliance history in any subsequent enforcement actions;
 - k. waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this Agreement, including any right of judicial review under section 307(b)(1) of the Act, 42 U.S.C. § 7607(b)(1);
 - l. waive any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel

compliance with the Agreement, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and

- m. By signing this Consent Agreement, Respondents waive any rights or defenses that Respondents have or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order issued by the RJO approving this Consent Agreement.

82. Civil Penalty.

- a. Section 113(d)(1), 42 U.S.C. § 7413(d)(1), authorizes EPA to assess a civil penalty in this matter.
- b. To determine the amount of the civil penalty, the EPA considered the size of Respondents' business, the economic impact of the penalty on the business, Respondents' full compliance history and good faith efforts to comply, the duration of the violations as established by any credible evidence, the economic benefit of noncompliance, the seriousness of the violations, and such other factors as justice may require. 42 U.S.C. § 7413(e)(1).
- c. The EPA has compromised the civil penalty pursuant to section 113(d)(2)(B) of the Act, 42 U.S.C. § 7413(d)(2)(B).

83. Penalty Payment. Respondents agree to pay the civil penalty in the amount of \$373,500 ("Assessed Penalty") within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

- a. Payment Method. Respondents shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of methods, provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. However, for any payments made after September 30, 2025, and in accordance with the March 25, 2025 Executive Order on Modernizing Payments To and From America's Bank Account, Respondents shall pay using one of the electronic payments methods listed on EPA's How to Make a Payment website and will not pay with a paper check.
- b. Payment Procedures. When making a payment, Respondents shall:
 - i. Identify every payment with Respondents' name and the docket number of this Agreement: CAA-08-2024-0012; and
 - ii. Concurrently with any payment or within 24-hours of any payment, serve Proof of Payment to the following persons:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
ORC-IO, 1595 Wynkoop Street, Denver CO 80202
R8_hearing_clerk@epa.gov

and

Branch Manager, Air & Toxics Enforcement Branch
Enforcement and Compliance Assurance Division
Environmental Protection Agency, Region 8
1595 Wynkoop Street
Mail Code: 8ENF-AT
Denver, CO 80202
R8AirReportEnforcement@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

- c. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7413(d)(5), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondents fail to timely pay the full amount of the Assessed Penalty per this Agreement, the EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:
- i. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within 30 days, interest accrued is waived. If the Assessed Penalty is not paid in full within 30 days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard rate, equal to the Federal short-term rate plus 3 percentage points.
 - ii. Handling Charges. The United States' enforcement expenses including, but not limited to, attorney's fees and costs of handling collection.
 - iii. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.
- d. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondents fail to timely pay any portion of the Assessed Penalty, the EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- i. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
 - ii. Collect the debt by administrative offset (*i.e.*, the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the IRS for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
 - iii. Suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - iv. Request that the Attorney General bring a civil action in the appropriate district court to enforce the Final Order and recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 42 U.S.C. § 7413(d)(5). In any such action, the validity, amount, and appropriateness of the Assessed Penalty and Final Order shall not be subject to review.
- e. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
- f. Tax Treatment of Penalties. Consistent with section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), Respondents will not deduct penalties, interest, and other charges paid pursuant to this Agreement for purposes of federal taxes.
- g. Attorney's Fees and Costs: Except as qualified by Paragraph 83.c, each Party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
84. Conditions of Settlement: As conditions of settlement, Respondents agree to perform the following actions.
- a. Compliance: Respondents shall ensure that all Engines in Appendix A that it does not Convert or replace comply with the 40 C.F.R. Part 1054 non-handheld emissions limits for HC + NO_x and CO. *See* 40 C.F.R. § 1054.105(a) Table 1; *see also* 40 C.F.R. § 4233(a) (requiring compliance with 60.4231(a)). If Respondents Convert or replace any Engine in Appendix A, Respondents shall ensure that the replacement or Converted Engine complies with the emissions limits and other requirements of NSPS Subpart JJJJ for that class of engine.
 - b. Engine Operation and Maintenance Standard Operating Procedure. At all Engines, Respondents shall implement the Engine Operation and Maintenance

SOP (“Engine O&M SOP”) approved by EPA on September 29, 2025, and attached as Appendix B. Respondents may update or revise the Engine O&M SOP, as appropriate, and shall submit revisions to the EPA for re-approval with the next Semi-Annual Report in the relevant reporting period.

- c. Training of Personnel for Engines. Within 60 Days after the Effective Date, Respondents shall submit dated certifications of training for all personnel and contractors who are responsible for implementing the requirements of Paragraph 84.b (Engine O&M SOP). Certifications of training shall certify that personnel are trained in the Engine O&M SOP and must operate the Engines in compliance with the SOP. A supervisor shall sign and certify that all necessary personnel successfully complete annual training. Respondents shall develop and implement internal procedures to ensure that all new personnel whose duties relate to the operation and maintenance of the Engines are trained on the Engine O&M SOP within 60 Days of their start date. All previously trained personnel shall retrain on the Engine O&M SOP annually after the initial training. Respondents shall submit certifications in the next Semi-Annual Report due following the completion of training.
- d. Pumpjack Engine Conversion. If Respondents use manufacturer-approved parts to Convert any Engine to increase the maximum Engine power to greater than 19 KW (25 HP):
 - i. Respondents are not required to conduct a performance test before Converting the Engine.
 - ii. Respondents must conduct a performance test of each Converted Engine within 60 days of commencing Normal Operations after completing the Conversion. Respondents’ testing of Converted Engines and non-converted Engines (if any) must follow the schedule and other requirements set forth in Paragraph 84.e, below.
 - iii. Respondents may operate the Converted Engine between Conversion date and the performance test date.
- e. Pumpjack Engine Enhanced Performance Testing.
 - i. Respondents shall test all Engines, including all engines Converted under Paragraph 84.d, for compliance with applicable emissions limits in NSPS Subpart JJJJ according to the following schedule and requirements. Each “Year” will be based on the Effective Date, e.g., Year 1 will span the 365 days following the Effective Date.
 1. Year 1: Test 25 Engines per calendar quarter.
 2. Year 2: Test 50 Engines per six-month period.
 3. Year 3: Test 100 Engines.

4. Year 4: Test all the remaining Engines.
- ii. Test Method: All testing shall be conducted in accordance with 40 C.F.R. § 60.4244.
 - iii. Testing Protocol, Notice, and Reporting:
 1. Prior to beginning Engine testing under Paragraph 84.e.i, Respondents shall submit a testing protocol, including a list of Engines to be tested under the protocol, to the EPA and UDAQ for review and comment. EPA and UDAQ will provide any comments to Respondents regarding the protocol within thirty (30) days of Respondents' submission; if neither EPA nor UDAQ provides comments within the thirty (30)-day review period, the testing protocol is deemed approved.
 2. Once the EPA and UDAQ have approved the testing protocol or the protocol is otherwise deemed approved pursuant to Paragraph 84.e.iii.1, Respondents do not need to resubmit the protocol before subsequent rounds of testing unless Respondents make material changes to the protocol. If Respondents make material changes, the submission and review requirements of Paragraph 84.e.iii.1 apply. However, Respondents must submit a list of Engines to be tested to the EPA and UDAQ (as applicable) at least 30-days before commencing any round of performance testing.
 3. Respondents shall submit the performance test results to the EPA and UDAQ with the next Semi-Annual Report due following the performance of the test.
- f. Failed Engine Performance Test. If any Engine fails to demonstrate compliance with applicable NSPS Subpart JJJJ emissions limits during any performance test under Paragraph 84.e, Respondents shall cease operation of the Engine. Respondents may continue operations for no more than 1 Day to actively troubleshoot the cause(s) of the failed Engine performance test. Respondents shall perform any necessary corrective actions in compliance with the Engine's manufacturer specifications and the approved Engine O&M SOP. If Berry replaces the Engine with a certified engine and operates and maintains the certified engine according to the manufacturer's emission-related written instructions, then under 40 C.F.R. § 60.4243(a)(1) and (b)(1) no performance testing of the certified engine is required before it commences Normal Operations. For any other corrective action, Respondents must demonstrate compliance with applicable NSPS Subpart JJJJ emissions limitations through a re-test of the Engine under Paragraphs 84.e.ii and 84.e.iii before the Engine resumes Normal Operations.
 - g. Failed Engine Performance Testing Review. If any Engine fails to demonstrate compliance during performance testing, before beginning the next set of

quarterly tests, Respondents shall (1) document the root cause of all previously failed Engine performance tests and (2) evaluate all other Engines in Appendix A to determine whether the cause of the performance test failure(s) may occur at the other Engines and whether corrective actions taken may be effective at the other Engines. Respondents shall update the Engine O&M SOP following completion of this review to incorporate lessons learned from previous performance testing and corrective actions and shall report the results of any reviews in the next Semi-Annual Report due to the EPA. When selecting Engines for the next round of quarterly testing, Respondents shall prioritize those Engines most likely to benefit from corrective actions successfully taken during previous performance testing cycles.

- h. Reporting. During the term of this Agreement, Respondents shall submit to the EPA and UDAQ in accordance with the requirements of Section IX (Notices), a complete and accurate Semi-Annual Report within 30 Days after the end of each half of the calendar year (*i.e.*, January through June, and July through December) (“Reporting Period”). Each Semi-Annual Report shall contain the following information:
- i. Engine O&M SOP (Paragraph 84.b): Any revisions made during the Reporting Period to the Engine O&M SOP for re-approval by EPA in consultation with UDAQ, as well as documentation of inspections and maintenance activities performed during the Reporting Period for the Engines.
 - ii. Training for Personnel on Engine O&M SOP (Paragraph 84.c): Certification of training completed during the Reporting Period, and any revisions to the training plan made during the Reporting Period.
 - iii. Converted Engines (Paragraph 84.d): The serial numbers and locations of any Engines Converted during the Reporting Period and the HP and displacement of the Engines after Conversion.
 - iv. Engine Testing (Paragraph 84.e): The serial numbers, locations, testing dates, and test results for any Engines tested during the Reporting Period.
 - v. Failed Engine Performance Testing (Paragraph 84.f): The serial number, location, testing date, test results, date Engine operation ceased, implemented corrective actions, and date Engine returned to Normal Operations or was replaced with a certified engine for any Engine that failed a performance test during the Reporting Period. If the failing Engine was replaced with a certified engine, Respondents must provide the certificate of conformity, engine operating hours at the time of replacement, make, model, horsepower, displacement, and serial number for the certified engine in the report.
 - vi. Failed Engine Performance Testing Review (Paragraph 84.g): The date(s) and results of the root cause analysis and evaluation of other Engines

required under Paragraph 84.g, including an explanation of how Respondents used this information to prioritize Engines most likely to benefit from corrective actions for the next quarterly round of performance testing.

- vii. Implementation Problems: A summary of any problems encountered or anticipated in complying with this Agreement during the Reporting Period, together with implemented or proposed solutions, if available.
- viii. Noncompliance: A description of any noncompliance with the requirements of this Agreement and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If Respondents violates, or has reason to believe that it may violate, any requirement of this Agreement with an associated stipulated penalty, Respondents shall notify the EPA in accordance with the requirements of Section IX (Notices) of such violation and its likely duration, in writing, within 14 Days of the Day Respondents first become aware of the violation, with an explanation of the violation's likely cause and the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Respondents shall so state in the report. Respondents shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 Days of the day Respondents become aware of the cause of the violation. Nothing in this Paragraph or Agreement relieves Respondents of their obligation to provide the notice required by Section X (Force Majeure). If the EPA becomes aware of any violation of any requirement of this Agreement, the EPA will use its best efforts to promptly notify Respondents of such violation.
- ix. Certification Statement. Except for emergency notifications where compliance would be impractical, each report submitted by Respondents under this Paragraph shall be signed by an official of the submitting party and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
- x. Semi-Annual Report Meeting. Following the submittal of the initial Semi-Annual Report and extending through the term of this Agreement, Respondents shall, upon request of the EPA, attend a meeting to review

and discuss any issues reported in a Semi-Annual Report. Upon request from the EPA, Respondents may be required to submit supplemental information for the EPA to determine compliance with this Agreement and to re-certify any Semi-Annual Report.

- i. Endangerment: Whenever any violation of this Agreement or any applicable permits or any other event affecting Respondents’ performance under this Agreement may pose an immediate threat to the public health or welfare or the environment, Respondents shall comply with any applicable federal and state or local laws and, in addition, shall notify the EPA as per Section IX (Notices) orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Respondents first knew of the violation or event. This notice requirement is in addition to the requirement to provide notice of a violation of this Agreement set forth in Paragraph 84.h.viii.
- j. Effect of Reporting Requirements: The reporting requirements of this Agreement do not relieve Respondents of any reporting obligations required by the Act, or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.
- k. Use of Information: Any information provided pursuant to this Agreement may be used by the EPA in any proceeding to enforce the provisions of this Agreement and as otherwise permitted by law.
- l. Stipulated Penalties. Respondents shall be liable for stipulated penalties to the EPA for violations of this Agreement during the term of this Agreement as specified below unless excused under Section X (Force Majeure), or reduced or waived by the EPA in the unreviewable exercise of its discretion. A violation includes failing to perform any obligation required by this Agreement during the term of this Agreement, including any work plan approved under this Agreement, according to all applicable requirements of this Agreement and within the specified time schedules established by or approved under this Agreement.

Agreement Violation	Stipulated Penalty
i. Failure to operate and maintain Engines in compliance with the Engine O&M SOP, as required by Paragraph 84.b.	\$1,000 per day per Engine for the first 30 days of noncompliance; \$1,500 per day per Engine thereafter.
ii. Failure to train and submit initial certifications of training completion for personnel with the Engine O&M SOP, as required by Paragraph 84.c.	\$500 per day for the first 30 Days of noncompliance; \$1,500 per Day thereafter.

<p>iii. Failure to train new applicable personnel on the Engine O&M SOP and/or failure to conduct annual Engine O&M SOP training for all applicable personnel, as required by Paragraph 84.c.</p>	<p>\$500 per day for the first 30 Days of noncompliance; \$1,500 per Day thereafter.</p>
<p>iv. Failure to conduct performance testing in compliance with Paragraph 84.e.</p>	<p>\$1,500 per Day per Engine for the first 30 Days; \$2,750 per Day per Engine thereafter.</p>
<p>v. Failure to cease operation of an Engine following a failed performance test, in violation of Paragraph 84.f.</p>	<p>\$2,750 per Day per Engine for the first 30 Days; \$5,500 per Day per Engine thereafter.</p>
<p>vi. Failure to demonstrate compliance with applicable emissions limitations through a re-test of an Engine before it resumes Normal Operations as required by Paragraph 84.f.</p>	<p>\$2,750 per Day per Engine for the first 30 Days; \$5,500 per Day per Engine thereafter.</p>
<p>vii. Failure to conduct a failed Engine performance testing review in compliance with Paragraph 84.g.</p>	<p>\$1,500 per Day per Engine for the first 30 Days; \$2,750 per Day per Engine thereafter.</p>
<p>viii. Failure to submit a Semi-Annual Report or failure to submit any required components of the Semi-Annual Report in Paragraph 84.h.</p>	<p>\$1,100 per day for the first 30 days of noncompliance; and \$2,750 per day thereafter.</p>
<p>ix. Failure to notify EPA of an imminent threat to public health or the environment in compliance with Paragraph 84.i.</p>	<p>\$2,750 per Day per Engine for the first 30 Days; \$5,500 per Day per Engine thereafter.</p>
<p>x. Any other violation of this Agreement not otherwise specified above.</p>	<p>\$1,000 per violation per day.</p>

- xi. Stipulated penalties shall continue to accrue as provided in Paragraph 84.1 during any Dispute Resolution, but need not be paid until the following:
 1. If the dispute is resolved by agreement or by a decision of the EPA and is not appealed to the District Court, Respondents shall pay accrued penalties determined to be owing, together with interest, to the EPA within 30 Days of the Effective Date of the agreement or the receipt of the EPA's decision or order;
 2. If the dispute is appealed to the District Court and the EPA prevails in whole or in part, Respondents shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in Paragraph 84.1.xi.3, below; or
 3. If any Party appeals the District Court's decision, Respondents shall pay all accrued penalties determined to be owing, together with interest, within 15 days of receiving the final appellate court decision.
- xii. If Respondents fail to pay stipulated penalties according to the terms of this Agreement, Respondents shall be liable for a ten percent (10%) quarterly non-payment penalty, as well as interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the EPA from seeking any remedy otherwise provided by law for Respondents' failure to pay any stipulated penalties.
- xiii. Respondents shall pay stipulated penalties owing to the EPA in the manner set forth and with the confirmation notices required by Paragraph 83 (Penalty Payment) except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.
- xiv. Stipulated penalties are not the EPA's exclusive remedy for violations of this Agreement. Subject to the provisions of Section XIV (Effect of Consent Agreement and Final Order), the EPA expressly reserves the right to seek any other relief deemed appropriate for Respondents' violation of this Agreement or applicable law, including but not limited to an action against Respondents for statutory penalties, additional injunctive relief, mitigation and/or offset measures. However, where a violation of relevant statutory or regulatory requirements is also a violation of this Agreement, the amount of any statutory penalty assessed for a violation shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Agreement.

IX. NOTICES

85. Unless otherwise specified in this Agreement, whenever notifications, submissions, or communications are required by this Agreement, they shall be made in writing and sent by mail or email, with a preference for email, and addressed as follows:

As to the EPA by email: R8AirReportEnforcement@epa.gov
Lecortz.colin@epa.gov

As to the EPA by mail: Branch Chief, Air & Toxics Enforcement Branch
Enforcement and Compliance Assurance Division
Environmental Protection Agency, Region 8
1595 Wynkoop Street
Mail Code: 8ENF-AT
Denver, CO 80202

As to Respondents by email: Berry Petroleum Company, LLC
legal@bry.com

As to Respondents by mail: Berry Petroleum Company, LLC
16000 N Dallas Parkway, Suite 500
Dallas, TX 75248
Attn: Legal Department

X. FORCE MAJEURE

86. “Force majeure,” for purposes of this Agreement, means any event arising from causes beyond the control of Respondents, of any entity controlled by Respondents, or of Respondents’ contractors that delays or prevents the performance of any obligation under this Agreement despite Respondents’ best efforts to fulfill the obligation. The requirement that Respondents exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (i) as it is occurring and (ii) after it has occurred to minimize any resulting delay and any adverse effects to the greatest extent possible. “Force majeure” does not include Respondents’ financial inability to perform any obligation under this Agreement.
87. If any event occurs or has occurred that may delay the performance of any obligation under this Agreement, whether or not caused by a force majeure event, Respondents shall provide notice by email to the EPA as provided in Section IX (Notices), within 72 hours of when Respondents first knew that the event might cause a delay. Within 7 Days thereafter, Respondents shall provide in writing to the EPA (i) an explanation and description of the reasons for the delay; (ii) the anticipated duration of the delay; (iii) all actions taken or to be taken to prevent or minimize the delay; (iv) a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; (v) Respondents’ rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and (vi) a statement as to whether, in the opinion of Respondents, such event

may cause or contribute to an endangerment to public health. Respondents shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements precludes Respondents from asserting any claim of force majeure regarding that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Respondents shall be deemed to know of any circumstance of which Respondents, any entity controlled by Respondents, or Respondents' contractors knew or should have known.

88. If the EPA agrees that the delay or anticipated delay is attributable to a force majeure event, which agreement will not be unreasonably withheld, delayed or conditioned, the time for performance of the obligations under this Agreement that are affected by the force majeure event will be extended by the EPA, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure does not, of itself, extend the time for performance of any other obligation. The EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.
89. If the EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, the EPA will notify Respondents in writing of its decision.
90. If Respondents elects to invoke the dispute resolution procedures set forth in Section XI (Dispute Resolution), it shall do so no later than 15 Days after receipt of the EPA notice. In any such proceeding, Respondents bears the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of Paragraphs 86-87. If Respondents carries this burden, the delay at issue will be deemed not to be a violation by Respondents of the affected obligation of this Agreement identified to the EPA and the Court.

XI. DISPUTE RESOLUTION

91. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Agreement. Respondents' failure to seek resolution of a dispute under this section shall preclude Respondents from raising any such issue as a defense to an action by EPA to enforce any obligation of Respondents arising under this Agreement.
92. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Respondents send the EPA a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period

of informal negotiations shall not exceed 60 days from the date the dispute arises, unless that period is extended by written agreement. If the EPA and Respondents cannot resolve a dispute by informal negotiations, then the position advanced by EPA shall be considered binding unless, within 45 days after the conclusion of the informal negotiation period, including any agreed extension of the period for negotiation under this paragraph, Respondents invoke formal dispute resolution procedures as set forth below.

93. Formal Dispute Resolution. Respondents shall invoke formal dispute resolution procedures, within the time period provided in the preceding paragraph, by serving on the EPA a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Respondents' position and any supporting documentation relied upon by Respondents.
- a. The EPA shall serve its Statement of Position within 45 days of receipt of Respondents' Statement of Position. The EPA's Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by EPA. The EPA's Statement of Position shall be binding on Respondents, unless Respondents request alternative dispute resolution in accordance with the following paragraph.
 - b. Respondents may request that the EPA coordinate to designate a neutral party for dispute resolution. If the Parties cannot agree on a neutral party, Respondents may request the Regional Administrator or the RJO appoint a neutral party to proceed with dispute resolution.
94. The invocation of dispute resolution procedures under this section shall not, by itself, extend, postpone, or affect in any way any obligation of Respondents under this Agreement, unless and until final resolution of the dispute so provides.

XII. TRANSFER OF OBLIGATIONS

95. The provisions of this Agreement shall apply to and be binding upon Respondents, their successors and assigns. No transfer of ownership or operation of any well associated with an Engine listed in Appendix A shall relieve Respondents of their obligation to comply with the terms of this Agreement unless:
- a. Respondents provide written notice and a copy of this Agreement to the proposed transferee at least 30 days prior to closing and simultaneously provides written notice of the transfer to the EPA;
 - b. Respondents submit a certified statement from the transferee that the transferee agrees and is contractually obligated to be substituted for Respondents for all provisions in this Agreement and to be bound by the terms thereof, including implementation of the Conditions of Settlement set forth in

Paragraph 84 of the Agreement (unless already satisfactorily implemented by Respondents), but excepting Paragraph 83 (Penalty Payment);

- c. Respondents submit information to demonstrate the transferee has both the financial and technical capability to perform the obligations of this Agreement; and
 - d. The EPA approves Respondents' request to be relieved of its obligations under this Agreement, which approval shall not be unreasonably withheld.
96. Upon receipt of a request by Respondents to transfer the obligations of this Agreement, as provided in Paragraph 95, the EPA shall have 30 Days to object to the request. If the EPA denies the request to transfer the obligations of this Agreement the Parties will follow the Dispute Resolution process set forth in Section XI of this Agreement. The EPA shall bear the burden of showing that any objection to relieving Respondents of its obligations of this Agreement was not unreasonable.
97. This Agreement shall not be construed to prohibit a contractual allocation – as between Respondents and any purchaser or transferee of the Engines – of the obligations of compliance with this Agreement, provided, however, that such contractual allocation shall not relieve Respondents of their obligations under the Agreement unless and until the provisions of Paragraphs 95-96 have been met.

XIII. TERMINATION

98. Upon payment of the Assessed Penalty in accordance with Paragraph 83 and demonstration of compliance with all Conditions of Settlement set forth in Paragraph 84, Respondents shall provide a Statement of Completion along with the final Semi-Annual Report.
99. The Statement of Completion shall certify that Respondents are in substantial and material compliance with all requirements of this Agreement, including payment of any stipulated penalties due to the EPA.
100. Within 90 days of receipt of the Statement of Completion, EPA shall provide a Confirmation of Termination or notify Respondents of outstanding compliance items.

XIV. TAX

101. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 84.a-h are restitution, remediation, or required to come into compliance with the law.
102. Tax Reporting. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to annually send to the IRS a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement

agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondents' failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondents to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondents shall complete the following actions as applicable.

- a. Respondents shall complete IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>.
- b. Respondents shall therein certify that their completed IRS Form(s) W-9 included Respondents' correct TIN or that Respondents have applied and are waiting for issuance of a TIN.
- c. Respondents shall email their completed Form(s) W-9 to EPA's Cincinnati Finance Division at chalifoux.jessica@epa.gov. If the Effective Date of this Agreement falls on or between December 14 and 31 of the calendar year, Respondents shall email their completed Form(s) W-9 within seven (7) days of the Effective Date. Otherwise, Respondents shall email their completed Form(s) W-9 on or before the date that Respondents' civil penalty is due pursuant to Paragraph 83 of this Agreement. EPA recommends encrypting IRS Form W-9 email correspondence.
- d. If Respondents have certified in their completed IRS Form(s) W-9 that they do not yet have a TIN but have applied for a TIN, Respondents shall provide EPA's Cincinnati Finance Division with Respondents' TIN, via email, within five (5) days of Respondents' receipt of a TIN from the IRS.

XV. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

103. In accordance with 40 C.F.R. § 22.18(c), this Agreement resolves only the Respondents' liability for federal civil penalties for the violations and facts related to the Engines specifically alleged above.
104. This Consent Agreement constitutes the entire agreement and understanding of the Parties and supersedes any prior agreements or understandings, whether written or oral, among the Parties with respect to the subject matter hereof.
105. The Parties agree that this Agreement may be signed in any number of counterparts, each of which will be deemed an original and, when taken together, constitute one agreement; the counterparts are binding on the parties individually

as fully and completely as if the Parties had signed one single instrument, so that the rights and liabilities of the Parties will be unaffected by the failure of any of the undersigned to execute any or all of the counterparts; any signature page and any copy of a signed signature page may be detached from any counterpart and attached to any other counterpart of this Agreement and any signature page may be transmitted electronically (*e.g.*, a PDF file).

106. Any violation of a Final Order issued by the RJO in this matter may result in a civil judicial action for an injunction or civil penalties, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
107. Nothing in this Consent Agreement relieves Respondents of the duty to comply with all applicable provisions of the Act or other federal, state or local laws or statutes, or restricts the EPA's authority to seek compliance with any applicable laws or regulations, nor will it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
108. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondents or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
109. If and to the extent that the EPA finds, after signing this Consent Agreement, any information provided by Respondents was or is materially false or inaccurate at the time such information was provided, the EPA reserves any and all of its legal and equitable rights.
110. By signing this Agreement, Respondents acknowledge that this Agreement will be available to the public and agree that this Agreement does not contain any confidential business information or personally identifiable information.
111. By signing this Agreement, the undersigned representative of Complainant and the undersigned representatives of Respondents each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the Party he or she represents to this Agreement.
112. By signing this Agreement, both Parties agree that each Party's obligations under this Agreement constitute sufficient consideration for the other Party's obligations.
113. By signing this Agreement, Respondents certify that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondents acknowledge that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

114. Respondents agree the time period from the Effective Date of this Agreement until the civil penalty specified in Paragraph 83 is paid and all of the Conditions of Settlement specified in Paragraph 84 are completed and this Agreement is terminated according to Section XIII (Termination) (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA on any claims (“Tolled Claims”) set forth in this Agreement. Respondents shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

XVI. EFFECTIVE DATE

115. Respondents and Complainant agree to issuance of a Final Order approving this Agreement. Upon filing, the RJO will transmit a copy of the filed Agreement to the Respondents. This Agreement and subsequently issued Final Order shall become effective after execution of the Final Order by the RJO, on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of Berry Petroleum Company, LLC, and Berry Corporation (bry), is Hereby Stipulated, Agreed and Approved.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,

Signature

Date

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency
1595 Wynkoop Street, 8ENF
Denver, Colorado 80202-1129

COMPLAINANT.

Berry Petroleum Company, LLC


Fernando Araujo (Oct 8, 2025 00:48:23 CDT) 08/10/25
Signature Date

Printed Name: Fernando Araujo
Title: Chief Executive Officer
Address: 16000 Dallas Parkway N, Suite 500, Dallas, TX 75248
Respondent's Federal Tax Identification Number: 81-5410470

Berry Corporation (bry)


Fernando Araujo (Oct 8, 2025 00:48:23 CDT) 08/10/25
Signature Date

Printed Name: Fernando Araujo
Title: Chief Executive Officer
Address: 16000 Dallas Parkway N, Suite 500, Dallas, TX 75248
Respondent's Federal Tax Identification Number: 77-0079387

RESPONDENTS.

In the Matter of Berry Petroleum Company, LLC
and Berry Corporation (bry)

Appendix A

Stationary Spark Ignition Internal Combustion
Engines Subject to Consent Agreement

	Jurisdiction	Well	Motor	Manufacture Date	Serial Number	MAX HP	CU IN	Liters
1	EPA	16-35D-54	C-101	1/29/2014	BAC101029	24.5	376.0	6.4
2	EPA	04-03	C-101	2/4/2010*	310070	24.5	376.0	6.4
3	EPA	04-04	C-101	12/30/2010*	310160c	24.5	376.0	6.4
4	EPA	07-12	C-101	3/14/2012	310310c	24.5	376.0	6.4
5	EPA	07-14L	C-101	10/16/2009*	310057	24.5	376.0	6.4
6	EPA	08-22	C-101	9/20/2012	310397c	24.5	376.0	6.4
7	EPA	08-37	C-101	12/16/2009*	310058	24.5	376.0	6.4
8	EPA	08-47	C-101	2/4/2010*	310065	24.5	376.0	6.4
9	EPA	10-10D-54 Batt	C-101	8/17/2009*	310045c	24.5	376.0	6.4
10	EPA	10-10D-54 Batt	C-101	12/16/2009*	310060	24.5	376.0	6.4
11	EPA	10-10D-54 Batt	C-101	1/16/2012	310361c	24.5	376.0	6.4
12	EPA	10-11D-66	C-101	8/5/2010*	3101090	24.5	376.0	6.4
13	EPA	10-12D-67	C-101	6/27/2011	310218c	24.5	376.0	6.4
14	EPA	10-16D-56 Batt	C-101	1/29/2014	bhc101021	24.5	376.0	6.4
15	EPA	10-1D-65	C-101	5/10/2011	310191c	24.5	376.0	6.4
16	EPA	1-1D-65	C-101	7/16/2012	310363c	24.5	376.0	6.4
17	EPA	12-11D-54	C-101	10/24/2011	aic101017	24.5	376.0	6.4
18	EPA	12-1D-65 Batt	C-101	6/27/2011	310216c	24.5	376.0	6.4
19	EPA	12-31D-54	C-101	10/16/2010*	310139c	24.5	376.0	6.4
20	Utah	12-4D-65	C-101	9/18/2013	aic101006	24.5	376.0	6.4
21	Utah	12-6D-64	C-101	1/17/2009*	310071	24.5	376.0	6.4
22	Utah	13-11D-54	C-101	5/24/2014	bec101005	24.5	376.0	6.4
23	Utah	13-1D-65	C-101	6/22/2011	310209c	24.5	376.0	6.4
24	Utah	13-26D-55	C-101	7/1/2008*	303163	24.5	376.0	6.4
25	Utah	13-35D-55	C-101	5/21/2011	310203c	24.5	376.0	6.4
26	EPA	13-36D-55	C-101	8/4/2010*	310110c	24.5	376.0	6.4
27	Utah	1-34D-55	C-101	12/7/2010*	310155	24.5	376.0	6.4
28	Utah	13-6D-64	C-101	11/21/2012	310436c	24.5	376.0	6.4

29	Utah	14-10D-54	C-101	5/27/2011	310190c	24.5	376.0	6.4
30	Utah	14-11D-54	C-101	7/11/2013	alc101012	24.5	376.0	6.4
31	EPA	14-18D-54	C-101	3/28/2014	bcc101030	24.5	376.0	6.4
32	EPA	14-1D-65	C-101	6/23/2011	310212c	24.5	376.0	6.4
33	EPA	14-35D-55	C-101	8/17/2009*	310038c	24.5	376.0	6.4
34	EPA	14-6D-64 Batt	C-101	3/7/2009*	310020	24.5	376.0	6.4
35	EPA	15-2D-65	C-101	7/10/2012	310355c	24.5	376.0	6.4
36	EPA	15-35D-55	C-101	2/2/2010*	310064	24.5	376.0	6.4
37	EPA	15-5D-65	C-101	3/15/2012	310311c	24.5	376.0	6.4
38	Utah	16-18	C-101	9/18/2010*	310123g	24.5	376.0	6.4
39	Utah	16-26D-55	C-101	12/16/2009*	310054	24.5	376.0	6.4
40	Utah	16-27D-55	C-101	9/18/2010*	310120c	24.5	376.0	6.4
41	EPA	16-5-65 Batt	C-101	5/11/2022	kec101007	24.5	376.0	6.4
42	EPA	1-6-64 Batt	C-101	8/17/2009*	310026c	24.5	376.0	6.4
43	Utah	2-18D-54	C-101	1/15/2014	bhc101012	24.5	376.0	6.4
44	Utah	2-19	C-101	9/29/2010*	310128c	24.5	376.0	6.4
45	Utah	2-1D-65	C-101	6/22/2011	310211c	24.5	376.0	6.4
46	Utah	3-15D-54	C-101	2/4/2010*	16071	24.5	376.0	6.4
47	EPA	3-18D-54 Batt	C-101	3/28/2014	bcc101036	24.5	376.0	6.4
48	EPA	3-1D-65	C-101	6/20/2011	310204c	24.5	376.0	6.4
49	Utah	3-4D-65	C-101	3/19/2012	310315c	24.5	376.0	6.4
50	EPA	3-6D-64	C-101	2/4/2010*	310063	24.5	376.0	6.4
51	EPA	4-15-54 Batt	C-101	12/17/2009*	310018	24.5	376.0	6.4
52	EPA	4-18D-54	C-101	3/31/2014	bcc101042	24.5	376.0	6.4
53	Utah	4-26D-55	C-101	2/4/2010*	310069	24.5	376.0	6.4
54	Utah	4-4D-65	C-101	3/15/2012	310313c	24.5	376.0	6.4
55	Utah	5-15D-54	C-101	12/16/2009*	310061	24.5	376.0	6.4
56	Utah	5-16D-54	C-101	7/21/2014	bgc101019	24.5	376.0	6.4
57	EPA	5-1D-65	C-101	6/27/2011	310219c	24.5	376.0	6.4

58	EPA	5-4-65 Batt	C-101	8/7/2009*	310042c	24.5	376.0	6.4
59	EPA	5-6D-64 Batt	C-101	2/4/2010*	310068	24.5	376.0	6.4
60	Utah	6-11D-54	C-101	10/25/2013	aic101027	24.5	376.0	6.4
61	EPA	6-18D-54	C-101	3/27/2014	bcc101034	24.5	376.0	6.4
62	EPA	6-35D-55	C-101	8/18/2010*	310121c	24.5	376.0	6.4
63	EPA	6-4D-65	C-101	9/18/2013	aic101003	24.5	376.0	6.4
64	EPA	6-6D-64 Batt	C-101	3/2/2017	322047	24.5	376.0	6.4
65	EPA	7-11D-65	C-101	9/18/2010*	310118c	24.5	376.0	6.4
66	EPA	7-16-54 Batt	C-101	7/24/2014	bgc101026	24.5	376.0	6.4
67	EPA	7-1D-65	C-101	8/4/2010*	310108c	24.5	376.0	6.4
68	EPA	7-2D-65	C-101	6/27/2011	310215c	24.5	376.0	6.4
69	EPA	7-34-55 Batt	C-101	11/17/2010*	3101522	24.5	376.0	6.4
70	Utah	7-6D-64	C-101	2/17/2009*	10026	24.5	376.0	6.4
71	Utah	8-11D-65	C-101	7/10/2012	310351c	24.5	376.0	6.4
72	EPA	8-18D-54	C-101	1/13/2014	bac101005	24.5	376.0	6.4
73	Utah	8-1D-65 Batt	C-101	5/16/2011	310198c	24.5	376.0	6.4
74	EPA	8-26D-55	C-101	7/1/2008*	313057	24.5	376.0	6.4
75	Utah	8-2D-65	C-101	7/10/2012	310354c	24.5	376.0	6.4
76	EPA	8-30-54	C-101	7/24/2014	bgc101024	24.5	376.0	6.4
77	EPA	8-34D-55	C-101	12/9/2010*	310157	24.5	376.0	6.4
78	EPA	8-6D-64	C-101	8/17/2009*	310036	24.5	376.0	6.4
79	EPA	9-10D-54	C-101	8/17/2009*	310043c	24.5	376.0	6.4
80	EPA	9-1D-65	C-101	5/19/2011	310201c	24.5	376.0	6.4
81	EPA	9-26D-55 Batt	C-101	7/11/2012	303254	24.5	376.0	6.4
82	EPA	9-2D-65	C-101	6/22/2011	310210c	24.5	376.0	6.4
83	EPA	9-9-54	C-101	3/15/2012	310314c	24.5	376.0	6.4
84	Utah	04-02	C-101	12/30/2022	KKC101012	24.5	376.0	6.4
85	Utah	04-06 Batt	C-101	5/16/2024	KEC101012	24.5	376.0	6.4
86	Utah	07-09	C-101	5/5/2022	KEC101001	24.5	376.0	6.4

87	Utah	07-14L	C-101	12/30/2022	KKC101011	24.5	376.0	6.4
88	EPA	08-02	C-101	5/11/2022	KEC101011	24.5	376.0	6.4
89	EPA	08-07	C101	5/11/2022	KEC101008	24.5	376.0	6.4
90	EPA	16-04	C101	5/5/2022	KEC101005	24.5	376.0	6.4
91	EPA	16-06	C-101	5/11/2022	KEC101010	24.5	376.0	6.4
92	EPA	16-12	C-101	5/6/2022	KEC101002	24.5	376.0	6.4
93	EPA	16-13	C-101	8/8/2024	KHC101007	24.5	376.0	6.4
94	Utah	18-02B	C-101	5/16/2022	KEC101016	24.5	376.0	6.4
95	Utah	19-03	C-101	7/8/2022	KGC101004	24.5	376.0	6.4
96	Utah	19-05	C101	8/8/2022	KHC101006	24.5	376.0	6.4
97	EPA	19-09	C-101	8/4/2022	KHC101002	24.5	376.0	6.4
98	EPA	20-10	C101	12/29/2022	NOT LEGIBLE	24.5	376.0	6.4
99	EPA	20-16	C101	12/29/2024	KKC101004	24.5	376.0	6.4
100	EPA	21-03	C101	11/26/2022	KKC101005	24.5	376.0	6.4
101	EPA	21-06	C-101	5/11/2022	KEC101009	24.5	376.0	6.4
102	Utah	21-13	C101	8/4/2022	KHC101003	24.5	376.0	6.4
103	Utah	29-03	C-101	9/21/2013	AIC101014	24.5	376.0	6.4
104	EPA	30-14	C-101	7/13/2022	KGC101008	24.5	376.0	6.4
105	EPA	33-15-D3	C-101	5/5/2022	KEC101006	24.5	376.0	6.4
106	EPA	33-16-D3	C101	7/12/2022	KGC101001	24.5	376.0	6.4
107	EPA	34-05-D3	C-101	11/7/2022	KHC101008	24.5	376.0	6.4
108	Utah	18-10	C101	8/4/2022	KHC101001	24.5	376.0	6.4
109	EPA	10-1D-55	C-101	3/27/2014	BCC101037	24.5	376	6.4
110	EPA	08-12	C-101	10/9/2013	AJC101008	24.5	376	6.4
111	EPA	10-12D-66	C-101	7/15/2014	BGC101011	24.5	376	6.4
112	EPA	10-16D-56 Batt	C-101	4/26/2019	GDC101007	24.5	376	6.4
113	EPA	10-1D-75	C-101	2/20/2014	BBC101012	24.5	376	6.4
114	EPA	10-1D-85	C-101	1/29/2014	BAC101026	24.5	376	6.4
115	EPA	04-06 Batt	C-101	8/5/2014	BHC101014	24.5	376	6.4

116	EPA	10-1D-95	C-101	7/22/2011	310221C	24.5	376	6.4
117	EPA	04-05	C-101	11/17/2010*	310153C	24.5	376	6.4
118	EPA	04-06 Batt	C-101	6/27/2014	BCC101021	24.5	376	6.4
119	EPA	08-32	C-101	10/15/2014	BJC101010	24.5	376	6.4
120	EPA	10-11D-68	C-101	12/19/2013	ALC101010	24.5	376	6.4
121	EPA	10-1D-115	C-101	1/10/2014	BAC101001	24.5	376	6.4
122	EPA	04-06	C-101	5/18/2011	310199C	24.5	376	6.4
123	EPA	08-42	C-101	3/27/2014	BCC101029	24.5	376	6.4
124	EPA	10-10D-54 Batt	C-101	8/5/2014	BHC101006	24.5	376	6.4
125	EPA	12-12D-55	C-101	1/29/2014	BAC101019	24.5	376	6.4
126	EPA	12-14D-55	C-101	11/19/2010*	310154C	24.5	376	6.4
127	EPA	12-1-55	C-101	9/22/2012	310409C	24.5	376	6.4
128	EPA	12-20-55 Batt	C-101	1/29/2014	BAC101030	24.5	376	6.4
129	EPA	12-23D-55	C-101	9/18/2010*	310116C	24.5	376	6.4
130	EPA	12-28D-55	C-101	12/30/2010*	310159C	24.5	376	6.4
131	EPA	12-29D-55	C-101	6/20/2011	310207C	24.5	376	6.4
132	EPA	1-22D-55	C-101	9/18/2010*	310117C	24.5	376	6.4
133	EPA	12-30D-55 Batt	C-101	10/15/2014	BJC101001	24.5	376	6.4
134	EPA	12-31D-55	C-101	10/15/2014	BJC101011	24.5	376	6.4
135	EPA	12-36-56 Batt	C-101	1/13/2014	BAC101008	24.5	376	6.4
136	EPA	12-3D-54	C-101	12/19/2013	ALC101003	24.5	376	6.4
137	EPA	12-4D-54	C-101	1/15/2014	BAC101014	24.5	376	6.4
138	Utah	12-5D-54	C-101	5/22/2014	BEC101004	24.5	376	6.4
139	Utah	12-6D-54	C-101	3/27/2014	BBC101032	24.5	376	6.4
140	Utah	12-6D-65	C-101	7/14/2014	BGC101013	24.5	376	6.4
141	EPA	13-28D-55	C-101	10/19/2010*	310138C	24.5	376	6.4
142	EPA	13-30D-55	C-101	10/15/2014	BJC101009	24.5	376	6.4
143	Utah	13-31D-55	C-101	10/21/2014	BJC101015	24.5	376	6.4
144	Utah	13-3R-54 Batt	C-101	11/15/2013	AKC101006	24.5	376	6.4

145	EPA	13-4D-54 Batt	C-101	1/13/2014	BAC101006	24.5	376	6.4
146	Utah	1-3-54 Batt	C-101	12/19/2013	ALC101007	24.5	376	6.4
147	EPA	13-5D-54	C-101	5/27/2014	BEC101016	24.5	376	6.4
148	Utah	13-6D-54 Batt	C-101	3/27/2014	BBC101038	24.5	376	6.4
149	Utah	1-36D-56	C-101	5/5/2022	KEC101004	24.5	376	6.4
150	Utah	13-6D-65	C-101	8/5/2014	BHC101004	24.5	376	6.4
151	Utah	13H-16-55	C-101	12/16/2009*	310053C	24.5	376	6.4
152	EPA	14-23D-55	C-101	3/17/2009*	310040C	24.5	376	6.4
153	EPA	14-23D-55	C-101	3/17/2009*	310040C	24.5	376	6.4
154	EPA	14-30D-55	C-101	10/15/2014	BJC101008	24.5	376	6.4
155	EPA	14-31D-55	C-101	10/21/2014	BJC101013	24.5	376	6.4
156	EPA	14-36D-56	C-101	2/26/2014	BBC101025	24.5	376	6.4
157	EPA	14-3D-54	C-101	12/19/2013	ALC101008	24.5	376	6.4
158	EPA	14-4D-54	C-101	1/15/2014	BAC101016	24.5	376	6.4
159	EPA	14-5D-54	C-101	5/22/2014	BEC101008	24.5	376	6.4
160	EPA	14-6D-54	C-101	3/27/2014	BCC101033	24.5	376	6.4
161	EPA	14-6D-65 Batt	C-101	8/5/2014	BHC101002	24.5	376	6.4
162	EPA	15-10-55	C-101	11/20/2012	310427C	24.5	376	6.4
163	EPA	15-1D-55	C-101	8/5/2014	BHC101030	24.5	376	6.4
164	EPA	15-31D-55	C-101	3/27/2014	BCC101027	24.5	376	6.4
165	EPA	15-3D-54	C-101	10/26/2013	AJC101020	24.5	376	6.4
166	EPA	15-4D-54	C-101	4/26/2019	GDC101009	24.5	376	6.4
167	EPA	15-5D-54	C-101	2/25/2014	BBC101019	24.5	376	6.4
168	EPA	15-6-54 Batt	C-101	9/22/2012	310411C	24.5	376	6.4
169	EPA	15-6D-65 Batt	C-101	12/30/2010*	310162C	24.5	376	6.4
170	EPA	16-11-55	C-101	11/19/2012	310425C	24.5	376	6.4
171	Utah	16-1D-55 Batt	C-101	1/17/2014	BGC101017	24.5	376	6.4
172	EPA	16-31D-55	C-101	3/28/2014	BCC101035	24.5	376	6.4
173	EPA	16-36-56	C-101	11/21/2012	310434C	24.5	376	6.4

174	EPA	16-4D-54	C-101	4/26/2019	GDC101010	24.5	376	6.4
175	EPA	16-5D-54	C-101	2/25/2014	BBC101017	24.5	376	6.4
176	Utah	16-6D-54	C-101	2/26/2014	BBC101026	24.5	376	6.4
177	EPA	16-6D-65	C-101	8/5/2014	BHC101007	24.5	376	6.4
178	EPA	1-6D-65	C-101	9/19/2013	ALC101013	24.5	376	6.4
179	EPA	1-7D-54	C-101	5/28/2014	BEC101013	24.5	376	6.4
180	Utah	1-7D-65	C-101	8/5/2014	BHC101009	24.5	376	6.4
181	EPA	1-9D-54	C-101	2/25/2014	BBC101025	24.5	376	6.4
182	EPA	2-10D-54	C-101	2/14/2012	310446C	24.5	376	6.4
183	Utah	2-12D-55	C-101	6/27/2014	BCC101028	24.5	376	6.4
184	Utah	2-13-55	C-101	7/10/2012	310353C	24.5	376	6.4
185	Utah	2-36D-56	C-101	7/8/2022	KGC101007	24.5	376	6.4
186	EPA	2-3D-54	C-101	12/19/2013	ALC101001	24.5	376	6.4
187	EPA	2-5-54 Batt	C-101	9/18/2013	AIC101007	24.5	376	6.4
188	Utah	2-6-65 Batt	C-101	7/17/2013	AGC101007	24.5	376	6.4
189	Utah	2-7D-54	C-101	5/28/2014	BEC101018	24.5	376	6.4
190	Utah	2-7D-65	C-101	8/5/2014	BHC101001	24.5	376	6.4
191	Utah	2-9-54 Batt	C-101	7/16/2012	310358C	24.5	376	6.4
192	Utah	3-14-55	C-101	12/30/2010*	310163C	24.5	376	6.4
193	EPA	3-31D-55	C-101	10/21/2014	BJC101027	24.5	376	6.4
194	EPA	3-3D-54	C-101	12/19/2013	ALC101005	24.5	376	6.4
195	EPA	3-4D-54	C-101	10/9/2013	AJC101009	24.5	376	6.4
196	EPA	3-5D-54	C-101	10/26/2013	AJC101015	24.5	376	6.4
197	EPA	3-6D-65	C-101	9/21/2013	ALC101016	24.5	376	6.4
198	EPA	3-7-65 Batt	C-101	8/5/2014	BHC101011	24.5	376	6.4
199	EPA	3-7D-54	C-101	1/15/2014	BAC101013	24.5	376	6.4
200	EPA	4-10D-54	C-101	12/11/2012	310441C	24.5	376	6.4
201	EPA	4-20D-55	C-101	9/22/2012	310410C	24.5	376	6.4
202	Utah	4-31D-55	C-101	10/21/2014	BJC101028	24.5	376	6.4

203	Utah	4-3D-54	C-101	1/15/2014	BAC101011	24.5	376	6.4
204	Utah	4-4-54 Batt	C-101	9/21/2012	310400C	24.5	376	6.4
205	Utah	4-5-54 Batt	C-101	10/25/2013	AJC101023	24.5	376	6.4
206	Utah	4-6D-65	C-101	7/15/2014	BGC101012	24.5	376	6.4
207	Utah	4-7D-54 Batt	C-101	1/15/2014	BAC101009	24.5	376	6.4
208	EPA	4-7D-65	C-101	8/5/2014	BHC101013	24.5	376	6.4
209	Utah	5-12-55 Batt	C-101	3/31/2014	BCC101041	24.5	376	6.4
210	EPA	5-1-55	C-101	9/25/2014	BIC101010	24.5	376	6.4
211	Utah	5-31D-55 Batt	C-101	10/15/2014	BJC101003	24.5	376	6.4
212	Utah	5-3D-54	C-101	11/13/2014	BAC101007	24.5	376	6.4
213	EPA	5-4D-54	C-101	10/24/2013	AJC101018	24.5	376	6.4
214	EPA	5-5D-54	C-101	10/26/2013	AJC101021	24.5	376	6.4
215	EPA	5-6-65 Batt	C-101	3/19/2012	310323C	24.5	376	6.4
216	EPA	5-6D-54	C-101	2/26/2014	BBC101023	24.5	376	6.4
217	EPA	5-7D-54	C-101	1/10/2014	BAC101003	24.5	376	6.4
218	EPA	5-7D-65	C-101	8/5/2014	BHC101012	24.5	376	6.4
219	Utah	6-12D-55	C-101	1/29/2014	BAC101025	24.5	376	6.4
220	EPA	6-14D-55	C-101	8/17/2009*	310041C	24.5	376	6.4
221	EPA	6-20D-55	C-101	1/29/2014	BAC101023	24.5	376	6.4
222	EPA	6-22D-55	C-101	9/18/2010*	310122C	24.5	376	6.4
223	EPA	6-28D-55	C-101	2/20/2014	BBC101013	24.5	376	6.4
224	EPA	6-31D-55	C-101	10/21/2014	BJC101029	24.5	376	6.4
225	Utah	6-3D-54 Batt	C-101	11/15/2013	AKC101009	24.5	376	6.4
226	Utah	6-4D-54	C-101	10/26/2013	AJC101016	24.5	376	6.4
227	EPA	6-5D-54	C-101	10/24/2013	AJC101014	24.5	376	6.4
228	EPA	6-6D-65	C-101	3/15/2012	310316C	24.5	376	6.4
229	EPA	6-7D-54	C-101	1/16/2014	BAC101015	24.5	376	6.4
230	EPA	7-10D-54	C-101	2/26/2014	BBC101027	24.5	376	6.4
231	EPA	7-2-55	C-101	9/15/2011	304413C	24.5	376	6.4

232	EPA	7-36D-56	C-101	7/14/2017	EGC101001	24.5	376	6.4
233	EPA	7-3D-54	C-101	12/19/2013	ALC101009	24.5	376	6.4
234	Utah	7-5D-54	C-101	9/21/2013	AIC101017	24.5	376	6.4
235	EPA	7-6D-65	C-101	9/19/2013	ALC101011	24.5	376	6.4
236	EPA	7-7D-54 Batt	C-101	5/29/2014	BEC101009	24.5	376	6.4
237	EPA	7-9D-54	C-101	2/25/2014	BBC101022	24.5	376	6.4
238	EPA	8-15D-55	C-101	11/15/2010*	310151C	24.5	376	6.4
239	EPA	8-21D-55	C-101	12/30/2010*	310161C	24.5	376	6.4
240	Utah	8-27D-55	C-101	10/20/2010*	310140C	24.5	376	6.4
241	EPA	8-36D-56	C-101	3/15/2012	310320C	24.5	376	6.4
242	EPA	8-3D-54	C-101	11/15/2013	AKC101007	24.5	376	6.4
243	EPA	8-5D-54	C-101	2/25/2014	BBC101016	24.5	376	6.4
244	EPA	8-7-54	C-101	9/22/2012	310404C	24.5	376	6.4
245	EPA	9-12D-55	C-101	9/25/2014	BIC101313	24.5	376	6.4
246	EPA	9-1D-55	C-101	8/5/2014	BHC101015	24.5	376	6.4
247	EPA	9-21D-55	C-101	2/25/2014	BBC101021	24.5	376	6.4
248	EPA	9-32D-55	C-101	8/9/2012	310374C	24.5	376	6.4
249	EPA	9-3D-54	C-101	9/24/2013	AJC101012	24.5	376	6.4
250	Utah	9-4D-54 Batt	C-101	4/26/2019	GDC101008	24.5	376	6.4
251	EPA	9-5-54 Batt	C-101	6/23/2011	310214C	24.5	376	6.4
252	EPA	9-6D-54	C-101	1/29/2014	BAC101024	24.5	376	6.4
253	EPA	10-11D-65	C-101	11/21/2012	310439C	24.5	376.0	6.4
254	EPA	10-12D-65	C-101	8/2/2013	AGC101020	24.5	376.0	6.4
255	EPA	08-17	C-101	1/29/2014	BAC101022	24.5	376.0	6.4
256	EPA	07-11	C-101	9/18/2013	AIC101008	24.5	376.0	6.4
257	EPA	08-27	C-101	8/1/2013	AGC101015	24.5	376.0	6.4
258	EPA	10-11D-67	C-101	7/22/2014	BGC101022	24.5	376.0	6.4
259	EPA	07-14L	C-101	9/22/2012	3103405C	24.5	376.0	6.4
260	EPA	10-10D-54 Batt	C-106	NO DATE	303082	24.5	376.0	6.4

261	EPA	10-12D-68	C-101	7/17/2014	BGC101015	24.5	376.0	6.4
262	EPA	10-1D-125	C-101	2/4/2010*	31067	24.5	376.0	6.4
263	EPA	04-06 Batt	C-101	5/16/2011	310195C	24.5	376.0	6.4
264	EPA	07-13	C-101	12/19/2013	ALC101002	24.5	376.0	6.4
265	EPA	07-14L	C-101	8/17/2009*	310030C	24.5	376.0	6.4
266	EPA	10-12D-69	C-101	8/1/2013	AGC101011	24.5	376.0	6.4
267	EPA	10-1D-135	C-101	3/17/2014	BCC101011	24.5	376.0	6.4
268	EPA	1-1D-64	C-101	3/6/2010*	310107CW	24.5	376.0	6.4
269	EPA	12-12D-65	C-101	8/6/2013	AGC101022	24.5	376.0	6.4
270	EPA	12-34D-54	C-101	5/16/2011	310197C	24.5	376.0	6.4
271	EPA	12-35D-54	C-101	1/29/2014	BHC101018	24.5	376.0	6.4
272	EPA	12-3D-64	C-101	7/16/2012	310364C	24.5	376.0	6.4
273	Utah	12-7D-64 Batt	C-101	6/10/2013	AFC101017	24.5	376.0	6.4
274	Utah	12-8D-64	C-101	5/29/2014	BEC101014	24.5	376.0	6.4
275	Utah	12-9D-64	C-101	3/17/2014	BCC101010	24.5	376.0	6.4
276	EPA	1-2D-64	C-101	3/13/2012	310309C	24.5	376.0	6.4
277	EPA	13-12D-65 Batt	C-101	8/2/2013	AGC101013	24.5	376.0	6.4
278	EPA	13-23-54	C-101	8/17/2009*	310039C	24.5	376.0	6.4
279	Utah	13-5D-64	C-101	2/30/2010*	310158C	24.5	376.0	6.4
280	Utah	13-7D-64	C-101	8/1/2013	AGC101016	24.5	376.0	6.4
281	Utah	13-9D-64	C-101	3/17/2014	BCC101008	24.5	376.0	6.4
282	EPA	14-12D-65	C-101	8/2/2013	AGC101018	24.5	376.0	6.4
283	EPA	14-23D-54	C-101	11/19/2010*	310149C	24.5	376.0	6.4
284	EPA	14-5D-64	C-101	NOT LEGIBLE	310004C	24.5	376.0	6.4
285	EPA	14-7D-64	C-101	8/1/2013	AGC101014	24.5	376.0	6.4
286	EPA	14-9D-64	C-101	7/10/2014	BGC101007	24.5	376.0	6.4
287	EPA	15-11D-65	C-101	12/31/2012	310449C	24.5	376.0	6.4
288	EPA	15-12D-65 Batt	C-101	6/10/2013	AFC101016	24.5	376.0	6.4
289	EPA	15-1D-65 Batt	C-101	9/22/2012	3103403C	24.5	376.0	6.4

290	EPA	15-22D-54	C-101	12/16/2009*	310069	24.5	376.0	6.4
291	EPA	15-6D-64	C-101	11/11/2012	31044C	24.5	376.0	6.4
292	EPA	1-5D-64	C-101	8/2/2013	AGC101019	24.5	376.0	6.4
293	EPA	16-11D-65	C-101	12/31/2012	310450C	24.5	376.0	6.4
294	EPA	16-12D-65	C-101	8/6/2013	AGC101024	24.5	376.0	6.4
295	EPA	16-1D-65	C-101	7/16/2012	310362C	24.5	376.0	6.4
296	Utah	16-26-54	C-101	12/16/2009*	310062	24.5	376.0	6.4
297	Utah	16-27D-54	C-101	2/17/2009*	310055	24.5	376.0	6.4
298	EPA	16-6-64 Batt	C-101	3/19/2012	310321C	24.5	376.0	6.4
299	Utah	1-7D-64	C-101	9/19/2013	AIC101012	24.5	376.0	6.4
300	EPA	1-9D-64 Batt	C-101	7/9/2014	BGC101003	24.5	376.0	6.4
301	Utah	2-11D-54 BATT	C-101	7/21/2014	BGC101020	24.5	376.0	6.4
302	Utah	2-12D-65	C-101	9/22/2012	3103407C	24.5	376.0	6.4
303	Utah	2-13-65 Batt	C-101	7/17/2014	BGC101018	24.5	376.0	6.4
304	Utah	2-14-54 Batt	C-101	11/10/2010*	B10148C	24.5	376.0	6.4
305	Utah	2-14D-65	C-101	12/19/2013	ALC101004	24.5	376.0	6.4
306	EPA	2-34D-54	C-101	9/18/2010*	310119C	24.5	376.0	6.4
307	EPA	2-35D-54	C-101	1/23/2014	BAC101020	24.5	376.0	6.4
308	EPA	2-5D-64 Batt	C-101	8/6/2013	AGC101023	24.5	376.0	6.4
309	Utah	2-7-64 Batt	C-101	9/19/2013	AIC101009	24.5	376.0	6.4
310	Utah	2-9D-64	C-101	7/10/2014	BGC101006	24.5	376.0	6.4
311	EPA	3-11D-54	C-101	9/21/2013	AIC101010	24.5	376.0	6.4
312	Utah	3-12D-65	C-101	9/22/2012	310348C	24.5	376.0	6.4
313	Utah	3-14D-54	C-101	12/7/2010*	310156	24.5	376.0	6.4
314	Utah	3-5D-64	C-101	8/17/2009*	310026C	24.5	376.0	6.4
315	EPA	3-7D-64	C-101	9/18/2013	AIC101004	24.5	376.0	6.4
316	EPA	3-8D-64	C-101	5/22/2014	BEC101007	24.5	376.0	6.4
317	EPA	3-9D-64	C-101	8/5/2014	BHC101016	24.5	376.0	6.4
318	EPA	4-11-54 Batt	C-101	7/17/2013	AGC101008	24.5	376.0	6.4

319	EPA	4-12D-65	C-101	9/22/2012	3103401C	24.5	376.0	6.4
320	Utah	4-34-54	C-101	8/17/2009*	310027C	24.5	376.0	6.4
321	EPA	4-35D-54	C-101	11/15/2013	AKC101008	24.5	376.0	6.4
322	Utah	4-3D-64	C-101	7/13/2012	310350C	24.5	376.0	6.4
323	EPA	4-5D-64	C-101	8/17/2009*	310044C	24.5	376.0	6.4
324	Utah	4-7D-64	C-101	9/18/2013	AIC101001	24.5	376.0	6.4
325	Utah	4-8D-64	C-101	5/28/2014	BEC101011	24.5	376.0	6.4
326	Utah	5-11D-54	C-101	2/4/2010*	310066	24.5	376.0	6.4
327	Utah	5-12D-65	C-101	9/20/2012	310396C	24.5	376.0	6.4
328	Utah	5-34-54	C-101	12/16/2009*	310052O	24.5	376.0	6.4
329	EPA	5-4-64	C-101	10/22/2010*	310142C	24.5	376.0	6.4
330	EPA	5-7D-64	C-101	9/18/2013	AIC101002	24.5	376.0	6.4
331	Utah	5-8D-64 Batt	C-101	5/29/2014	BEC101010	24.5	376.0	6.4
332	Utah	5-9D-64	C-101	8/5/2014	BHC101010	24.5	376.0	6.4
333	EPA	6-12D-65 Batt	C-101	9/22/2012	310398C	24.5	376.0	6.4
334	EPA	6-16D-64	C-101	12/29/2022	KKC101010	24.5	376.0	6.4
335	EPA	6-35D-54	C-101	12/19/2013	ALC101006	24.5	376.0	6.4
336	Utah	6-3D-64	C-101	5/21/2011	213202C	24.5	376.0	6.4
337	EPA	6-5D-64 Batt	C-101	8/17/2009*	310034C	24.5	376.0	6.4
338	EPA	6-7-64 Batt	C-101	9/18/2013	AIC101005	24.5	376.0	6.4
339	EPA	6-9-64 Batt	C-101	8/5/2014	BHC101005	24.5	376.0	6.4
340	EPA	7-11D-54	C-101	7/24/2014	BGC101025	24.5	376.0	6.4
341	EPA	7-12D-65 Batt	C-101	3/31/2014	BCC101040	24.5	376.0	6.4
342	EPA	7-13D-65	C-101	7/17/2014	BGC101016	24.5	376.0	6.4
343	EPA	7-14-54	C-101	NOT LEGIBLE	NOT LEGIBLE	24.5	376.0	6.4
344	EPA	7-14D-65	C-101	10/30/2013	AJC101024	24.5	376.0	6.4
345	EPA	7-27D-54	C-106	NO DATE	303312	24.5	376.0	6.4
346	Utah	7-2D-64	C-101	3/19/2012	310322C	24.5	376.0	6.4
347	Utah	7-5D-64	C-101	7/10/2012	310352C	24.5	376.0	6.4

348	EPA	7-7D-64 Batt	C-101	7/17/2013	AGC101009	24.5	376.0	6.4
349	EPA	7-9D-64	C-101	7/9/2014	BGC101004	24.5	376.0	6.4
350	Utah	8-11D-54	C-101	7/21/2014	BGC101021	24.5	376.0	6.4
351	EPA	8-12D-65	C-101	9/22/2012	3103406C	24.5	376.0	6.4
352	EPA	8-13D-65	C-101	7/15/2014	BGC101014	24.5	376.0	6.4
353	EPA	8-14D-65	C-101	10/30/2013	AJC101025	24.5	376.0	6.4
354	Utah	8-2D-64 Batt	C-101	12/17/2009*	310051	24.5	376.0	6.4
355	EPA	8-35D-54	C-101	1/13/2014	BAC101010	24.5	376.0	6.4
356	EPA	8-5D-64	C-101	8/1/2013	AGC101017	24.5	376.0	6.4
357	EPA	8-7D-64	C-101	9/24/2013	AJC101015	24.5	376.0	6.4
358	EPA	8-9D-64	C-101	3/13/2014	BCC101002	24.5	376.0	6.4
359	EPA	9-11D-65 Batt	C-101	11/21/2012	310435C	24.5	376.0	6.4
360	EPA	9-12D-65	C-101	8/6/2013	AGC101021	24.5	376.0	6.4
361	Utah	9-27D-54	C-101	1/13/2014	BAC101004	24.5	376.0	6.4
362	EPA	9-6D-64	C-101	6/27/2011	310217C	24.5	376.0	6.4
363	EPA	9-7D-64	C-101	7/17/2013	AGC101010	24.5	376.0	6.4
364	EPA	10-16D-56 Batt	C-101	7/10/2012	310356c	24.5	376.0	6.4
365	EPA	04-06 Batt	C-101	11/20/2012	310422c	24.5	376.0	6.4
366	EPA	07-10	C-101	9/25/2014	bic101005	24.5	376.0	6.4
367	EPA	07-14L	C-101	9/22/2012	310399c	24.5	376.0	6.4
368	EPA	10-16D-56 Batt	C-101	11/21/2012	310438c	24.5	376.0	6.4
369	EPA	10-1D-105	C-101	10/15/2014	bjc101016	24.5	376.0	6.4
370	EPA	10-16D-56 Batt	C-101	11/19/2012	310426c	24.5	376.0	6.4
371	EPA	10-11D-69	C-101	10/15/2014	bjc101005	24.5	376.0	6.4
372	EPA	12-22D-56	C-101	6/23/2011	310213c	24.5	376.0	6.4
373	EPA	1-22-57	C-101	3/19/2012	310317c	24.5	376.0	6.4
374	EPA	12-28D-45	C-101	2/15/2014	bbc101020	24.5	376.0	6.4
375	EPA	12-3-55	C-101	9/21/2012	310402c	24.5	376.0	6.4
376	Utah	1-25D-56	C-101	5/16/2022	kec101015	24.5	376.0	6.4

377	EPA	1-26-56 Batt	C-101	7/16/2012	310359c	24.5	376.0	6.4
378	Utah	1-28D-56	C-101	10/15/2014	bjc101004	24.5	376.0	6.4
379	Utah	1-29-56	C-101	12/14/2012	310447c	24.5	376.0	6.4
380	Utah	13-23-56 Batt	C-101	9/29/2010*	310126c	24.5	376.0	6.4
381	EPA	13-29-45 Batt	C-101	7/15/2023	agc101006	24.5	376.0	6.4
382	Utah	14-11-56	C-101	5/16/2022	kec101013	24.5	376.0	6.4
383	EPA	14-15D-56 Batt	C-101	3/15/2012	310318c	24.5	376.0	6.4
384	EPA	14-21D-56	C-101	12/14/2012	310448c	24.5	376.0	6.4
385	EPA	14-22D-56	C-101	6/22/2014	bec101006	24.5	376.0	6.4
386	EPA	14-6D-56	C-101	1/29/2014	bac101031	24.5	376.0	6.4
387	EPA	15-15D-56 Batt	C-101	1/28/2011	310168c	24.5	376.0	6.4
388	EPA	15-22D-56	C-101	2/21/2013	abc101003	24.5	376.0	6.4
389	EPA	15-23D-56	C-101	11/9/2012	310416c	24.5	376.0	6.4
390	EPA	15-27-56 Batt	C-101	10/15/2014	bjc101002	24.5	376.0	6.4
391	EPA	15-5-55	C-101	11/16/2012	310421c	24.5	376.0	6.4
392	EPA	15-6-56 Batt	C-101	1/29/2024	bac101028	24.5	376.0	6.4
393	Utah	16-15D-56	C-101	5/29/202014	bec101019	24.5	376.0	6.4
394	Utah	16-21D-56	C-101	12/13/2012	310445c	24.5	376.0	6.4
395	EPA	16-29D-45	C-101	2/26/2014	bbc101024	24.5	376.0	6.4
396	EPA	1-7D-56 Batt	C-101	8/6/2012	310370c	24.5	376.0	6.4
397	Utah	2-16D-56	C-101	6/20/2011	3102060.0	24.5	376.0	6.4
398	Utah	2-21D-56	C-101	10/24/2013	ajc101013	24.5	376.0	6.4
399	EPA	2-22D-56	C-101	5/27/2014	bec101017	24.5	376.0	6.4
400	EPA	2-28D-45	C-101	8/17/2009*	310035c	24.5	376.0	6.4
401	EPA	2-28D-56 Batt	C-101	7/10/2012	310349c	24.5	376.0	6.4
402	EPA	2-32D-45	C-101	2/20/2014	bbc101015	24.5	376.0	6.4
403	Utah	2-9D-56	C-101	7/22/2011	3102220.0	24.5	376.0	6.4
404	EPA	3-15D-56	C-101	7/16/2012	310360c	24.5	376.0	6.4
405	EPA	3-22D-56	C-101	5/28/2014	bec101015	24.5	376.0	6.4

406	EPA	3-32D-45	C-101	12/31/2012	310451c	24.5	376.0	6.4
407	EPA	3-33D-56	C-101	10/26/2013	azc191019	24.5	376.0	6.4
408	EPA	4-16-56	C-101	3/16/2012	310319.0	24.5	376.0	6.4
409	Utah	4-22D-56 Batt	C-101	6/22/2011	310208c	24.5	376.0	6.4
410	Utah	4-27D-56 Batt	C-101	5/11/2011	3101946.0	24.5	376.0	6.4
411	Utah	4-28D-45	C-101	9/23/2014	bic101001	24.5	376.0	6.4
412	Utah	4-29-45 Batt	C-101	2/25/2014	bbc101014	24.5	376.0	6.4
413	Utah	4-9-55	C-101	11/19/2012	310423c	24.5	376.0	6.4
414	Utah	5-15D-56	C-101	10/9/2013	ajc101010	24.5	376.0	6.4
415	Utah	5-17-55	C-101	11/15/2012	310420c	24.5	376.0	6.4
416	Utah	5-20D-56	C-101	9/25/2012	310412c	24.5	376.0	6.4
417	Utah	5-23D-56	C-101	10/23/2010*	310143c	24.5	376.0	6.4
418	EPA	6-27D-56	C-101	5/18/2011	319200c	24.5	376.0	6.4
419	EPA	7-15-56	C-101	5/2/2011	310193c	24.5	376.0	6.4
420	EPA	7-22D-56 Batt	C-101	8/9/2012	310371c	24.5	376.0	6.4
421	EPA	7-26D-56	C-101	11/19/2012	310424c	24.5	376.0	6.4
422	Utah	7-27D-56	C-101	10/15/2014	bjc101006	24.5	376.0	6.4
423	EPA	7-7D-56	C-101	1/29/2014	bac101032	24.5	376.0	6.4
424	EPA	8-17D-55	C-101	1/10/2014	bac101002	24.5	376.0	6.4
425	EPA	8-21D-56	C-101	5/20/2011	310205c	24.5	376.0	6.4
426	EPA	8-22D-56	C-101	10/14/2013	ajc101011	24.5	376.0	6.4
427	EPA	8-28D-56 Batt	C-101	12/17/2009*	310050.0	24.5	376.0	6.4
428	Utah	8-29-45 Batt	C-101	12/13/2012	310444c	24.5	376.0	6.4
429	EPA	9-12D-57	C-101	3/12/2012	3103080.0	24.5	376.0	6.4
430	EPA	9-16D-56	C-101	5/20/2014	bec1010112	24.5	376.0	6.4
431	EPA	9-22D-56	C-101	8/9/2012	310372c	24.5	376.0	6.4
432	EPA	9-27-56 Batt	C-101	10/15/2014	bjc101002	24.5	376.0	6.4
433	EPA	9-32D-56	C-101	8/5/2014	bhc10608	24.5	376.0	6.4
434	EPA	9-7D-56	C-101	1/29/2014	bac101027	24.5	376.0	6.4

435	EPA	9-9D-56 Batt	C-101	3/15/2012	310312c	24.5	376.0	6.4
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* Engine manufacture date precedes 40 C.F.R. § 60.4231(a)(4) applicability date but Engine is subject to Consent Agreement for settlement purposes.

In the Matter of Berry Petroleum Company, LLC
and Berry Corporation (bry)

Appendix B

Engine Operation and Maintenance Standard Operating Procedure

Arrow C-101 and C-106 Pumpjack Engine Maintenance Procedure

**Revision Number: Rev1
Revision Date: 9.3.2025**

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1.0 Introduction

This manual contains maintenance information for the Arrow C-101 and C-106 natural gas-fired internal combustion engine used as the prime driver for oil well pump jack units located at Berry Petroleum Company (Berry). This manual is intended to ensure the C-101/106 ICEs operate in a manner consistent with good air quality practices. This manual provides a general description of the maintenance activities for the C-101/106 ICEs. Detailed procedures for certain maintenance activities may be found in Standard Operating Procedures (SOP), if available, attached hereto. It is expected the personnel performing these activities will be familiar with the operation of the C-101/106 ICEs, have received training on the applicable SOPs, and wear appropriate Personal Protective Equipment (PPE) prior to performing any maintenance.

For reference, a full copy of Arrow's Parts, Operation & Maintenance Manual can be found online at:

<https://arrowengine.com/literature/engines/c-series/9-c-series-parts-operation-maintenance/file>

2.0 Safety & General Operation Guidelines

Personnel conducting maintenance on these engines should be trained in the procedures required to perform the activities described in this manual. Proper safety measures must be taken prior to conducting these activities, not only with the engine itself, but also the pumping unit.

Before conducting maintenance on the engine, ensure the area around the engine is clear of debris. Only trained Berry personnel or approved contractors are permitted to make any adjustments to the engines. PPE consistent with Berry's requirements must be worn.

2.1 Recordkeeping

Specified C-101/C-106 ICE maintenance activities performed will be documented. The documentation must include the date, the activity conducted, and name of the person(s) conducting the activity. These records must be maintained in a format and location where they can be reviewed as needed.

3.0 Engine Maintenance

Engine maintenance consists of regular checks to ensure the engine and individual components are in good working condition and catch potential problems. Any issues identified are to be corrected as soon as possible. Scheduled maintenance activities are also required to prevent excessive wear on engine components and ensure optimum operational efficiency and minimize engine emissions.

NOTE: Provided procedures will be updated as new information is obtained that potentially conflicts with the procedure provided.

3.1 Monthly Maintenance Actions (ref. to Appendix A for Monthly Maintenance Checklist)

On a monthly basis, the following checks and engine service items must be performed:

- 1. Inspect ignition wiring**
 - a. Ensure wiring is in good working order with no cracks in the insulation
- 2. Clean & inspect spark plug gaps**
- 3. Oil Bath Cleaning & Valve Breather Cleaning (per Attachment D: 3-Month Maintenance Procedure)**
- 4. Inspect for visible exhaust emissions.**
 - a. If smoke is visible, the engine should be evaluated for 3-Month Service
- 5. Check engine oil pressure and operating temperature are within manufacturer specified range.**
 - a. Oil Pressure range (15 to 40 psi)
 - b. Operating Temperature range (195 and 220 deg. F)

3.2 3-Month (or 2,200 hours of operation) Maintenance Actions

The following maintenance activities are to be conducted every 2,200 hours of operation. In general, these activities will be performed every 3 months as most engines operate continuously. For engines servicing cyclically produced wells this service schedule may be extended if the engine is shut down (i.e. not set to idle) during the non-producing periods.

Refer to Attachment C: (Oil Sampling and Testing Procedure) and Attachment D: (3-Month Maintenance Procedure)

4.0 Appendices

4.1 Appendix A: Monthly Maintenance Summary Checklist

Berry Petroleum Arrow C-101/C106 Engine Monthly Maintenance Checklist

The Arrow Model C-101/C-106 internal combustion engine (C-101/106 ICE) is designed for oil well pumping service. Periodic preventative maintenance will help ensure the C-101/106 ICEs operate in a manner consistent with good air quality practices.

	Comments
Inspect ignition wiring	
Clean & inspect spark plug gaps	
Clean/replace air filter/ oil bath	
Clean Valve Breathers	
Inspect for visible exhaust emissions	
Check oil filter, oil pressure and engine temperature	

4.2 Appendix B: 3-Month Maintenance Checklist

Berry Petroleum Arrow C-101/C-106 Engine 3-Month Maintenance Checklist

	Comments
Check clutch adjustment - Clutch should snap in and out firmly	
Inspect ignition wiring	
Change oil (see notes below)	
Check valve clearance	
Clean & Gap spark plug	
Check governor lubrication - remove oil line at governor to ascertain flow	
Clean Oil Bath	
Clean Valve Breathers	
Change oil filter (see note below)	
Inspect Carburetor and Diaphragm	
Inspect fan belt and adjust as needed	
Check and add coolant as needed	
Check oil pressure and engine operating temperature	

To ensure the protection of internal parts, oil sampling may be conducted on a quarterly basis on a sample set of motors. These samples will be tested in an offsite laboratory, This process will be particularly important if any product changes are made, as it will help confirm the continued effectiveness of the protective measures in place.

Technical Details: The oil sampling process involves collecting samples from the engines using a standardized procedure to ensure consistency and accuracy. The samples are then transported to an offsite laboratory where they undergo a series of tests, including viscosity analysis, Base Number, and Water Content. These tests help identify any potential contaminants or degradation in the oil that could affect the performance of the internal parts. The results can be compared against baseline data to determine if any changes have occurred or potentially used to support revisions to the O&M Plan. (refer to Oil Sampling and Testing Procedure)

4.3 Appendix C: Oil Sampling and Testing Procedure

Oil Sampling and Testing Procedure

Parts/ Supplies Required:

- $\frac{3}{4}$ " or $\frac{1}{2}$ " by 6" long nipple
- Oil sample bottle provided by testing lab

Tools Required:

- Crescent wrench
- Approved container

Safety:

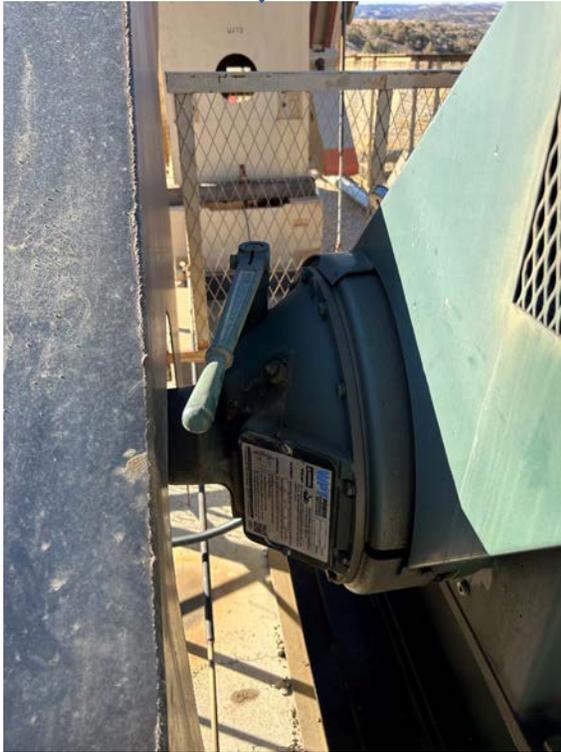
- Wear safety glasses
- Wear appropriate gloves to avoid oil from contacting skin.
- Wear required Personal Protective Equipment (PPE), (hard hats, steel toe boots, Fire Retardant (FR) clothing)
- Make sure working surfaces are free from oil and slip hazards.

Procedure:

1. Shut engine down by disengaging clutch with the arms in the downward position.
2. Set brake on pumping unit by pulling brake level and installing lock pin.
3. Shut fuel gas valve
4. Collect engine oil sample by removing plug on drain valve located on rear of engine next to bull wheel
5. Crack valve open and fill sample bottle to desired level, Shut drain valve and install plug.
6. Hook jumper cables to engine and start engine.
7. Disengage brake.
8. Engage clutch and verify pumping unit is pumping.

Shut Down Procedure

Step 1: Disengage clutch handle with weights in the downward position



Step 2: Engage brake handle by pulling lever downward or towards the back of the pumping unit.



Step 3: Shut fuel off by closing fuel valve.



Collecting Oil Sample

Step 4: remove plug from oil drain valve.



Step 5: drain oil into lab provided sample bottle (approved container) until filled, Shut valve and install plug



Startup Procedure

Step 6: After collecting oil sample has been completed install jumper cables and start engine



Oil Analysis

Oil samples may be collected quarterly for analysis and sent to a lubrication lab in Orem Utah they are an independent company who specialize in oil analysis. The oil analysis is purely for information collection and potential future use to support revision of the O&M Plan.

The oil analysis will consist of the following below parameters for Oil Analysis:

- **Base Number (TBN):** This indicates the oil's ability to neutralize acids formed during engine operation.
 - Total Base Number must be greater than 30 percent of the Total Base Number of the oil when new, if not, oil/oil filter must be changed.
- **Viscosity:** This refers to the oil's thickness and how well it flows at different temperatures.
 - Viscosity of the oil has not changed by more than 20 percent from the viscosity of the oil when new, if not, oil/filter must be changed.
- **Water Content:** The presence of water in the oil can lead to corrosion and other problems.
 - Percent water content (by volume) must be less than 0.5, if not, oil/oil filter must be changed.

NOTE: The oil and oil filter must be changed every 3 months (or 2,200 hours of operation)

4.4 Appendix D: 3-Month Maintenance Procedure

3-Month Maintenance Procedure for Arrow C-101/C-106 Engines

Parts/ Supplies Required:

- 2.5 gallons of Ashless 5w x 30 Engine oil
- 1 Napa 1515 oil filter
- 50/50 coolant.
- 1 D89D champion spark plug

Tools Required:

- Oil filter wrench
- Crescent wrench
- Hose to drain used oil with $\frac{3}{4}$ " and $\frac{1}{2}$ " pipe fittings
- Rags
- $\frac{7}{8}$ " deep socket and ratchet
- $\frac{3}{4}$ " end wrench
- $\frac{9}{16}$ " socket or end wrench
- Flat head screwdriver
- $\frac{7}{16}$ " open end wrench
- Feeler gauge
- Gasket scraper

Safety:

- Wear safety glasses
- Wear appropriate gloves to avoid oil from contacting skin.
- Wear required Personal Protective Equipment (PPE), (hard hats, steel toe boots, FR clothing)
- Make sure working surfaces are free from oil and slip hazards.

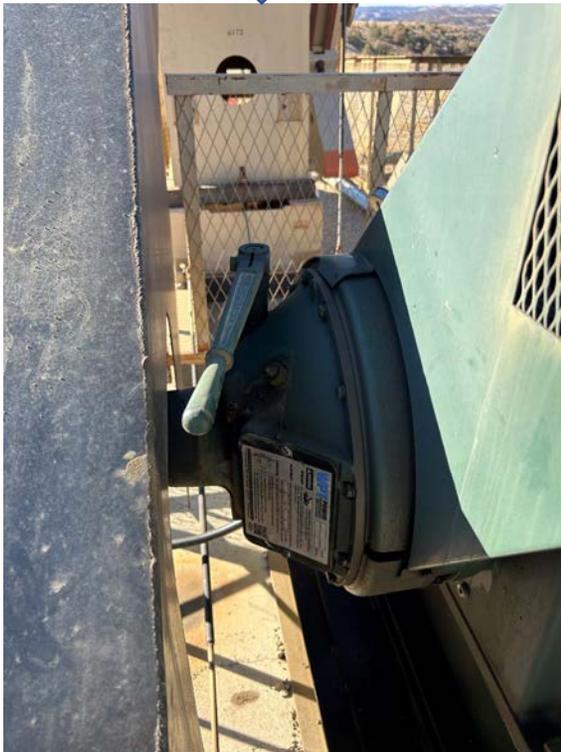
Procedure:

1. Run engine to operating temperature and confirm engine is running within acceptable temperature ranges. If temperature is outside operating range, follow "Arrow Parts Operation and Maintenance Manual", Section 8 Troubleshooting (page 36) for "Engine Heats".
2. If oil pressure falls outside the specified limits, follow "Arrow Parts Operation and Maintenance Manual", Section 8 Troubleshooting (page 37) for "Engine Blows Oil out of Crankcase or valve cover Breather into Air Filter".
3. Shut down pumping unit by disengaging clutch with the pumping unit arms in the downward position
4. Set brake on pumping unit by pulling lever back and installing lock pin.
5. Shut fuel valve on engine and wait for engine to completely stop moving.
6. Drain engine oil by removing drain plug located on bull wheel side next to engine mounting stand, install drain hose to valve and drain oil into an approved container by opening drain valve.
7. After oil is drained remove oil filter located on front of engine on bull wheel side.
8. Install new oil filter
9. Add 2.5 gallons of Ashless 5wx30 engine oil to crankcase.
10. Remove oil bath by turning the lower half of the assembly clockwise while lifting up once oil bath is removed clean sediment from bottom of bowl by using a rag and solvent.
11. After oil bath has been cleaned add new 5wx30 engine oil to bowl to the oil level mark, install oil bath back by lifting upwards and turning bowl counterclockwise.

12. Remove the 4 screws and brass tubing from top of carburetor and inspect diaphragm for tears or oil, clean and replace as needed install 4 screw and brass tubing.
13. Remove valve cover breather from valve cover by removing hose and turning breather counterclockwise once removed unscrew top of breather and clean filter element and assemble in reverse steps.
14. Inspect ignition wire look for cracks, loose or missing boots if damaged replace wire.
15. Remove spark plug wire from spark plug, using a 7/8" socket and ratchet wrench remove spark plug and inspect plug for damage and re gap if possible if spark plug cannot be reused replace spark plug with new plug and gap spark plug to 0.20. install spark plug using socket and ratchet wrench and install spark plug wire back on spark plug.
16. Inspect coolant level in radiator level should be in middle of sight glass on top or radiator hose add fluid if needed by removing radiator cap and adding fluid, when fluid is added install radiator cap on top of radiator.
17. If fan belt is loose, tighten the belt by loosening main nut on hub ½ turn and adjusted the 7/16 bolt on top of fan hub assembly to tighten belt, after belt is at desired tension tighten main fan hub nut back on, make sure fan blades do not make contact with radiator support or radiator.
18. Remove valve cover on back of engine by removing the three 9/16" bolts and one 3/4" nut on end of valve cover, Roll bull wheel to the top-dead-center (TDC) mark and line up the TDC mark with the dimple on side of block, adjust intake and exhaust valve to 0.20 by loosening the nut on the rocker arm stud and setting it to the desired gap tighten the locking nut back in place
19. Clean old gasket material off head and valve cover and install new gasket and reinstall valve cover.
20. Inspect and grease clutch, there are three (3) grease one-way valves "zerks fittings" located on top of clutch, grease these with 2 to 3 pumps of grease.
21. Once tools are removed from area, hook jumper cables up to engine and restart engine, inspect for oil leaks and verify engine has 15 to 40 psi of oil pressure.
22. Disengage clutch and engage brake and verify that well is pumping correctly.

Shut Down Procedure

Step 1: Disengage clutch handle with weights in the downward position



Step 2: Engage brake handle by pulling level downward or towards the back of the pumping unit.



Step 3: Shut fuel off by closing fuel valve.



Step 4: Install drain hose to drain valve located on bottom of engine crankcase located on Bull wheel side.



Step 5: Open valve and drain oil in container once oil is drained close valve and remove hose.



Step 6: Remove oil filter and install new filter.



Filling Engine Crankcase

Step 7: Remove oil fill cap and install 2.5 gallons of engine oil



Step 8: After oil has been filled install caps



Air Oil Bath Cleaning

Step 9: Remove bath assembly by lifting bowl upwards and turning clockwise.



Step 10: Once bowl is removed, pull sediment separator out to clean sediment from bottom of bowl.



Step 11: Clean sediment from bottom of bowl.



- Step 12: Refill oil bath with new engine oil to the oil level mark

Step 13: Install bowl back onto assembly by lifting upwards and turning counterclockwise.



Carburetor and Diaphragm Inspection

Step 14: Remove 4 screw and copper tubing from top of carburetor.



Step 15: Inspect spring for damage.



Step 16: Inspect diaphragm for tears and oil clean and replace as needed, install the top cap back with the 4 screws and copper tubing.



Inspection and cleaning of jet valve

Step 16 continued: Visual inspection and cleaning of jet valve

Visual Inspection

- **Remove the jet** using a suitable tool (usually a flat-head screwdriver or a small socket).
- Hold the jet up to a light to check for blockages.
- You should clearly see **light through the orifice**.

Cleaning the Jet

- If clogged, soak the jet in a solvent such as **carburetor cleaner**.
- Use a **soft bristle brush or compressed air** to clean the orifice.
- Avoid using metal objects like needles or wires, which can damage the precision-sized orifice.
- **Do not enlarge the hole**, as this will alter fuel metering.

Valve Breather Cleaning

Step 17: Remove hose from valve cover breather.

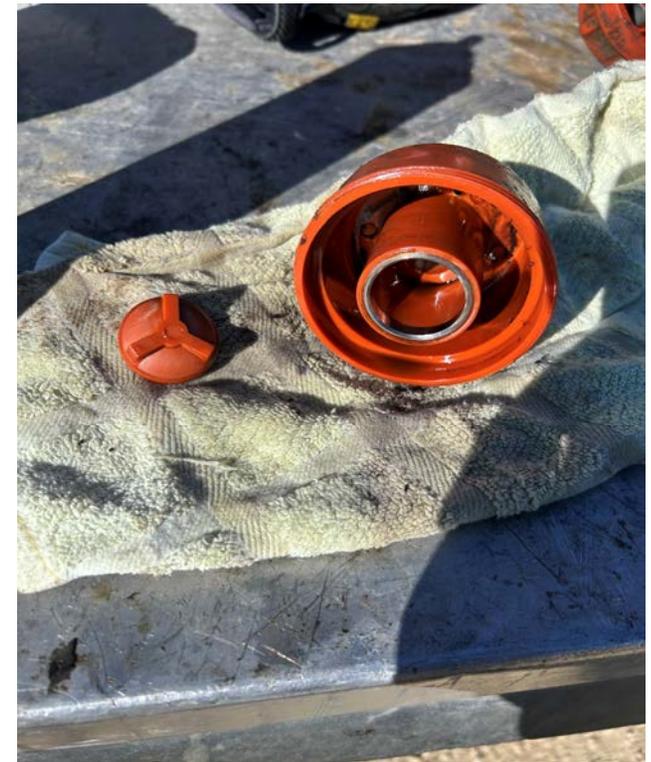
Unscrew top half to clean filter element.



Step 18: Clean filter element and inspect for any damage and replace if needed.



Step 19: Clean breather assembly and reassemble breather in reverse order until everything is tight

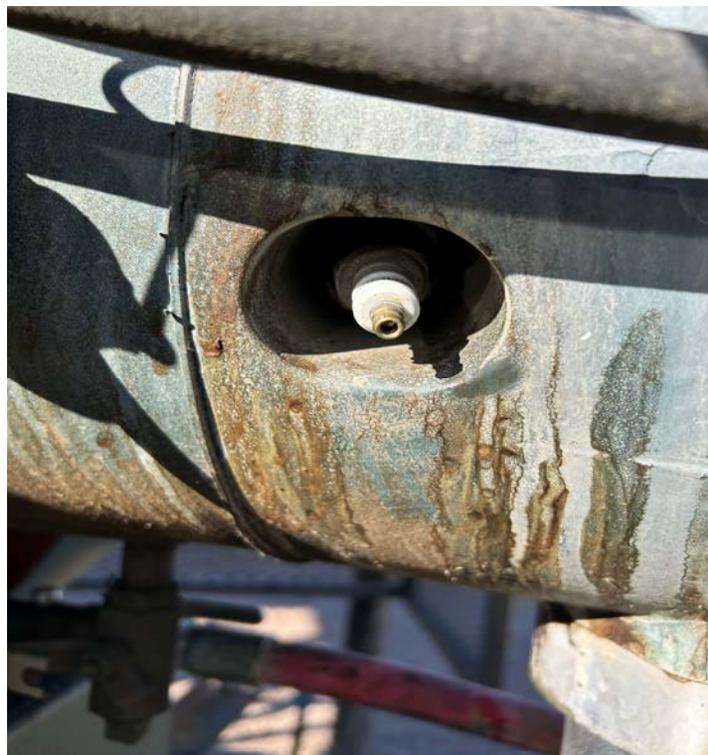


Spark plug inspection

Step 20: Remove spark plug wire, Visually inspect wiring for any cracks or missing spark plug wire boots, replace if any defects are found,

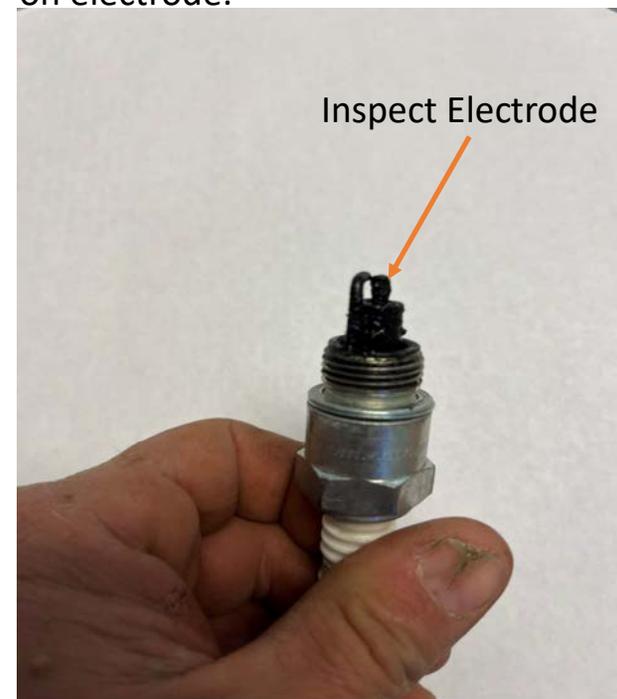


Step 21: Remove spark plug with 7/8" socket and ratchet wrench.



Step 22: Inspect spark plug for damage or carbon build up if electrode is damaged beyond gapping ability replace spark plug.

Clean spark plug with clean rag and remove any oily debris or wire brush to clean any excess carbon build up on electrode.





Step 23:

Gap spark plug to 0.25 and install spark plug back into cylinder with approximately 15-foot pounds of torque and attach spark plug wire.

Radiator and fan inspection

Step 24: Inspect antifreeze level in radiator fluid level should sit in the middle of the sight glass.

Step 25: Add antifreeze to engine by removing radiator cap make sure engine is not hot while removing cap antifreeze could exit top of radiator causing burns.

Step 26: loosen bolt on fan guard to access the adjustment bolt to tighten or loosen belt.



Fan Belt Adjustment

Step 27: loosen main fan hub nut
½ turn to adjust belt tension

Step 28: adjust bolt clockwise to
tighten belt, counterclockwise to
loosen belt



Belt should not flop or slip
it should be able to pull a
load.

After adjusting belt
tension make sure fan
blades do not hit any part
of radiator or radiator
brackets.

After belt has been
adjusted tighten main fan
hub nut to keep fan from
hitting into radiator.

Valve Adjustment

STEP 29: Remove valve cover from engine using a 9/16" and 3/4" socket with ratchet wrench, clean valve cover and inspect for debris.



Step 30: line up the TDC mark with dimple on side of engine block



Step 31: Adjust valves by loosening or tightening studs on rocker arms



Valve Adjustment

Step 32: loosen locknut on rocker arm to adjust valves clearance.



Step 33: adjust intake and exhaust valves to 0.20 and tighten lock nut on rocker arm stud.



Step 34: clean old gasket material, install new gasket and reinstall valve cover and valve cover breather hose.



Clutch Maintenance

Grease one-way valves “zerks” with 3 pumps of grease on each zerk fitting.



Clutch Maintenance



To adjust the clutch tension on the Arrow Engine, follow these steps:

1. Ensure the engine is shut off and the pumping unit is locked out.
 2. Check clutch tension by engaging the clutch. There should be approximately 45 psi of pressure required to engage the clutch.
 3. If the clutch is too loose and needs adjustment:
 - Disengage the locking pin on the clutch (push in).
 - Turn the adjustment nut clockwise to tighten the tension.
 - Turn the adjustment nut counterclockwise to loosen the tension.
- Ensure the adjustments are made carefully to maintain the proper clutch tension

Startup Procedure

Step 35: After service has been completed install jumper cables and start engine



Step 36: verify engine has oil pressure, oil pressure should be between 15 to 40 psi. Inspect engine for any leaks if any leaks are present shut engine down and lock unit out to repair leak.



Step 37: Disengage brake



Step 38: Engage clutch and verify pumping unit is pumping correctly.

