

FACT SHEET
GENERAL PERMITS AND PERMITS BY RULE FOR THE INDIAN COUNTRY
MINOR NEW SOURCE REVIEW PROGRAM

Action

- On December 12, 2013, the U.S. Environmental Protection Agency (EPA) proposed options to simplify the Clean Air Act permitting process for certain smaller sources of air pollution commonly found in Indian country. This action would ensure that air quality in Indian country is protected by facilitating the implementation of the Indian Country Minor Source New Source Review (NSR) Rule issued by EPA in July 2011. Minor sources are typically smaller sources of air emissions.

- As our preferred approach, EPA is proposing draft general permits for new or modified minor sources in the following five categories of emission sources: (1) hot mix asphalt plants; (2) stone quarrying, crushing, and screening facilities; (3) gasoline dispensing facilities; (4) petroleum dry cleaners; and (5) auto body repair and miscellaneous surface coating operations.
 - General permits streamline the existing minor source NSR permitting requirement and minimize the burden on reviewing authorities and sources. General permits standardize requirements that apply to multiple stationary sources with similar emissions characteristics in one document. The owner of one of these types of facilities in Indian country would need to apply to EPA to be covered by the applicable proposed general permits.
 - For three of these source categories, EPA is proposing a shorter application review process (i.e., 45 versus 90 days) and a shorter application form because these source categories are more straightforward and involve primarily one pollutant, volatile organic compounds (VOCs).
 - The source categories are:
 1. Gasoline dispensing facilities;
 2. Petroleum dry cleaners; and
 3. Auto body repair and miscellaneous surface coating operations.

- As an alternative, EPA is proposing permits by rule for new or modified minor sources in the same three source categories (gasoline dispensing facilities, petroleum dry cleaners, auto body repair and miscellaneous surface coating operations). A permit by rule is similar to a general permit in that it contains a standard set of requirements that can apply to multiple stationary sources with similar emissions characteristics. It differs from a general permit in that the control and other requirements are established in a source category permit by rule rather than in a general permit document. In addition, the process for a source to seek coverage under a permit by rule is more streamlined compared to a standard general permit, or a site-specific permit. The proposed permits by rule program would allow an individual applicant to notify the reviewing authority that it meets the eligibility criteria for the permit and the permit conditions without having to submit a completed application for review and approval.

- These streamlined approaches to Clean Air Act permitting will protect air quality in Indian country.
- EPA is proposing to extend the permitting deadline for true minor sources within the oil and gas source category from the September 2, 2014 deadline to a date within a range from September 2, 2015 to March 2, 2016.
 - Although EPA has begun work on a general permit for true minor sources in the oil and gas production industry, an extension of the permitting deadline would provide EPA additional time to complete a general permit for this sector.
- In this action, EPA also is seeking comment on:
 - Proposal to change the policy in the Indian Country Minor NSR Rule to allow for the use of general permits (and permits by rule) to create synthetic minor sources;
 - Using more than one general permit or permit by rule for a source at a given location;
 - Using both general permits and permits by rule for sources in the same source category; and
 - Adding the following source categories for which the EPA is planning to propose general permits and/or permits by rule:
 - Boilers; concrete batch plants; engines (spark and compression ignition); landfill operations; oil and gas production and operations; printing operations; and saw mills.
- Along with the permits themselves, EPA is making available, on its website, several implementation documents and tools to assist applicants in completing the permit application forms on which we are requesting comment.
- EPA will accept comment on this proposed rule for 60 days after it is published in the *Federal Register*.

Background

NSR Program Overview

- The purpose of the NSR program is to protect public health and the environment, even as new industrial facilities are built and existing facilities expand. Specifically, its purpose is to ensure that air quality:
 - Does not worsen where the air is currently unhealthy to breathe (i.e. areas that do not meet one or more of the national air quality standards known as nonattainment areas); and
 - Is not significantly degraded where the air is currently clean (i.e. areas that meet the national air quality standards known as attainment areas).
- There are three types of NSR permitting programs, each with a different set of requirements. A facility may have to meet one or more of these sets of permitting requirements.
 - Prevention of Significant Deterioration program applies to a new major source or a source making a major modification in an attainment area.

- Nonattainment NSR program applies to a new major source or a source making a major modification in a nonattainment area.
- Minor NSR program applies to a new minor source and/or a minor modification at both major and minor sources, in both attainment and nonattainment areas.
- An essential element of the three NSR programs, as with any federal air permitting program, is the opportunity for public notice and comment on all permits.

Indian Country NSR Rule

- On June 10, 2011, EPA finalized a Federal Implementation Plan (FIP) to ensure that Clean Air Act permitting requirements are applied consistently to facilities in Indian country.
 - Permits under this rule limit air pollutants such as particle pollution and sulfur dioxide that are associated with numerous health effects.
 - The FIP laid out requirements for EPA to issue air permits to sources of air pollution in Indian country, or to allow tribes to take responsibility for issuing air permits according to EPA's requirements. In addition, the FIP put in place two rules to protect air quality in Indian country: The minor NSR rule applies to new and modified small facilities or to minor modifications at large facilities in all of Indian country.
 - The nonattainment major NSR rule applies to new major sources or major sources that make significant modifications in areas of Indian country that do not meet national clean air health standards.
- Under the rules, a source owner or operator will need to apply for a permit before building a new facility or expanding an existing one if the facility increases emissions above any of the thresholds included in these rules. The permitting authority, either EPA or a tribe, will review the application and grant or deny the air permit. Permits will be open for public notice and comment as part of the review process.
- Tribes that choose to implement the rules can accept delegation of the federal program or they can develop and seek approval of a Tribal Implementation Plan to administer these rules or portions of them, which would include some enforcement authority.

Indian Country Minor NSR Rule

- The minor NSR rule applies to all of Indian country. New or modified industrial facilities with a potential to emit equal to or more than the minor NSR thresholds but less than the major NSR thresholds, generally 100 to 250 tons per year (tpy), are "minor sources" of emissions and subject to the rule requirements.
- The minor NSR program provides three options for obtaining permits. These options are:
 - *Site-specific permits.* A site-specific permit includes case-by-case determinations of the source emissions limits as well as any control technology requirements;
 - *General permits.* A "general permit" is a permit that has been developed for a number of similar equipment types or facilities to simplify the permit issuance process for facilities ; or

- *Synthetic minor permits.* A synthetic minor permit applies to a source that has the potential to emit pollutants in amounts that are at or above the thresholds for major sources, but has voluntarily accepted emissions limitations so that its potential to emit is less than these thresholds.
- In the Indian Country NSR rule of July 2011, the EPA committed to developing general permits, as a streamlined permitting option, for a number of source types in Indian country and to explore other options for improving and streamlining the permit process for sources in Indian country such as permits-by-rule.
- The rule requirements include:
 - Case-by-case review of control technology for source-specific permits by the reviewing authority;
 - Air quality impact analysis upon request by the reviewing authority;
 - Monitoring, recordkeeping and reporting by the source owner or operator;
 - Public participation through public notices and comment requirements, and administrative and judicial review upon a permit appeal; and
 - Source registration with the reviewing authority.

General Permits and Permits by Rule

- General permits and permits by rule can offer a cost-effective means of issuing permits and provide a quicker and simpler alternative mechanism for permitting minor sources than a site-specific permitting process.
- These alternatives to site-specific permits reduce the regulatory burden on sources and reviewing authorities by requiring less information from individual sources applying for a permit than needed for a site-specific permit.
- A general permit contains standardized requirements that multiple stationary sources can utilize. It authorizes a source to construct, modify and operate and contains emissions limitations and other restrictions to govern those activities.
- The EPA may issue a general permit for categories of emissions units or stationary sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar permit requirements. The purpose of a general permit is to provide for protection of air quality while simplifying the permit process for similar minor sources.
- A permit by rule is also a standard set of requirements that can apply to multiple stationary sources with similar emissions characteristics. It differs from a general permit in that a reviewing authority will codify a permit by rule directly into the Indian Country Minor NSR rule. The process for a source to obtain coverage under a permit by rule is more streamlined compared to a standard general permit, or a site-specific permit.

HOW TO COMMENT

- Comments, identified by Docket ID Number EPA-HQ-OAR-2011-0151, may be submitted by one of the following methods:
 - www.regulations.gov: follow the online instructions for submitting comments.
 - Email: Comments may be sent by electronic mail (email) to:
 - a-and-r-Docket@epa.gov.
 - Fax: Fax your comments to: (202) 566-9744.
 - Mail: Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
 - Hand Delivery or Courier: Deliver your comments to: Air and Radiation Docket and Information Center, 1301 Constitution Ave., NW, Room 3334, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

FOR MORE INFORMATION

- To read the proposed action, visit <http://www.epa.gov/air/tribal/tribalnsr.html>.
- Today's proposed rule and other background information are also available either electronically at <http://www.regulations.gov>, the EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room.
 - The Public Reading Room is located in the EPA Headquarters, Room Number 3334, in the EPA West Building, located at 1301 Constitution Ave., NW, Washington, DC. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding federal holidays.
 - Visitors are required to show photographic identification, pass through a metal detector and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.
 - Materials for this action can be accessed using Docket ID EPA-HQ-OAR-2011-0151.
- For further information about the proposed rule, please contact Mr. Christopher Stoneman of the EPA's Office of Air Quality Planning and Standards at (919) 541-0823 or stoneman.chris@epa.gov.