



CLEAN AIR ACT REQUIREMENTS FOR AIR POLLUTION SOURCES IN INDIAN COUNTRY

Air pollution sources in Indian Country require permits

The Clean Air Act (CAA) applies to pollution sources in Indian Country. EPA issues two types of CAA permits in Indian Country – **New Source Review (NSR) Permits**, and **Title V Operating Permits**. This information sheet focuses on NSR permits. NSR permits are required before you construct – this includes construction of entirely new facilities, and expansions, additions, process changes and other modifications at existing facilities.



What are Attainment and Nonattainment Areas?

Attainment areas have good air quality and air pollution levels that are lower than the national air quality standard. Nonattainment areas need to improve air quality because air pollution levels exceed the national air quality standard. The EPA Pacific Southwest (Region 9) Web site¹ contains air quality maps for California, Arizona, Nevada, and the Pacific Islands. Lists of designated nonattainment areas are also available in the EPA Greenbook².



Why do I need an NSR Permit?

NSR permits benefit public health and the environment because they require pollution sources to evaluate air pollution controls and impacts on air quality before construction. **Remember: “construction” includes new facilities and expansions, additions, process changes, and other modifications at existing facilities.** Different requirements under the Clean Air Act may apply, depending on how much pollution the source emits and whether the source is located in an air quality attainment or nonattainment area. Sources in Indian Country do not need permits from state/local air pollution permitting authorities, but federal permit requirements still apply.

¹ http://www.epa.gov/region09/air/maps/maps_top.html

² <http://www.epa.gov/oar/oaqps/greenbk/>

What kind of NSR permit would I need?

How much air pollution does your facility emit?	Attainment status of your location?	Type of permit you may need to obtain	Things to keep in mind
Major source of air pollution (e.g., power plants with large boilers or turbines, cement plants, oil refineries, landfills, sand and gravel operations). See Table 2 for Major Source thresholds.	Attainment	Prevention of Significant Deterioration (PSD)	EPA issues PSD permits in Indian Country.
	Nonattainment	Nonattainment New Source Review (NNSR)	EPA issues NNSR permits in Indian Country ³ . EPA is working on a Tribal NSR Rule to permit major sources in Tribal nonattainment areas, but the rule is not yet finalized.
Minor source of air pollution (e.g., gas stations, casinos with small boilers or diesel generators, paint spray booths). See Table 2 for Minor Source thresholds.	Attainment or Nonattainment	Tribal Minor New Source Review (Minor NSR)	EPA is working on a Tribal NSR rule to permit minor sources in Indian Country, but the rule is not yet finalized. Contact EPA to assess NSR requirements.

Table 1: General flow chart to determine what type of NSR permit you need⁴

The Prevention of Significant Deterioration (PSD) Program:

PSD is the NSR program that applies in attainment areas, and includes requirements for emission limits and air quality modeling to ensure that emissions from the facility do not harm air quality. EPA currently issues PSD permits to major sources in Indian Country in accordance with the Federal PSD program at 40 CFR § 52.21. For more detailed information on PSD requirements, please visit the EPA Pacific Southwest Region Web site at <http://www.epa.gov/region09/air/permit/psd-public-part.html>.

The Nonattainment NSR (NNSR) Program:

The Nonattainment NSR Program is designed to improve air quality while allowing for economic growth. NSR requires the most stringent emission limits and also requires sources to offset increased emissions by reducing emissions elsewhere at the facility, or by obtaining Emission Reduction Credits (ERCs) from nearby facilities.

EPA currently issues Nonattainment NSR permits to major sources in Indian Country in accordance with the Federal Nonattainment NSR program in the Code of Federal Regulations (CFR) at 40 CFR Part 51, Appendix S. EPA is working on the Tribal NSR Rule that will address when offsets are required and other options if no ERCs are available in the area. Until this rule is finalized, EPA will continue to issue Nonattainment NSR permits to sources in Indian Country under Appendix S.

Tribal Minor NSR Program for Attainment and Nonattainment Areas:

For a minor air pollution source, EPA may require you to install pollution control technology and/or require you to conduct an air quality impact analysis. Additional information will be available when EPA publishes the final Tribal NSR Rule. Until the rule is finalized, please contact EPA to determine if your facility needs to obtain a permit.

If you have questions, please contact the EPA Region 9 Air Permits Office:

Anita Lee	(415) 972-3958	Lee.Anita@epa.gov	For NSR Permit Questions
Roger Kohn	(415) 972-3973	Kohn.Roger@epa.gov	For Title V Operating Permit Questions



³ Sources must comply with 40 CFR Part 51, Appendix S in Indian Country until EPA promulgates the Tribal NSR Rule.

⁴ Please contact the EPA Pacific Southwest/Region 9 Air Permits Office for more detailed information on determining the size of your facility, and the attainment status of your location.

How do I apply for a permit?

Please contact the EPA Pacific Southwest/Region 9 Air Permits Office. The staff there can help answer your questions, help determine what regulations and requirements apply, and provide you with a checklist of information you may need to submit in order to process your application.

Title V (5) Operating Permits

After you obtain a PSD or NSR permit, you must submit an application to EPA⁵ for a **Title V (5) Operating Permit (Part 71 Permit)** within 12 months of starting operation. These permits require sources to assure compliance with all requirements that are applicable to your facility. The Title V Operating Permit Program gives the public an opportunity to review and comment on the proposed operating permit, the ability to petition EPA, and the ability to track compliance by reviewing reports and certifications. Operating permits must

be renewed every five years. Additional information about Title V Operating Permits can be found on the EPA Website at <http://www.epa.gov/oar/oaqps/permits/partic/proof.html>.



Table 2: Air pollution emission thresholds by attainment status for Major and Minor Sources in Indian Country. The Minor Source Thresholds were proposed in the Tribal NSR Rule on August 21, 2006. Please note the Final Tribal NSR Rule has not yet been published, and the proposed minor source thresholds (below) and requirements may change.

	ATTAINMENT		NONATTAINMENT		
	MAJOR Source (tpy)	MINOR Source (tpy)	MAJOR Source tons per year (tpy)	Extreme Ozone	Other Nonattainment
Carbon Monoxide (CO)	250 tpy or 100 tpy if source is one of 26 source categories listed in 40 CFR 52.21(b)(1)	10	100 50 (<i>serious</i>)	5	5
Nitrogen Dioxide (NO ₂)		10	100 (<i>marginal/moderate</i>) 50 (<i>serious</i>) 25 (<i>severe</i>) 10 (<i>extreme</i>)	0	5
Sulfur Dioxide (SO ₂)		10	100	5	5
Volatile Organic Compounds (VOC)		5	100 (<i>marginal/moderate</i>) 50 (<i>serious</i>) 25 (<i>severe</i>) 10 (<i>extreme</i>)	0	2
Total Particulate Matter		10	100	5	5
Particulate Matter - 10 microns or less diameter (PM ₁₀)		5	100 (<i>moderate</i>) 70 (<i>serious</i>)	1	1
Particulate Matter - 2.5 microns or less diameter (PM _{2.5})		3	100 (<i>moderate</i>) 70 (<i>serious</i>)	0.6	0.6
Lead (Pb)		0.1	100	0.1	0.1

⁵ If, however, EPA has authorized the tribe to implement the Title V Operating Permit Program, these applications must be submitted to the tribal permitting authority.