

FACT SHEET

GENERAL PERMITS AND PERMITS BY RULE FOR THE FEDERAL MINOR NEW SOURCE REVIEW PROGRAM IN INDIAN COUNTRY FOR FIVE SOURCE CATEGORIES

Action

- On April 17, 2015, the U.S. Environmental Protection Agency (EPA) finalized options to simplify the Clean Air Act permitting process for certain smaller sources of air pollution commonly found in Indian country. This action ensures 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.
- The EPA is finalizing general permits for use in Indian country for new or modified minor sources in two source categories: (1) hot mix asphalt plants and (2) stone quarrying, crushing, and screening facilities.
 - General permits streamline the existing minor source NSR permitting requirement and minimize the burden on reviewing authorities and sources. General permits standardize requirements in one document that apply to multiple stationary sources with similar emissions characteristics.
- The EPA is also finalizing permits by rule for use in Indian country for new or modified minor sources in three source categories: (1) auto body repair and miscellaneous surface coating operations; (2) gasoline dispensing facilities (GDFs), except for Indian country within the borders of California; and (3) petroleum dry cleaning facilities.
 - 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 codified in a source category permit by rule rather than in a general permit document.
 - In addition, we are codifying the procedures for issuing permits by rule for minor sources. For a source seeking coverage under a permit by rule, the process is more streamlined compared to a standard general permit, or a site-specific permit. The permits by rule program allows an individual source 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.
 - The GDF Permit by Rule will not be available for use in Indian country within the borders of California because EPA Region 9 will be creating a separate general permit or permit by rule for GDFs in the state that is tailored to address its unique air quality concerns.
- Along with the general permits and permits by rule for true minor sources, the EPA is finalizing the use of general permits to create synthetic minor sources. Because permits

by rule do not provide for the same level of review, the EPA is not finalizing the use of permits by rule to create synthetic minor sources.

- EPA is making available a number of tools to assist sources in understanding and utilizing this action's final permits.

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 June 2011 Minor NSR Rule applies on reservations unless EPA has approved a non-federal minor NSR program as applying in a particular area.
 - It does not apply in non-reservation Indian country unless a particular tribe, or EPA acting on behalf of the tribe, has demonstrated that the tribe has jurisdiction. As a result, EPA does not currently have minor NSR permitting authority in non-reservation areas of Indian country, and general permits issued under the Indian Country Minor NSR rule would not be immediately available in such areas.
- 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, 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; and
 - *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 Minor NSR Rule, 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.

FOR MORE INFORMATION

- Today's rule and additional background information and tools are available at: <http://www.epa.gov/air/tribal/tribalnsr.html>.
- Information also is available at EPA's electronic public docket and comment system, (<http://www.regulations.gov>), using Docket ID EPA-HQ-OAR-2011-0151.
- The rule and materials also are available in hard copy at the EPA Docket Center's Public Reading Room, room 3334 in the EPA West Building, located at 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. The telephone number for the Public Reading Room is (202) 566-1744.
 - Visitors to the Public Reading Room are required to show photo identification, pass through a metal detector and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine. Visitors will be provided a badge that must be visible at all times.