

TITLE 12. AIR QUALITY REGULATIONS

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TITLE 12: AIR QUALITY REGULATION
SUBTITLE 12.1 GENERAL PROGRAM

§ 1. Scope

~~This Clean Air Program consists of three distinct regulatory components:~~

- ~~(1) the Tribal Implementation Plan (TIP) consisting of federally enforceable preconstruction permitting programs that:

 - ~~(a) address attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) pursuant to section 110 of the Clean Air Act (The Act, 42 U.S.C. §7410), and~~
 - ~~(b) allows a Source that otherwise has the Potential to Emit (PTE) Hazardous Air Pollutants (HAPs) in amounts at or above those for major sources of HAP (40 CFR 63.2) to request federally enforceable permit limitations to restrict the Source's PTE to below those of a Major HAP Source;~~~~
- ~~(2) Tribal only rules that are intended to ensure facility compliance with other obligations under The Act; and other;~~
- ~~(3) programs that the Administrator may approve or may delegate regulatory authority to the Mashantucket Pequot Tribal Nation Air Quality Program (MPTN AQP) for implementation.~~

§ 2. Applicability

- a. Requirements stated within this Title are applicable to any Person who owns, operates or seeks to construct a Stationary Source of Air Pollutants within Mashantucket.
- b. The effective date of this regulation is October 11, 2018.

§ 3. Legal Authorities

- a. ~~Federal Recognition - The Mashantucket Pequot Tribe was recognized in 1983 by Congressional legislation (Pub.L. 98-134, § 9, Oct. 1St, 1983-97 Stat 855, Title 25 U.S.C.A. § 1751-1760).~~
- b. ~~Tribal Authority to Regulate Air Quality~~
 - ~~(1) Tribal Council Resolution (TCR) 102600-01 of 02 resolved, "that the Mashantucket Pequot Tribal Council desires to protect the air quality of the regional airshed by establishing Primary Regulatory Authority and creating a Tribal Air Quality Program."~~
 - ~~(2) Pursuant to the stated desire of TCR102600-01 of 02, an application for Treatment in a similar manner As a State (TAS), under section 301 of the Clean Air Act (42 U.S.C. § 7601), was submitted to Region 1 of the Environmental Protection Agency (EPA) on May 4, 2005. EPA issued the favorable eligibility determination to administer a tribal implementation plan under section 110 of The Act (42 U.S.C. §7410) and Title V of the CAA (42 U.S.C. §7661 et seq.) on July 10, 2008.~~
 - ~~(3) TRC091605-01 of 01 approved a draft Tribal Implementation Plan (TIP) and established procedures to make modifications to the TIP, as necessary, based on public and EPA comment subject to final Tribal Council approval.~~
 - ~~(4) TCR060806-06 OF 14 adopted the Global Policy for Air Permitting that specified the applicability and review procedures for incorporating "Best Available Control Technology" within permits issued by the MPTN AQP.~~
 - ~~(5) TCR TCR101118-05 of 05 adopted 47 M.P.T.L., Clean Air Program, which created the MPTN Air Quality Program (AQP), defines the AQP's authority to permit and enforce, and details the procedures required to adopt regulations.~~

§ 4. Definitions

a. As used in this Title, all terms not defined herein will have the meaning given them within the Clean Air Act. The specific interpretation of terms defined within the Clean Air Act may be subject to EPA policy, memoranda, and guidance. Further, the meaning of such terms may evolve through subsequently promulgated procedures or standards. Therefore, in the event that a term defined in this regulation may become inconsistent with the term further defined within the Clean Air Act, or contradictory to the current interpretation by EPA at that time, the EPA-accepted meaning shall govern.

b. Definitions

- (1) “The Act” or “Clean Air Act” means 42 U.S.C. §7401 et seq., as amended.
- (2) “Administrator” means the Administrator United States Environmental Protection Agency (EPA) or an authorized representative.
- (3) “Air Pollutant” means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and by-product material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any Air Pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term Air Pollutant is used.
- (4) “Air Quality Program” or “AQP” means the regulatory body within the Mashantucket Pequot Tribal government which has been delegated authority over air pollution.
- (5) “Attainment Pollutant” means any Air Pollutant, and pollutants identified as constituents or precursors for that pollutant, for which Mashantucket has been designated as an Attainment or Unclassifiable Area.
- (6) “Attainment or Unclassifiable Area” means for any Air Pollutant, an area designated as attainment or unclassifiable under §107(d)(1)(B) of The Act (42 U.S.C. §7407).
- (7) “Authorized Representative” means, as it pertains to a permittee, an individual selected by the Owner/Operator who is approved to represent the entity in aspects related to this Clean Air Program. The Authorized Representative shall be responsible for, or oversee those individuals responsible for, emissions calculations, submittal of applications, and compliance assurance under this program.
- (8) “Building, Structure, Facility or Installation” means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same “major group” (i.e. which have the same first two-digit code) as described in the Standard Industrial Classification Manual, as amended.
- (9) “Construction” means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an Emissions Unit) that would result in a change in emissions.
- (10) “Commence” means, as applied to a new Stationary Source or Modification at an Existing Source, that the Owner or Operator has all necessary preconstruction approvals or permits and either has:
 - (a) begun on-site activities including, but not limited to, installing building supports and foundations, laying underground piping or erecting/installing permanent storage structures. The following preparatory activities are excluded: engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, grading, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel; or
 - (b) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual Construction of the source to be completed within a reasonable time.
- (11) “Day” means calendar day unless otherwise specified.
- (12) “Enforceable as a Practical Matter” means that an Emission Limitation or other standard is both legally and practicably enforceable as follows.

- (a) An Emission Limitation or other standard is legally enforceable if the Reviewing Authority has the right to enforce it.
 - (b) Practical enforceability for an Emissions Limitation or for other standard (e.g. design standards, equipment standards, work practices, operational standards, or pollution prevention techniques) in a permit for a source is achieved if the permit's provisions specify:
 - (i) a limitation or standard and the Emissions Units or activities at the source subject to the limitation or standard;
 - (ii) the time period for the limitation or standard (e.g., hourly, daily, monthly and/or annual limits such as rolling annual limits); and
 - (iii) the method to determine compliance, including appropriate monitoring, recordkeeping, reporting and testing.
 - (c) For rules and general permits that apply to categories of sources, practical enforceability additionally requires that the provisions:
 - (i) identify the types or categories of sources that are covered by the rule or general permit;
 - (ii) where coverage is optional, provide for notice to the Reviewing Authority of the source's election to be covered by the rule or general permit; and
 - (iii) specify the enforcement consequences relevant to the rule or general permit.
- (13) “Hazardous Air Pollutant” or “HAP” means any Air Pollutant listed in or pursuant to section 112(b) of The Act (42 U.S.C. §7412(b)).
- (14) “Mashantucket” means lands that are part of the Mashantucket (Western) Pequot Reservation and trust lands validly set aside for use of the Mashantucket Pequot Tribe.
- (15) “National Ambient Air Quality Standard” or “NAAQS” means the ambient air quality standards the Administrator has promulgated pursuant to section 109 of The Act (42 U.S.C. §7409).
- (16) “Nonattainment Area” means, for any Air Pollutant, an area which is designated as a “nonattainment area” under §107(d)(1)(B) of The Act (42 U.S.C. §7407).
- (17) “Nonattainment Pollutant” means any Air Pollutant, and pollutants identified as a constituents or precursors for that pollutant, for which Mashantucket has been designated as a Nonattainment Area.
- (18) “Owner or Operator” or “Owner/Operator” means any Person who owns, leases, operates, controls, or supervises a Facility, Building, Structure, or Installation, which directly or indirectly results or may result in emissions of any Air Pollutant for which a national or Tribal standard is in effect.
- (19) “Person” shall mean any Tribal Member, Tribal employee, individual, partnership, firm, company, contractor or subcontractor, corporation, association, organization, estate, governmental entity or any other legal entity or its representative, agents or assigns. Use of the singular shall also include the plural.
- (20) “Reviewing Authority” means, unless otherwise specified, the Air Quality Program as defined within paragraph b(4) of this section.
- (21) “Stationary Source” or “Source” means any Building, Structure, Facility, of Installation which emits or may emit a pollutant subject to the requirements of this title.

SUBTITLE 12.2 NEW SOURCE REVIEW – MPTN TIP**CHAPTER 1. GENERAL PROVISIONS****§ 1. Scope**

This Tribal Implementation Plan (TIP) establishes a preconstruction permitting program for new and modified Stationary Sources located within Mashantucket.

- (1) It provides a mechanism for an otherwise major source to voluntarily accept Emission Limitations to restrict its Potential to Emit and become a Synthetic Minor Source.
- (2) It provides the option for major Stationary Sources, seeking to minimize permitting complexities associated with major new source review, to establish a Plant Wide Applicability Limitation within an Actuals PAL permit.
- (3) It sets forth the criteria and procedures that the AQP will use to administer the program.

§ 2. Applicability

a. Requirements of this TIP are applicable to any Person who owns, operates, seeks to construct or plans to modify a Stationary Source of Air Pollutants located within Mashantucket.

- (1) If you Begin Actual Construction of a New Source or Modification that is subject to this subtitle without applying for and receiving a permit pursuant to this subtitle, you will be subject to appropriate enforcement action.
- (2) If you do not construct or operate your source or Modification in accordance with the terms of your permit, you will be subject to appropriate enforcement action.

b. Issuance of a permit under this subtitle does not relieve any owner or operator of the responsibility to comply fully with applicable provisions of this TIP and any other requirements under tribal or federal law.

§ 3. Definitions

a. As used in this subtitle, all terms not defined herein will have the meaning given them within the Clean Air Act except that, where it occurs, the word “State” shall be replaced by the word “Tribe,” “Tribal,” or “Mashantucket” as applicable. The term incorporated by reference shall mean as may be amended from time to time.

- (1) For sources of Regulated NSR Pollutants in Attainment or Unclassifiable Areas, the definitions in 40 CFR §52.21, to the extent that they are used in this subtitle, are incorporated by reference.
- (2) For sources of Regulated NSR Pollutants in Nonattainment Areas, the definitions in 40 CFR Part 51, Appendix S, to the extent that they are used in this subtitle, are incorporated by reference.
- (3) For sources of HAP, the definitions in 40 CFR §63.2, to the extent that they are used in this subtitle, are incorporated by reference.

b. The following definitions apply to this subtitle.

- (1) “Actual Emissions” means:
 - (a) 40 CFR Part 51, Appendix S, paragraph II.A.13 for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21, paragraph (b)(21) for any Attainment Pollutant.
- (2) “Actuals PAL” means the definition specified in:
 - (a) 40 CFR Part 51, Appendix S, paragraph IV.K.2(i) for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21, paragraph (aa)(2)(i) for any Attainment Pollutant.
- (3) “Affected Emissions Units” means, excluding those Exempt Minor NSR Emissions Units and Activities at a Minor Source, the following Emissions Units, as applicable.
 - (a) For a proposed New Source, all the Emissions Units.

- (b) For a proposed Modification, the new, modified and replacement Emissions Units involved in the Modification.
- (4) “Allowable Emissions” means the definition specified in:
 - (a) 40 CFR Part 51, Appendix S, paragraph II.A.11 for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21, paragraph (b)(16) for any Attainment Pollutant.
- (5) “Begin Actual Construction” means:
 - (a) 40 CFR Part 51, Appendix S, paragraph II.A.17 for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21, paragraph (b)(11) for any Attainment Pollutant.
- (6) “Emergency Engine” means any stationary engine that meets the following criteria.
 - (a) The Emergency Engine is operated to provide electrical power or mechanical work during an emergency situation. Examples include a stationary engine used to produce power for critical networks or equipment (including power supplied to portions of a Facility) when electric power from the local utility (or the normal power source, if the Facility runs on its own power production) is interrupted, or a stationary engine used to pump water in the case of fire or flood, etc.
 - (b) The Emergency Engine may also be operated under limited circumstances as specified, as amended from time to time, in 40 CFR §63.6640(f).
- (7) “Emission Limitation” means a requirement established by the AQP, or Administrator, that limits the quantity, rate or concentration of emissions of Air Pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emissions reduction and any design standard, equipment standard, work practice, operational standard or pollution prevention technique. Emission Limitations must be Enforceable as a Practical Matter.
- (8) “Emission Standard” means any applicable New Source Performance Standard in 40 CFR Part 60, any applicable National Emission Standard for Hazardous Air Pollutants in 40 CFR Parts 61 or 63, and any federal standard for designated facilities and pollutants in 40 CFR Part 62, in all cases as amended from time to time, which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment, work practice, or operational standard adopted under The Act.
- (9) “Emissions Unit” means the definition specified in:
 - (a) 40 CFR Part 51, Appendix S, paragraph II.A.7 for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21, paragraph (b)(7) for any Attainment Pollutant.
- (10) “Exempt Minor NSR Emissions Units and Activities” means the following Emissions Units and activities at a source:
 - (a) mobile sources;
 - (b) ventilating units for comfort that do not exhaust Air Pollutants into the ambient air from any manufacturing or other industrial processes;
 - (c) cooking of food, except for wholesale businesses that both cook and sell cooked food;
 - (d) consumer use of office equipment and products;
 - (e) janitorial services and consumer use of janitorial products;
 - (f) internal combustion engines used for landscaping purposes;
 - (g) bench scale laboratory activities, except for laboratory fume hoods or vents;
 - (h) single family residences and other residences with four or fewer dwelling units;
 - (i) Emergency Engines, designed solely for the purpose of providing electrical power during power outages, when the total maximum manufacturer's site-rated horsepower (HP) for all units is below 500.
 - (j) stationary internal combustion engines with a manufacturer's site-rated horsepower of less than 50 HP;
 - (k) furnaces or boilers used for space heating that use only gaseous fuel, with a total maximum heat input (i.e., from all units combined) of 5 million British thermal units per hour (MMBtu/hr) or less; and
 - (l) air conditioning units used for human comfort that do not exhaust Air Pollutants in the atmosphere from

any manufacturing or other industrial processes.

- (11) “Existing Source” means:
- (a) for the purposes of initial compliance on the effective date of this TIP, a Stationary Source at which Construction, Modification, or reconstruction was Commenced before that effective date; and
 - (b) for the purpose of assessing compliance after the effective date of this TIP, any Stationary Source which is not a New Source.
- (12) “Fugitive Emissions” means emissions of an air contaminant, which could not reasonably pass through a stack, vent, chimney or other functionally equivalent opening.
- (13) “Greenhouse Gases” or “GHGs” means the aggregate group of six Greenhouse Gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs).
- (14) “Major HAP Source” means any Stationary Source or group of Stationary Sources located within a contiguous area and under common control that emits or has the Potential to Emit, considering controls, any Hazardous Air Pollutant, which has been listed pursuant to section 112(b) of the Act, in the aggregate:
- (a) 10 tons per year or more of any Hazardous Air Pollutant, or
 - (b) 25 tons per year or more of any combination of Hazardous Air Pollutants,
 - (c) unless the Administrator establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this definition.
- (15) “Major NSR Source” means:
- (a) for the purpose of evaluating Nonattainment Pollutants, Major Stationary Source as defined at 40 CFR Part 51, Appendix S, paragraph II.A.4; and
 - (b) for the purpose of evaluating Attainment Pollutants, Major Stationary Source as defined at 40 CFR §52.21, paragraph (b)(1).
- (16) “Minor Modification” means the following.
- (a) A Modification at a Major NSR Source which, after determining that the Modification is not a Major Modification, would result in a Net Emissions Increase for the pollutant evaluated, from the actual-to-projected-actual test, equal to or greater than the Minor NSR Threshold.
 - (i) When evaluating Nonattainment Pollutants, Major Modification is defined at 40 CFR Part 51, Appendix S, paragraphs II.A.5.
 - (ii) When evaluating Attainment Pollutants, Major Modification is defined at 40 CFR §52.21(b)(2).
 - (b) A Modification at a Minor Source in which the total increase in Allowable Emissions resulting from the Modification would equal or be greater than the Minor NSR Threshold for that pollutant. The total increase in Allowable Emissions resulting from the Modification is the sum of the following:
 - (i) for each new Emissions Unit that is to be added, the emissions increase would be the Potential to Emit of the Emissions Unit;
 - (ii) for each Emissions Unit with an Allowable Emissions limit that is to be changed or replaced, the emissions increase would be the Allowable Emissions of the Emissions Unit after the change, or replacement, minus the Allowable Emissions prior to the change or replacement. However, this may not be a negative value. If the Allowable Emissions of an Emissions Unit would be reduced as a result of the change or replacement, use zero in the calculation; and,
 - (iii) for each unpermitted Emissions Unit (a unit without any enforceable permit conditions) that is to be changed or replaced, the emissions increase is the Allowable Emissions of the Emissions Unit after the change or replacement minus the Potential to Emit prior to the change or replacement. However, this may not be a negative value. If an Emissions Unit's post-change Allowable Emissions would be less than its pre-change Potential to Emit, use zero in the calculation.
- (17) “Minor NSR Source” means a Stationary Source, which is otherwise not a Synthetic Minor Source or Major NSR Source and, without including Exempt Minor NSR Emissions Units and Activities, has a Potential to

- Emit, any Regulated NSR Pollutant evaluated, equal to or greater than the Minor NSR Threshold.
- (18) “Minor NSR Threshold” means, without including Exempt Minor NSR Emissions Units and Activities, any of the following cutoffs for the applicable Regulated NSR Pollutant evaluated, as measured in tons of pollutant emitted per year (tpy).
- (a) Nitrogen oxides (NO_x), 10
 - (b) Volatile Organic Compounds, 5
 - (c) Carbon monoxide (CO), 10
 - (d) Sulfur dioxide (SO₂), 10
 - (e) Particulate Matter, 10
 - (f) PM₁₀, 5
 - (g) PM_{2.5}, 3
 - (h) Lead, 0.1
 - (i) Fluorides, 1
 - (j) Sulfuric acid mist, 2
 - (k) Hydrogen sulfide (H₂S), 2
 - (l) Reduced sulfur compounds (incl. H₂S), 2
 - (m) Municipal waste combustor emissions, 2
 - (n) Municipal solid waste landfill emissions, 10
(as nonmethane organic compounds)
 - (o) Any other limit that may become applicable in the event that an attainment designation for Mashantucket is changed by the Administrator.
- (19) “Minor Source” means any Stationary Source of Regulated NSR Pollutants that is not a Major NSR Source.
- (20) “Modification” means:
- (a) any physical or operational change at a Stationary Source that would cause:
 - (i) an increase in the Allowable Emissions of any Minor Source;
 - (ii) an increase in the Actual Emissions (based on the applicable test under the major NSR program) of a Major NSR Source for any Regulated NSR Pollutant; or
 - (iii) the emission of any Regulated NSR Pollutant not previously emitted.
 - (b) Allowable Emissions of a Minor Source include Fugitive Emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or § 52.21(b)(1)(iii), as applicable.
 - (c) The following exemptions apply:
 - (i) a physical or operational change does not include routine maintenance, repair or replacement;
 - (ii) an increase in the hours of operation or in the production rate is not considered an operational change unless such change is prohibited under any permit condition that is Enforceable as a Practical Matter; and
 - (iii) a change in ownership at a Stationary Source.
- (21) “New Source” means a Stationary Source on which Construction, Modification, or reconstruction was Commenced after the effective date of the TIP.
- (22) “Plantwide Applicability Limitation” or “PAL” means the definition specified in:
- (a) 40 CFR Part 51, Appendix S, paragraph IV.K.2(v) for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21, paragraph (aa)(2)(v) for any Attainment Pollutant.
- (23) “Potential to Emit” or “PTE” means the maximum capacity of a 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 or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is Enforceable as a Practical Matter. Secondary Emissions do not count in determining the Potential to Emit of a source.

- (24) “Regulated NSR Pollutant” means the definition specified in:
 - (a) 40 CFR Part 51, Appendix S, paragraph II.A.31 for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21 paragraph (b)(50) for any Attainment Pollutant.
- (25) “Secondary emissions” means the definition specified in:
 - (a) 40 CFR Part 51, Appendix S, paragraph II.A.8 for any Nonattainment Pollutant; and
 - (b) 40 CFR §52.21, paragraph (b)(18) for any Attainment Pollutant.
- (26) “Stack” means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
- (27) “Synthetic Minor Source” means a source that otherwise has the Potential to Emit Regulated NSR Pollutants or HAPs in amounts that are at or above those defining a Major NSR Source or Major HAP Source, but that has taken restrictions, in the form of Emission Limitations, so that its Potential to Emit is less than such amounts.

§ 4. Plan Revisions

The Air Quality Program may revise the TIP from time to time provided such changes are:

- (1) consistent with, and adopted following the requirements specified within 47 M.P.T.L. ch. 1, §4;
- (2) consistent with the requirements applicable to implementation plans under section 110 of The Act (42 U.S.C. § 7410);
- (3) submitted to the Administrator, with a certification that the public participation procedures outlined in 47 M.P.T.L. ch. 3, §1 were followed, no later than sixty (60) Days after adoption; and
- (4) approved by the Administrator.

§ 5. Public Participation

a. Public Comment Required

- (1) The AQP must provide opportunity for public comment on all draft permits and public record prior to permit issuance; except that the procedures outlined in this section are not required for:
 - (a) sources seeking coverage under a general permit; and,
 - (b) administrative permit revisions; however,
 - (c) the AQP may determine that public participation is warranted for these actions when taking into consideration the duration of the operation, its location, the nature and projected amount of emissions, anticipated public concern, or any other relevant factors.
- (2) While additional applicable requirements and procedures may be specified within subsequent chapters of this subtitle, at a minimum, the opportunity for public participation on a permit shall include:
 - (a) availability, in the area affected by the air pollution source, of the draft permit and associated public record, as described in paragraph e. of this section, for public inspection;
 - (b) public notice, as provided under paragraph b. of this section, describing the availability of the documents for review and the opportunity to comment;
 - (c) a comment period, no less than thirty (30) Days commencing upon the date of notice publication, for the public to provide comments regarding the draft permit;
 - (d) a thirty (30) day period for EPA to review commencing upon the date a copy of the required notice is provided to the Administrator through the appropriate Regional Office; and
 - (e) if required by paragraph c. of the section, or if the AQP determines that comments received were significant and warrant such, a public hearing for tentative approval of the permit shall be held with notice provided as specified below in paragraph c of this section.

b. Public Notice

- (1) The AQP shall notify the public of a draft permit by a method described in either paragraph b(1)(a) or b(1)(b) of this section. The selected method, known as the “consistent noticing method,” shall comply with the public participation procedural requirements of 40 CFR §51.161, as amended from time to time, and be used for all permits issued under this subtitle and may, when appropriate, be supplemented by other noticing methods on individual permits.
 - (a) Post the information in paragraphs b(1)(a)(i) through (iii) of this section, for the duration of the public comment period, on a public Web site identified by the reviewing authority.
 - (i) A notice of availability of the draft permit for public comment;
 - (ii) the draft permit; and
 - (iii) information on how to access the administrative record for the draft permit.
 - (b) Publish a notice of availability of the draft permit for public comment in a newspaper of general circulation in the area where the source is located. The notice shall include information on how to access the draft permit and the administrative record for the draft permit.
- (2) All public notices issued under this subpart shall contain the following minimum information:
 - (a) name and address of the permitting authority processing the permit;
 - (b) name and address of the permittee or permit applicant and, if different, of the Facility regulated by the permit, except in the case of draft general permits;
 - (c) activity or activities involved in the permit action;
 - (d) emission changes involved in any permit revision;
 - (e) name, address, and telephone number of a person whom interested persons may contact for instructions on how to obtain additional information (e.g. a copy of the draft permit, the statement of basis, the application, relevant supporting materials, or other materials available to the permitting authority that are relevant to the permitting decision);
 - (f) brief description of the comment procedures required by paragraph c of this section, a statement of procedures to request a hearing (unless a hearing has already been scheduled), and other procedures by which the public may participate in the final permit decision; and
 - (g) any additional information considered necessary or proper.
- (3) A public notice of a hearing shall contain the following additional information:
 - (a) date, time, and place of the hearing;
 - (b) brief description of the nature and purpose of the hearing, including the applicable rules and the comment procedures; and
 - (c) reference to the date of any previous public notices relating to the permit.
- (4) Notice of a public hearing may be combined with the notice of tentative permit issuance.

c. Public comments and requests for public hearings.

- (1) During the comment period described within this section, any interested Person may submit written comments and may request a public hearing, if no hearing has been scheduled.
- (2) A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised at the hearing.
- (3) A record of the comments made and answered during the public participation process shall be maintained by the AQP and made available to the public upon request.
- (4) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the AQP may take one or more of the following actions:
 - (a) prepare a new draft permit, appropriately modified;
 - (b) prepare a revised statement of basis, and reopen the comment period; or
 - (c) reopen or extend the comment period to give interested public persons an opportunity to comment on the information or arguments submitted.

- (5) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused the reopening. The public notice shall define the scope of the reopening.
 - (6) All comments shall be considered in making the final decision regarding issuance of the permit.
- d. Public hearings
- (1) Public notice of hearings shall be given as described in paragraph b(1) and include the content specified in b(2)-(3) of this section.
 - (2) Whenever a public hearing is held, the AQP shall designate a Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.
 - (3) Any public person may submit oral or written statements, and data applicable to the purpose of the hearing. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period shall be automatically extended to the close of any public hearing under this section. The Presiding Officer may also extend the comment period further by so stating at the hearing.
 - (4) Records will be kept of the hearing which shall contain a list of witnesses and the comments of each witness.
- e. Public Record
- (1) With the exception of any material determined to be confidential pursuant to paragraph e(2) of this section, the AQP must make available for public inspection the documents listed in (a) through (e) of this paragraph.
 - (a) Permit applications including any supporting materials submitted with the application (e.g. the applicant's control technology review);
 - (b) any additional information requested by the AQP;
 - (c) the AQP's analysis of the application, including any analysis of the effect of the construction of the source or modification on ambient air quality;
 - (d) for coverage under a general permit, the AQP's analysis of whether your particular emissions unit or source is within the category of emissions units or sources to which the general permit applies (i.e. meets any criteria to be eligible for coverage under the general permit); and
 - (e) a copy of the draft permit or the decision to deny the permit with the justification for denial.
 - (2) Confidential Information entitled to protection under § 114(c) of the Clean Air Act (42 U.S.C. § 7414(c)).
 - (a) An applicant or permittee required to submit information entitled to protection from disclosure under a claim of confidentiality:
 - (i) may submit the material separately;
 - (ii) shall precisely identify the material for which the confidentiality claim is asserted; and,
 - (iii) shall provide sufficient supporting information to allow evaluation of that claim.
 - (b) All confidentiality claims made regarding material submitted to the AQP shall be evaluated under 40 CFR Part 2, Subpart B, as amended from time to time. Information which is emission data, a standard or limitation, or is collected pursuant to § 211(b)(2)(A) of the Clean Air Act (42 U.S.C. § 7545) is not eligible for confidential treatment, as provided in 40 CFR § 2.301(e).

§ 6. Global Permit Provisions

- a. The following provisions shall be incorporated as conditions within all permits issued pursuant to this subtitle.
 - (1) The permittee shall, at all times, properly operate and maintain the sources and systems of treatment and control, and the appurtenances related to them which are installed or used by the permittee to achieve compliance with the conditions of the permit.
 - (a) Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.
 - (b) It is not a defense for you, as the permittee in an enforcement action, that it would have been necessary

to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

- (2) A violation by the Owner/Operator of any Emission Limitation, Emission Standard or any other condition contained in a permit shall subject the Owner/Operator to any or all enforcement penalties, including permit revocation, available under the Clean Air Program. No subsequent permit will be issued until violations have been resolved to the satisfaction of the AQP.
- (3) Permit conditions will be quantifiable and Enforceable as a Practical Matter. The permit shall contain monitoring, record keeping, and reporting conditions sufficient to determine ongoing compliance.
- (4) The permitted source must not cause or contribute to a violation, or interfere with maintenance of, the NAAQS.
- (5) A source shall be in compliance with all applicable tribal or federal air pollution control rules or regulations at the time the New Source or Modification commences operation.
- (6) The issuance of a permit does not prevent the future adoption by the AQP of pollution control rules, standards or orders more stringent than those in existence at the time the permit is issued and does not prevent the enforcement of these rules, standards or orders against the permittee.
- (7) The permit shall include a severability clause to ensure the continued validity of the other portions of the permit in the event of a challenge to a portion of the permit.
- (8) The permit does not convey any property rights of any sort or any exclusive privilege.
- (9) The permittee shall furnish to the AQP, within a reasonable time, any information that the AQP may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. For any such information claimed to be confidential, you must also submit a claim of confidentiality in accordance with 40 CFR Part 2, Subpart B.
- (10) A permit once issued shall become invalid if the Owner/Operator does not Commence Construction within 18 months after the effective date of the permit, if Construction is discontinued for a period of 18 months or more, or if Construction is not completed within a reasonable time. The AQP may extend the 18 month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between Construction of the approved phases of a phased project; you must Commence Construction of each such phase within 18 months of the projected and approved commencement date for each phase.
 - b. A permit may be revised, reopened, revoked and reissued or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and re-issuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - c. If the permit, or coverage under a general permit, is denied, the reasons for such denial and the procedures for appeal, as outlined in subtitle 12.4, ch. 3, shall be provided in writing.

§ 7. Permit Fees

- a. The permit fees shall be as specified within subtitle 12.4, chapter 1 of this title.
- b. Applications shall not be acknowledged as received until the application fee is collected.
- c. If, pursuant to subtitle 12.4, chapter 1, §2, a permit issuance fee is required, the AQP shall not issue the permit until that fee is paid in full.

§ 8. ReOpening of Issued Permits

- a. The AQP may reopen an existing, currently-in-effect permit, for cause on its own initiative, such as if the permit contains a material mistake or fails to assure compliance with applicable requirements.
- b. No permit, subject to the public participation procedures specified within §5 of this chapter, shall be reopened without providing the opportunity for public participation equal to that specified prior to the initial permit issuance.

§ 9. Administrative Permit Revisions

- a. An administrative permit revision is a permit revision that makes any of the following changes:
- (1) corrects typographical errors;
 - (2) identifies a change in the name, address or phone number of any person identified in the permit or provides a similar minor administrative change at the source;
 - (3) allows for a change in ownership or operational control of a source where the provisions of §10 of this chapter are satisfied;
 - (4) requires more frequent monitoring or reporting by the permittee;
 - (5) establishes an increase in an Emissions Unit's annual Allowable Emissions limit for a Regulated NSR Pollutant, when the action that necessitates such increase is not otherwise subject to the permitting requirements within this subtitle;
 - (6) establishes an Emission Limitation for a replacement unit when the Construction of which does not trigger the need for a new permit; or
 - (7) incorporates any other type of change that the Reviewing Authority has determined to be similar to those in paragraphs a(1)-(6) of this section.
- b. An administrative permit revision is not subject to the permit application, issuance, public participation or administrative and judicial review requirements of this TIP.

§ 10. Change in Ownership

A permit is valid only for the Emissions Unit(s), Owner/Operator, Facility, mode of operation and special conditions stated in the application, or permit. The Owner/Operator can transfer the permit to a new Owner/Operator by seeking an administrative permit revision, as specified in §9 of this chapter, if:

- (1) the mode of operation and emissions do not change;
- (2) the AQP determines that no other change in the permit is necessary; and
- (3) a written agreement between the current and new permittee is submitted to the AQP containing the specific date for transfer of permit responsibility, coverage, and liability.

CHAPTER 2. MINOR NEW SOURCE REVIEW**§ 1. Purpose**

a. The purpose of this section is to establish a preconstruction permitting program, for new Minor NSR Sources and Minor Modifications at Stationary Sources, that meets the requirements of section 110(a)(2)(C) of the Act (42 U.S.C. § 7410(a)(2)(C)); and to,

b. establish a mechanism for an otherwise major source to voluntarily accept restrictions on its potential to emit to become a synthetic minor source. This mechanism may also be used by an otherwise Major HAP Source to voluntarily accept restrictions on its potential to emit to become a synthetic minor HAP source.

§ 2. Applicability

a. Owners/Operators of the following Stationary Sources must apply for and be granted a permit pursuant to this chapter prior to Beginning Actual Construction:

- (1) new Minor NSR Sources;
- (2) Existing Sources seeking to undertake a Minor Modification; and,
- (3) any Existing Source proposing a physical or operational change at a permitted source that would increase an

Emissions Unit's allowable emissions of a Regulated NSR Pollutant above its existing annual allowable emissions limit must obtain a permit revision to reflect the increase in the limit prior to making the change.

- (a) For physical or operational changes that otherwise are not subject to review under this subtitle, such increase in the annual allowable emissions limit, may be accomplished through an administrative permit revision as provided in Ch. 1, § 9a(5) and (6) of this subtitle.
- (b) Physical or operational changes to existing units, or units that replace existing units, for which short-term emission limits had been established must remain compliant, after the change, with those Emission Limitations; otherwise, the permit revision shall not be issued administratively and is subject to the same public participation and administrative and judicial review requirements as stipulated for a Minor NSR permit.

b. Owners/Operators proposing to construct a new source which meets the requirements of a General Permit issued by the MPTN AQP may seek coverage under the provisions specified within §4 of this chapter.

c. Owners/Operators of a new Synthetic Minor Source or an Existing Synthetic Minor Source proposing a Modification, which is not a Major Modification, must obtain a new Synthetic Minor Source permit pursuant to §5 of this chapter prior to Beginning Actual Construction of the Modification.

d. Owners/Operators proposing a Modification at a Facility that maintains its total source-wide emissions for each pollutant evaluated below a Plantwide Applicability Limit (PAL) and that meets the requirements and is in compliance with their PAL permit.

§ 3. Minor NSR Source Permits

a. Program Requirements

- (1) No Person shall Beginning Actual Construction of any new Minor NSR Source subject to the provisions of this section without first obtaining a permit to construct.
- (2) No Person shall Beginning Actual Construction on a Modification subject to the provisions of this section without:
 - (a) first obtaining a permit to construct; or
 - (b) if the provisions in §2, paragraph a(3)(a) of this chapter are applicable, obtaining an administrative permit revision pursuant to chapter 1, §9 of this subtitle.

b. Applications

- (1) Applications for permits must include the following information, as applicable:
 - (a) Facility information
 - (i) name of the air pollution source and the nature of the business,
 - (ii) street address, telephone number, and facsimile number of the air pollution source,
 - (iii) contact information, including name, mailing address, telephone number, and email information, for:
 - 1. owner/operator;
 - 2. local individual responsible for compliance with the TIP, if different; and
 - 3. individual authorized to receive requests for data and information, if different;
 - (iv) four digit SIC Code(s) for the Facility;
 - (v) typical Facility operating schedule, including number of hours per day, number of days per week, and number of weeks per year; and
 - (b) a listing of each Emissions Unit including:
 - (i) make and model number;
 - (ii) description of process or function including:
 - 1. type of fuels, including maximum heat input nameplate rating of the unit; and,
 - 2. if applicable, type and maximum estimated quantity of raw materials used or amount of final

- product produced on an annual basis;
 - (iii) any manufacturer provided emission information such as emission factors or other guarantees;
 - (iv) a designation of units that are Emergency Engines (subtitle 12.2, ch. 1, § 3b(6)); and
- (c) Detailed unit specific information for all Affected Emissions Units, including:
- (i) additional fuel usage detail, including the following:
 1. sulfur and ash content of the fuel, as applicable;
 2. amount of BTUs per gallon, cubic foot, or ton;
 3. actual annual usage in gallons, cubic feet, or tons; and
 4. solid fuels only, the moisture content;
 - (ii) where the fuel burning device is a boiler:
 1. boiler serial number;
 2. burner specific information including the manufacturer; burner model number; burner serial number; burner type; potential burner fuel flow rate in gallons per hour, millions of cubic feet per hour, or tons per hour;
 3. the actual boiler's nameplate gross heat input rating in millions of BTUs per hour, as affixed by the manufacturer; and
 4. type of combustion for the boiler; and
 - (iii) where the fuel burning device is an internal combustion engine or combustion turbine:
 1. serial number;
 2. potential fuel flow rate;
 3. engine output kilowatt or horsepower rating; and
 4. reason for use;
 - (iv) for a unit of processing or manufacturing equipment:
 1. a brief description of the operational characteristics and history of the device;
 2. the process throughput for raw materials, including the following:
 - a. description of raw materials;
 - b. actual and potential amount of raw materials entering the process in pounds per hour; and
 - c. actual annual throughput in tons per year;
 3. the process throughput for all coatings and solvents, including the following:
 - a. description of coatings and solvents;
 - b. the percentage of weight of solvents in coatings;
 - c. the reason for use;
 - d. the actual and potential amount utilized in pounds per hour; and
 - e. actual annual usage in tons per year;
 - (v) for storage tanks containing fuel or volatile organic compounds:
 1. a brief description of the operational characteristics and history of the storage tank, including the following:
 - a. description of the installation including the dates Construction and operation commenced; and
 - b. location, whether aboveground or underground;
 2. a description of the tank, including the following:
 - a. type; height; diameter; roof slope; color; type of insulation;
 - b. if it is heated, the tank temperature;
 - c. if it is lined, the liner type;
 - d. capacity; and throughput;
 3. for variable vapor space systems, a description of all shipments made to the tank, including the

- following:
- a. the actual number of shipments into the tank per year;
 - b. the actual volume of each shipment;
 - c. the potential volume expansion capability of variable vapor space in gallons; and
 - d. the pressure-vacuum vent settings;
4. liquid information, including the following:
- a. type; molecular weight;
 - b. average bulk liquid temperature;
 - c. true vapor pressure; and
 - d. average density;
- (vi) stack information, including the following:
1. the inside diameter at the exit of the stack, in feet, or stack exit area, in square feet;
 2. whether the stack is capped or otherwise restricted;
 3. stack exit orientation;
 4. discharge height above ground level in feet;
 5. exhaust temperature in degrees Fahrenheit;
 6. exhaust flow in actual cubic feet per minute;
 7. exhaust velocity in feet per second;
 8. identification of any other units utilizing the stack;
 9. whether any unit is equipped with multiple stacks;
 10. the type of stack monitoring used if any.
- (vii) a description of the pollution control equipment, if any, and the effect of such equipment, including the following:
1. description of the pollutants both entering and exiting the control equipment, including the following:
 - a. description of the material;
 - b. temperature of the material in degrees Fahrenheit;
 - c. actual and potential rates of entering emissions in pounds per hour;
 - d. actual and potential rates of annual entering emissions in tons per year; and
 - e. the method used to determine entering emissions;
 2. equipment control and capture efficiency and method of efficiency verification; and
 3. operational characteristics, such as the following:
 - a. volume of gas through the unit;
 - b. temperature of gas through the unit;
 - c. percentage of carbon dioxide and/or oxygen in the gas;
 - d. amount of pressure drop, or water or liquid recycle rate;
 - e. amount of voltage; spark rate; and milliamps; and
- (viii) a description and characterization unit emissions, including the following:
1. the Potential to Emit for each Regulated NSR Pollutant and HAP; and
 2. an estimate of the Actual Emissions for each Regulated NSR Pollutant and HAP; including,
 3. all calculations with emission factor utilized and source for that emission factor; and
- (ix) A case-by-case control technology review
1. For simply packaged units that combust only natural gas or equivalent include a reference, for a similar or identical source, to a previous control technology determination demonstrated acceptable to the MPTN AQP, or which appears in the most current RACT/BACT/LAER clearinghouse publication; otherwise
 2. submit a complete control technology analysis for each Air Pollutant subject to this policy, including but not limited to, secondary and cumulative impacts and cost estimates of all control

- options, or the use of innovative technology;
- (d) A description and characterization of the total facility emissions, including the following:
 - (i) type of emissions;
 - (ii) potential pounds per hour and tons per year;
 - (iii) actual pounds per hour and tons per year; and
 - (iv) support data, including the following:
 - 1. a copy of all calculations used in determining emissions;
 - 2. a site plan to scale of the facility showing:
 - a. locations of all emission points;
 - b. dimensions of all buildings, including roof heights;
 - c. the Facility's property boundary; and
 - 3. a copy of the USGS map, properly identified, which shows the facility's location.
 - (e) Air Quality Impact Analysis (AQIA)
 - (i) If the AQP has reason to be concerned that the Construction or Modification of the Minor Source would cause or contribute to a NAAQS violation, it may require the Owner/Operator to conduct and submit an AQIA.
 - (ii) If required, the applicant must conduct the AQIA using the dispersion models and procedures of 40 CFR Part 51, Appendix W, as amended from time to time. Reports must include an electronic submittal of all data input files in a format that is executable utilizing public domain versions of the model algorithm or software approved by the AQP.
 - 1. If CO or NO_x are the pollutants of concern, modeling shall include, at minimum, a screening analysis to demonstrate compliance.
 - 2. If either PM₁₀, PM_{2.5} or SO₂ are the pollutants of concern, a more refined air dispersion modeling analysis will be required to demonstrate compliance with NAAQS.
 - (f) any other information specifically requested by the AQP.
- (2) Certification - all applications, reports and notices must include a certification signed by the Authorized Representative as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and beliefs formed after reasonable inquiry, the statements and information are true, accurate, and complete to the best of his/her knowledge and belief.
- (3) For New and Existing Sources, the Actual Emissions estimates must be based upon actual test data or, in the absence of such data, upon procedures acceptable to the AQP. Any emission estimates submitted to the AQP must be verifiable using currently accepted engineering criteria. The following procedures, in order of preference, are generally acceptable for estimating emissions from air pollution sources:
- (a) source-specific emission tests;
 - (b) material/mass balance calculations;
 - (c) published, verifiable, and/or equipment vendor supplied emission factors that are applicable to the source;
 - (d) other engineering calculations; or
 - (e) other procedures to estimate emissions specifically approved by the AQP and authorized by the EPA.
- c. Review Criteria
- (1) The AQP shall act on the permit application as expeditiously as possible concluding a completeness review and rendering a final decision within the time periods specified with subtitle 12.4, ch. 2 of this title.
 - (2) The AQP will conduct a case-by-case control technology review, described within Appendix I to this title, to determine the appropriate level of control, if any, necessary to assure that NAAQS are achieved.
 - (a) The AQP, when carrying out this case-by-case control technology review, will consider the following factors:
 - (i) local air quality conditions;

- (ii) typical control technology or other emissions reduction measures used by similar sources in surrounding areas;
 - (iii) anticipated economic growth in the area; and
 - (iv) cost-effective emission reduction alternatives.
 - (3) If the AQIA reveals that Construction or Modification of your source would cause or contribute to a violation, or interfere with maintenance of, the NAAQS, the AQP must require the applicant to reduce or mitigate such impacts before it can issue a permit.
 - (4) Draft permits will be provided to the applicant for comment prior to proceeding with any required public participation procedures stipulated within ch. 1, §5 of this subtitle.
- d. Permit Conditions
 - (1) Permits are issued based on the production/process rate and hours of operation requested in the permit application. The AQP may modify these operational limitations, or any other requested permit condition, to create federally enforceable, Enforceable as a Practical Matter permit conditions.
 - (2) Permits will specify Emission Limitations for each Regulated NSR Pollutant and/or HAP emitted by applicable Affected Emissions Units at the source.
 - (a) Emission Limitations established by the AQP may consist of: numerical limits on the quantity, rate or concentration of emissions; pollution prevention techniques; design standards; equipment standards; work practices; operational standards; requirements relating to the operation or maintenance of the source; or, any combination thereof.
 - (b) The Emission Limitations established by the AQP will:
 - (i) assure that each Affected Emissions Unit will comply with all applicable Emission Standards as well as any other TIP requirements that apply to the unit; and,
 - (ii) not be affected in a manner by so much of a Stack's height as exceeds good engineering practice or by any other dispersion technique, except as provided in 40 CFR §51.118(b), as amended from time to time. If the AQP proposes to issue a permit to a source based on a good engineering practice stack height that exceeds the height allowed by 40 CFR §51.100(ii)(1) or (2), it must make available to the public the demonstration study and provide opportunity for a public hearing according to the requirements of ch. 1, §5d of this subtitle.
 - (c) The Owner/Operator shall take all appropriate actions to prevent emissions which will result in violation of any applicable Emission Limitation Standard.
 - (3) Permits shall contain all the provisions specified within ch. 1, §6 of this subtitle.
- e. Monitoring, Reporting and Recordkeeping
 - (1) Monitoring Requirements - The permit must include monitoring requirements sufficient to assure compliance with the Emission Limitations and annual Allowable Emissions limits that apply to the Affected Emissions Units at the source. The AQP may require, as appropriate, any of the following requirements:
 - (a) direct emissions or parametric monitoring, including analysis procedures, test methods, periodic testing, instrumental monitoring and non-instrumental monitoring. Such monitoring requirements shall assure use of test methods, units, averaging periods and other statistical conventions consistent with the required Emission Limitations; and
 - (b) as necessary, requirements concerning the use, maintenance and installation of monitoring equipment or methods.
 - (2) Recordkeeping Requirements
 - (a) The permit must include recordkeeping requirements sufficient to demonstrate compliance with the monitoring requirements.
 - (b) Records of required monitoring information must include, as appropriate:
 - (i) the location, date and time of sampling or measurements;

- (ii) the date(s) analyses were performed;
 - (iii) the company or entity that performed the analyses;
 - (iv) the analytical techniques or methods used;
 - (v) the results of such analyses; and,
 - (vi) the operating conditions existing at the time of sampling or measurement.
- (c) All required monitoring data, including support information for the monitoring sample, measurement, report or application, must be retained for a minimum of five (5) years. Support information may include all calibration and maintenance records, all original strip-chart recordings or digital records for continuous monitoring instrumentation and copies of all reports required by the permit.
- (d) The Owner/Operator shall compile and maintain records of any event that results in a violation of an applicable Emission Limitation or Emissions Standard. Such records must fully describe the cause of the violation and the reason(s) the violation was unavoidable, including:
- (i) identification of unit or units involved;
 - (ii) date, time and duration of the event;
 - (iii) whether the event was caused by maintenance, malfunction, emergency or other activity;
 - (iv) identification of each limitation or standard exceeded including the specific Air Pollutant(s) involved; and, estimated emission rate during the event; and
 - (v) description of any best management practices employed to limit emissions during the event.
- (3) Reporting Requirements - The permit must include the following reporting requirements.
- (a) Annual submittal of monitoring reports required under paragraph e(1) of this section, including the type and frequency of monitoring and a summary of results obtained by monitoring.
 - (b) Actual Emissions reported must be based upon actual test data or in the absence of such data, upon procedures acceptable to the AQP. Any emission estimates submitted to the AQP must be verifiable using currently accepted engineering criteria. The procedures identified in paragraph b(3) of this section are generally acceptable for estimating emissions from air pollution sources.
 - (c) The Owner/Operator shall report all events that result in a violation of any applicable Emission Limitation or Emission Standard to the AQP. Reports shall contain all information described within paragraph e(2)(d) of this section and any other applicable information to explain the reason(s) the violation was unavoidable.
 - (i) In the event that the violation occurs due to a malfunction, the Owner/Operator shall:
 1. Notify the AQP by telephone or electronic mail as soon as possible during normal working hours, but, in any event, not later than two (2) working days after becoming aware that the malfunction occurred, and
 2. Within thirty (30) Days thereafter, shall submit a written report to the AQP describing the malfunction. In addition to the monitoring, reporting and recordkeeping requirements specified within the permit, the report shall describe the corrective action(s) taken to correct the malfunction and the steps taken to mitigate the condition(s) which lead to the malfunction.
 - (ii) Depending on the severity of the deviation and the Air Pollutants emitted, the AQP may also require the Owner/Operator to include in the report an estimate of the maximum ground level concentration of each Air Pollutant emitted and the potential effect of such on public health.
 - (iii) Sources with units subject to an Emission Standard that requires continuous stack monitoring and reporting to the Administrator do not need to prepare separate incident reports of monitor malfunction or startup/shutdown conditions for those units but must copy the AQP on all reports provided to the Administrator.

§ 4. General Permits

a. Purpose

- (1) This section specifies the minimum content which must be included when the MPIN AQP issues a general permit to establish permit conditions for similar Minor Sources of Air Pollutants thus eliminating the need

for case-by-case permit development.

- (2) This section also details the procedures required of an Owner or Operator to obtain coverage under a general permit issued by the AQP.

b. Applicability

- (1) The AQP, when issuing a general permit shall comply with the provisions set forth in 47 M.P.T.L. ch. 2, §5b.
- (2) A general permit shall, at minimum contain the information specified within paragraph c. of this section.
- (3) Owners/Operators who require a Minor NSR Source permit under the provisions set forth in §3 of this chapter may alternately seek coverage under a general permit issued by the MPTN AQP provided that:
 - (a) the source type is consistent with that identified within a general permit issued by the MPTN AQP, and
 - (b) the Owner/Operator complies with all provisions established within that general permit.

c. General Permit

A general permit must include the following elements:

- (1) Identification of the specific category of Emissions Units or sources to which the general permit applies, including any criteria that the Emissions Units or source must meet to be eligible for coverage under the general permit.
 - (a) The permit must include the Emission Limitations determined by the AQP under §3d(2) of this chapter for each Affected Emissions Unit.
 - (b) If an Affected Emissions Unit is issued an Enforceable as a Practical Matter Emission Limitation lower than the Potential to Emit of that unit, the permit must include an annual Allowable Emissions limit for each Regulated NSR Pollutant emitted by the unit.
- (2) Information required by applicants requesting coverage under a general permit, including, but not limited to:
 - (a) the name, mailing address and email information of the AQP to whom applications must be submitted;
 - (b) the information that must be provided in your application to demonstrate eligibility for coverage under the general permit; and,
 - (c) other requirements deemed necessary by the AQP.
- (3) The effective date(s) of the general permit and rules concerning renewing coverage under the general permit.
- (4) Monitoring, reporting and recordkeeping specified within §3e of this chapter, as applicable.
- (5) Additional permit provisions as described in ch. 1, §6 of this subtitle, as applicable.
- (6) The fee required for processing the request for general permit coverage as specified within subtitle 12.4, ch. 1 of this title.

d. Procedures for obtaining general permit coverage.

- (1) An Owner/Operator proposing to construct a Minor Source which qualifies for a general permit issued by the AQP, may request program coverage by following the procedures established within the general permit. The AQP shall act on the request for coverage under the general permit as expeditiously as possible concluding a completeness review and rendering a final decision within the time periods specified in subtitle 12.4, ch. 2 of this title.
- (2) The AQP will notify the applicant of the approval or denial for coverage under a general permit.
 - (a) The effective date of the permit coverage shall be the date of the notice.
 - (b) The notice is a final action for purposes of judicial review only for the issue of whether the source qualifies for coverage under the general permit.
 - (c) A copy of an approval notice must be posted in a prominent location at the site where the source is located by the Applicant.
- (3) If the AQP has sent a letter approving the request for coverage under a general permit, the Owner/Operator must comply with all conditions and terms of the general permit. The Owner/Operator will be subject to

enforcement action for failure to obtain a preconstruction permit if he/she constructs the Emissions Unit(s) or source with general permit approval and the source is later determined to not qualify under the conditions and terms of the general permit.

- (4) Any source eligible to request coverage under a general permit may request to be excluded from the general permit by applying for a permit under §3 of this chapter.

§ 5. Synthetic Minor Source Permits

a. Purpose

This section specifies additional requirements for sources seeking Synthetic Minor Source status within a permit issued pursuant to this chapter.

b. Applicability

- (1) This section is applicable to any Owner/Operator of a Stationary Source, which would otherwise be classified as Major NSR Source or Major HAP Source, who wants to request a Synthetic Minor Source permit to establish Emission Limitations that limit the sources PTE to below major source thresholds.
- (2) A source that is issued a permit and becomes a Synthetic Minor Source under this section but remains a Major Source for Title V purposes continues to be subject to the applicable Title V program provisions. In addition, a Synthetic Minor Source is subject to all applicable tribal rules, regulations, Emission Standards and other requirements.

c. Request for Synthetic Minor Source Status

- (1) The Owner/Operator who chooses to request Synthetic Minor Source status shall make such a request within an application for a minor source permit as required by §3 of this chapter.
- (2) In addition to the requirements contained in §3b of this chapter, applications shall include:
 - (a) For each Emissions Unit to be covered by an Emissions Limitation, proposed methods to limit and/or restrict the Potential to Emit of each Regulated NSR Pollutant and/or HAP, including:
 - (i) identification of the Emissions Units;
 - (ii) a detailed description of the production processes;
 - (iii) the proposed Emission Limitation and a description of its effect on Actual Emissions or the Potential to Emit. Emission Limitations must have a reasonably short averaging period, taking into consideration the operation of the source and the methods to be used for demonstrating compliance;
 - (iv) proposed testing, monitoring, recordkeeping and reporting requirements to be used to demonstrate and assure compliance with the proposed limitation;
 - (v) description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
 - (vi) estimates of the Allowable Emissions and/or Potential to Emit that would result from compliance with the proposed limitation, including all calculations for the estimates for each emission unit; and
 - (vii) any other information specifically requested by the AQP.
 - (b) Information not otherwise required within §3b(1)(c) for Exempt Minor NSR Emissions Units and activities.
- (3) As part of the application's completeness determination described in §3c(1), the AQP shall reach a determination regarding whether it is appropriate to proceed with the applicant's request for Synthetic Minor Source status.

d. Permit Conditions for Synthetic Minor Sources

- (1) Permits issued to Synthetic Minor Sources shall contain all the provisions specified within §3d of this chapter for minor source permits, and the additional provisions as described in ch. 1, §6 of this subtitle.
- (2) In addition, all Synthetic Minor Source permits shall contain the following conditions:

- (a) All conditions which restrict a source's Potential to Emit to below major source thresholds (enabling it to become a Synthetic Minor Source) shall be in the form of Emission Limitations as defined within ch. 1, §3b(7) of this subtitle
 - (b) In addition to the reporting requirements specified within §3e(3) of this chapter, permits may require that emission reports include the following information:
 - (i) Source level information, consisting of:
 1. verification of full name of Facility;
 2. verification of parent company name;
 3. verification of street address (physical location) of the Facility;
 4. verification of four digit SIC Plan(s) for the Facility;
 5. calendar year reportable emissions;
 6. total Facility fuel use and fuel sulfur content and heat value (for combustion installations); and,
 7. Fugitive Emissions.
 - (ii) Emission point level information, consisting of:
 1. average hours of operation per day;
 2. weeks of operation per year (seasonal and annual);
 3. hours of operation per year;
 4. percentage annual throughput (percentage of annual activity by season); and,
 5. verification of latitude and longitude and/or UTM coordinates.
 - (iii) Process level information, consisting of:
 1. maximum heat input (for combustion installations);
 2. quantity of fuels consumed (for combustion installations);
 3. estimated actual annual reportable emissions, for each Regulated NSR Pollutant and/or HAP emitted, (in units of pounds per year);
 4. estimated emissions method;
 5. emission factor(s) (if used to determine Actual Emissions);
 6. primary and secondary control equipment identification plan(s);
 7. control efficiencies achieved by the control equipment;
 - a. the control efficiency should reflect the total control efficiency from all control equipment for a specific criteria group (e.g., VOCs and NO_x).
 - b. if the actual control efficiency is unavailable, the design efficiency or the control efficiency limit imposed by a permit shall be used; and,
 8. annual process rate.
 - (iv) Petroleum, volatile organic liquid, and fuel storage and distribution facilities must provide the following additional information:
 1. tank capacity (including maximum and average liquid height, and working volume); and,
 2. throughput associated with tanks and loading racks (including turnovers per year).
 - (c) Certification - all emission reports required pursuant to paragraph (b) above shall include a certification signed by the Authorized Representative as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete to the best of his/her knowledge and belief.
- e. Public Notice
- In addition to the information required in subtitle 2.1, §5b(2), the public notice shall include a description of the proposed Emission Limitations and their effect on the Potential to Emit of the source.

CHAPTER 3. NON-ATTAINMENT MAJOR NEW SOURCE REVIEW

§ 1. Program

a. The purpose of this part is to implement the Nonattainment Major New Source Review (NNSR) program as set forth in §§171 through 193 of the Clean Air Act (42 U.S.C. §§ 7501-7515).

- (1) It requires that Major NSR Sources subject to this program comply with the provisions and requirements of 40 CFR Part 51, Appendix S (Appendix S) and, as specified in §7 of this Chapter, the requirements of §173(c)(1) of the Clean Air Act (42 U.S.C. § 7503(c)(1)).
- (2) Additionally, it establishes that the AQP will use the criteria and procedures stipulated within Appendix S to issue, administer and enforce permits subject to this chapter.

b. While some of the important provisions of Appendix S are paraphrased in various paragraphs of this chapter to highlight them, the provisions of Appendix S, as may be amended from time to time, are hereby incorporated by reference.

c. For the purposes of this chapter, the term SIP as used in Appendix S means this Tribal Implementation Plan (TIP) and the term “State” shall mean the Tribe (Mashantucket Pequot Tribal Nation), Tribal or, as applicable, Mashantucket.

§ 2. Applicability

a. The provisions of this chapter apply to new Major NSR Sources and Major Modifications if, for the applicable Regulated NSR Pollutant evaluated, Mashantucket is currently designated as a Nonattainment Area under 40 CFR §81.307.

- (1) Whether a project constitutes a Major Modification shall be determined by the provisions established in paragraphs IV.I.1(i) through (v) of Appendix S.
- (2) A project that was determined not to be a part of a Major Modification is subject to the provisions specified within Appendix S paragraph IV.J. if:
 - (a) the Owner/Operator had elected to use the method specified in paragraphs II.A.24(ii)(a) through (c) of Appendix S to calculate Projected Actual Emissions; and,
 - (b) there is a Reasonable Possibility, as defined in paragraph IV.J.6, that the project may result in a Significant Emissions Increase of such pollutant.

b. If a Source or Modification is determined to be a Major NSR Source or Major Modification solely by virtue of a relaxation in any enforceable limitation established on the capacity of the Source or Modification otherwise to emit a pollutant, such as a restriction of hours of operation, then the provisions of this chapter shall apply to the Source or Modification as though Construction had not yet Commenced on the Source or Modification.

c. The provisions of this chapter are also applicable to existing Major NSR Sources that seek to establish a Plantwide Applicability Limit (PAL).

§ 3. Definitions

a. For the purposes of this chapter the definitions contained in paragraphs II.A. and IV.K.2 of Appendix S shall apply except that, where it occurs, the word “State” shall be replaced by the word “Tribe,” “Tribal,” or “Mashantucket” as applicable.

b. For the purpose of this chapter, the following additional definitions shall apply:

- (1) “Major NSR Source” means, for the purpose of this chapter, Major Stationary Source as defined at 40 CFR Part 51, Appendix S, paragraph II.A.4.
- (2) “Northeast Ozone Transport Region” means, pursuant to Part D, Subpart 2, Section 184(a) of the Act (42 U.S.C §7511c(a)), the geographical area comprising of the states of:
 - (a) Connecticut;
 - (b) Delaware;
 - (c) Maine;

- (d) Maryland;
- (e) Massachusetts;
- (f) New Hampshire;
- (g) New Jersey;
- (h) New York;
- (i) Pennsylvania;
- (j) Rhode Island;
- (k) Vermont; and
- (l) The Consolidated Metropolitan Statistical Area that includes the District of Columbia;

(3) [Reserved]

§ 4. Program requirements

a. Owners or Operators seeking to construct or modify a source subject to the applicability of this chapter must obtain a permit as specified within this chapter prior to Commencement of Construction of the project.

- (1) If you Begin Actual Construction without applying for and receiving a permit pursuant to this section, you will be subject to appropriate enforcement action.
- (2) If you do not construct or operate your source or Modification in accordance with the terms of your major NSR permit issued under this chapter you will be subject to appropriate enforcement action.
- (3) Issuance of a permit under this chapter does not relieve any owners or operators of the responsibility to comply fully with applicable provisions of this TIP and any other applicable requirements under Tribal or Federal law.

b. The owner or operator of an existing Major NSR Source with a Plantwide Applicability Limit (PAL) shall comply with the provisions of its PAL.

§ 5. Program administration

a. The MPTN AQP will issue, administer and enforce permits subject to this chapter by following the provisions stipulated within 40 CFR Part 51, Appendix S.

b. In accordance with section 173(a)(4) of the Act (42 U.S.C. § 7503(a)(4)), the AQP shall not issue a permit or permits to a Stationary Source to which the requirements of this part apply if the Administrator has determined that the applicable implementation plan is not being adequately implemented for the Nonattainment Area in which the proposed source is to be constructed or modified.

§ 6. Permits

a. Applications

- (1) Nonattainment NSR and Plantwide Applicability Limit (PAL) permit applications required under this chapter shall be submitted in accordance with the requirements contained in Chapter 2, §3b and §5c(2) of this title.
- (2) In addition, an application for a nonattainment NSR permit shall contain all information necessary for the AQP to reach a conclusion that all the approval criteria described in paragraph b of this section are satisfied, in particular:
 - (a) A control technology evaluation to demonstrate that any new major Stationary Source or Major Modification will meet the LAER for all new or modified emission units;
 - (b) A documented plan to obtain creditable emission reduction offsets in accordance with §7 of this chapter;
 - (c) A demonstration showing that all Stationary Sources in Mashantucket, which are owned or operated by such person or any entity controlling, controlled by, or under common control with such person, are subject to Emission Limitations and are in compliance, or are on a schedule for compliance which is federally enforceable or contained in a court decree, with all applicable Emission Limitations and standards under the Act; and

- (d) A demonstration showing that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, Construction, or Modification by providing an analysis of alternative sites, sizes, production processes, and environmental control techniques in accordance with section 173(a)(5) of the Act (42 U.S.C. § 7503(a)(5)).
 - (3) In addition, an application for a permit to establish a PAL shall contain the information required pursuant to Appendix S, paragraph IV.K.3.
- b. Review Criteria
- (1) The general review criteria for permits are provided in Appendix S, paragraph II.B. In summary, that paragraph basically requires the Reviewing Authority to ensure that the proposed new Major NSR Source or Major Modification would meet all applicable emission requirements in this TIP, any currently applicable New Source Performance Standard in 40 CFR part 60 and any applicable national Emission Standards for Hazardous Air Pollutants in 40 CFR part 61 or part 63, in all cases as amended from time to time, before a permit can be issued.
 - (2) The approval criteria or conditions for obtaining a permit under this chapter for Major NSR Sources and Major Modifications are given in part 51, Appendix S, paragraph IV.A. In summary, the requirements are as follows:
 - (a) the lowest achievable emission rate (LAER) requirement for any NSR pollutant subject to this chapter;
 - (b) certification that all sources owned or operated by the applicant within Mashantucket are in compliance or under a compliance schedule;
 - (c) emissions reductions (offsets) requirement, subject to the provisions of Appendix S, paragraph IV.C, for any source or Modification subject to this program;
 - (d) a demonstration that the emission offsets will provide a net air quality benefit in the affected area; and
 - (e) an analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, Construction or Modification.
- c. Emission offset requirement exemption
- (1) Pursuant to section 173(a)(1)(B) of the Act (42 U.S.C. § 7503(a)(1)(B)), under which Major NSR Sources and Major Modifications may be exempted from the offset requirement if they are located in a zone targeted for economic development by the Administrator, in consultation with the Department of Housing and Urban Development (HUD), the MPTN Tribal Council body may seek an exemption from the emission offset requirement (paragraphs b(2)(c) and (d) of this section).
 - (2) In such a situation the AQP could waive the offset requirement for sources and Modifications, provided that:
 - (a) Mashantucket meets the criteria for an economic development zone (EDZ) and the Administrator has approved a request from the Tribe and declared the area an EDZ, and
 - (b) the Tribe demonstrates that the new permitted emissions are consistent with the achievement of reasonable further progress pursuant to section 172(c)(4) of the Act (42 U.S.C. § 7502(c)(4)), and will not interfere with attainment of the applicable NAAQS by the applicable attainment date.

§ 7. Emissions Offsets

- a. Procedures for determining the baseline for emission and air quality offsets is established within Appendix S, paragraph IV.C.
- b. Emissions offsets shall be obtained from offset sources that are located within the same Nonattainment Area, the Greater Connecticut, CT area of which Mashantucket is within, or within another area provided that:
 - (1) the area the offset source is located is of equal or higher nonattainment classification, and,
 - (2) the owner or operator demonstrates that the emissions from that Nonattainment Area, in which the offset source is located, contribute to a violation of the national ambient air quality standard in the Nonattainment Area in which the new or modified source is seeking to locate.

- c. Offsets must be in effect, be ensured by a federally enforceable permit or other federally enforceable document, prior to Commencing Construction and
- d. The required offset ratios are specified within Appendix S, paragraph IV.G.

§ 8. Establishing a PAL

A PAL shall be established, re-opened, renewed, increased, monitored, recorded, and reported in accordance with Appendix S, paragraph IV.K., except that the public participation requirements at paragraph IV.K.5 shall be replaced by §9 of this chapter.

§ 9. Public Participation

- a. This paragraph provides the Public participation procedures, in addition to those provided in ch. 1, §5 of this subtitle, which the AQP must follow prior to the issuance of a permit pursuant to this section.
- b. The AQP shall provide a copy of the public notice to the state and local air pollution control agencies in the affected air quality control region (here, the Connecticut Air Quality Control Region);
- c. The AQP shall make available, regardless of request, either at the Tribal environmental office, a local library or via posting to a publically accessible Web site, the public record. In addition to the content specified in ch. 1, §5e of this subtitle, the public record shall include:
 - (1) the AQP's analysis of the application and any additional information submitted by the applicant, including the LAER analysis and, where applicable, the analysis of emissions reductions (offsets), demonstration of a net air quality benefit in the affected area and analysis of alternative sites, sizes, production processes and environmental control techniques;
 - (2) a copy of the draft permit or the decision to deny the permit with the justification for denial; and
 - (3) all other information described within this section as being part of the administrative record.
- d. The AQP must address all comments in making the final decision.
 - (1) Any person may submit written comments on the draft permit and may request a public hearing. These comments must raise any reasonably ascertainable issue with supporting arguments by the close of the public comment period (including any public hearing).
 - (2) The AQP must keep a record of the commenters and of the issues raised during the public participation process and such records must be available to the public.
- e. The AQP must hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a draft permit. The AQP may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.
 - (1) The AQP must provide notice of any public hearing at least 30 days prior to the date of the hearing.
 - (2) Public notice of the hearing may be concurrent with that of the draft permit and the two notices may be combined.
 - (3) Reasonable limits may be set upon the time allowed for oral statements at the hearing.
 - (4) The AQP must make a tape recording or written transcript of any hearing available to the public.

§ 10. Permit Issuance

- a. If the permit is denied, the reasons for such denial and the procedures for appeal, as outlined in subtitle 12.4, ch. 3, shall be provided in writing.
- b. If the AQP issues a final permit, it shall provide it to the permittee and make a copy of the permit available at any location where the draft permit was made available.
 - (1) In addition, the AQP must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable

access to the decision and supporting materials.

- (2) A final permit becomes effective 30 days after service of notice of the final permit decision, unless:
 - (a) a later effective date is specified in the permit;
 - (b) review of the final permit is requested under subtitle 12.4, ch. 3, §1b(2), in which case the specific terms and conditions of the permit that are the subject of the request for review must be stayed; or
 - (c) the draft permit was subjected to a public comment period and no comments requested a change in the draft permit or a denial of the permit, in which case the AQP may make the permit effective immediately upon issuance.

§ 11. Administrative Record

- a. The AQP must base final permit decisions on an administrative record consisting of:
 - (1) all comments received during any public comment period, including any extension or reopening;
 - (2) the tape or transcript of any hearing(s) held;
 - (3) any written material submitted at such a hearing;
 - (4) any new materials placed in the record as a result of the AQP's evaluation of public comments;
 - (5) other documents in the supporting files for the permit that were relied upon in the decision-making;
 - (6) the final permit;
 - (7) the application and any supporting data furnished by the permit applicant;
 - (8) the draft permit or notice of intent to deny the application or to terminate the permit; and
 - (9) other documents in the supporting files for the draft permit that were relied upon in the decision-making.
- b. The additional documents required under paragraph a. of this section should be added to the record as soon as possible after their receipt or publication by the Reviewing Authority. The record must be complete on the date the final permit is issued.
- c. Material readily available or published materials that are generally available and that are included in the administrative record under the standards of paragraph a of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in that file.
- d. The AQP shall retain this administrative record for a period of not less than five (5) years.

CHAPTER 4. PREVENTION OF SIGNIFICANT DETERIORATION

§ 1. Program

- a. The purpose of this part is to implement the prevention of significant deterioration (PSD) program, as set forth in Sections 160 through 169B of the Act (42 U.S.C. §§ 7470-7492).
 - (1) It requires that Major NSR Sources subject to this program comply with the provisions and requirements of 40 CFR §52.21.
 - (2) Additionally, it establishes that the AQP will use the criteria and procedures stipulated within §52.21 to issue, administer and enforce permits subject to this chapter.
- b. Pursuant to 40 CFR §52.21(g)(1) Mashantucket shall be considered a Class II area.
- c. While some of the important provisions of 40 CFR §52.21 are paraphrased in various paragraphs of this chapter to highlight them, the provisions of 40 CFR §52.21 are hereby incorporated by reference, as may be amended from time to time.
- d. The following paragraphs of 40 CFR §52.21 do not apply for the purposes of this program: Paragraph (a)(1); Paragraph (g); Paragraph (s); Paragraph (t); and Paragraph (u).

e. For the purposes of this chapter, the term “Reviewing Authority” shall replace the word “Administrator” in the paragraphs of 40 CFR §52.21, except in the following paragraphs: Paragraph (b)(17); Paragraph (b)(37)(i); Paragraph (b)(43); Paragraph (b)(48)(ii)(c); Paragraph (b)(50)(i); Paragraph (b)(51); Paragraph (l)(2); and Paragraph (v).

f. For the purposes of this chapter, the term “State implementation plan” as used in 40 CFR §52.21 means this Tribal Implementation Plan (TIP) and the term “State” shall mean the Tribe (Mashantucket Pequot Tribal Nation), Tribal or, as applicable, Mashantucket.

§ 2. Applicability

a. The provisions of this chapter apply to new Major NSR Sources or Major Modifications if, for the applicable Regulated NSR Pollutant evaluated, Mashantucket has been designated as attainment or unclassifiable under 40 CFR §81.307.

- (1) Whether a project constitutes a Major Modification shall be determined by the provisions established in 40 CFR §52.21 paragraph (a)(2)(iv).
- (2) A project that was determined not to be a part of a Major Modification is subject to the provisions specified within §52.21 paragraph (r)(6) if:
 - (a) the Owner/Operator had elected to use the method specified in paragraphs (b)(41)(ii)(a) through (c) of §52.21 to calculate Projected Actual Emissions; and
 - (b) there is a Reasonable Possibility, as defined in paragraph (r)(6)(vi), that the project may result in a Significant Emissions Increase of such pollutant.

b. If a Source or Modification is determined to be a Major NSR Source or Major Modification solely by virtue of a relaxation in any enforceable limitation established on the capacity of the Source or Modification otherwise to emit a pollutant, such as a restriction of hours of operation, then the provisions of this chapter shall apply to the Source or Modification as though Construction had not yet Commenced on the Source or Modification.

c. The provisions of this chapter are also applicable to existing Major NSR Sources that seek to establish a Plantwide Applicability Limit (PAL).

d. This part shall not apply to a Major NSR Source or Major Modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or Modification is located in an area designated as nonattainment under 40 CFR §81.307.

§ 3. Definitions

a. For the purpose of this chapter, the definitions contained in 40 CFR §52.21 paragraphs (b) through (aa)(2), shall apply with the following revisions.

- (1) The term “State” shall mean the Tribe (Mashantucket Pequot Tribal Nation), Tribal or, as applicable, Mashantucket.
 - (2) The definition of “potential to emit” in 40 CFR §52.21(b)(4) shall include the phrase “or enforceable as a practical matter” at the end of the second sentence; and
 - (3) The term “intrastate area,” as used within paragraph (b)(15) of §52.21, shall mean the area within the exterior boundaries of Mashantucket.
 - (4) The definition of “allowable emissions” in 40 CFR §52.21(b)(16) shall not include the word “federally”.
- b. For the purpose of this chapter, the following additional definitions shall apply:
- (1) “Major NSR Source” means, for the purpose of this chapter, Major Stationary Source as defined at 40 CFR §52.21(b)(1).
 - (2) [Reserved]

§ 4. Program requirements

- a. Owners or Operators seeking to construct or modify a source subject to the applicability of this chapter must obtain a permit as specified within this chapter prior to Commencement of Construction of the project.
 - (1) If you Begin Actual Construction without applying for and receiving a permit pursuant to this section, you will be subject to appropriate enforcement action.
 - (2) If you do not construct or operate your source or Modification in accordance with the terms of your major NSR permit issued under this section you will be subject to appropriate enforcement action.
 - (3) Issuance of a permit under this chapter does not relieve any owners or operators of the responsibility to comply fully with applicable provisions of this TIP and any other applicable requirements under Tribal or Federal law.
- b. The owner or operator of an existing Major NSR Source with a Plantwide Applicability Limit (PAL) shall comply with the provisions of its PAL.

§ 5. Permits

- a. Applications
 - (1) PSD and Plantwide Applicability Limit (PAL) permit applications required under this chapter shall be submitted in accordance with the requirements contained in Chapter 2, §3b and §5c(2) of this title.
 - (2) In addition, an application for a PSD permit shall contain all information as follows:
 - (a) a control technology evaluation, in accordance with 40 CFR §52.21(j), to demonstrate that any new major Stationary Source or Major Modification will meet the BACT for all new or modified Emissions Units;
 - (b) a source impact analysis, in accordance with 40 CFR §52.21(k)(1);
 - (c) an air quality analysis in accordance with 40 CFR §52.21(m);
 - (d) source information required in accordance with 40 CFR §52.21(n);
 - (e) additional impact analyses required pursuant to 40 CFR §52.21(o); and
 - (f) a demonstration showing that all Stationary Sources in Mashantucket, which are owned or operated by such person or any entity controlling, controlled by, or under common control with such person, are subject to Emission Limitations and are in compliance, or are on a schedule for compliance which is federally enforceable or contained in a court decree, with all applicable Emission Limitations and standards under the Act; and
 - (3) In addition, an application for a permit to establish a PAL shall contain the information required pursuant to 40 CFR §52.21, paragraph (aa)(3).
- b. Review Criteria

A permit application to comply with PSD or to establish a PAL filed with the AQP pursuant to this chapter shall be reviewed in accordance with the criteria set forth in 40 CFR §52.21(j) – (p).

§ 6. Program administration

- a. The MPTN AQP will issue, administer and enforce permits subject to this chapter by following the provisions stipulated within 40 CFR §52.21.
- b. Permits issued shall state that the Major NSR Source or Major Modification will meet the requirements of 40 CFR §52.21 paragraphs (j) through (r)(5), except paragraph (q).

§ 7. Increment Consumption

- a. The AQP shall periodically perform a review of increases in pollutant concentrations over the Baseline Concentration, as that term is defined in 40 CFR §52.21(b)(13), to determine whether the ambient air increments, as established in 40 CFR §52.21(c), have been violated within Mashantucket.
- b. Within 60 days of the discovery of a violation of an ambient air increment, as established in 40 CFR §52.21(c), the

AQP shall submit to the Administrator a plan for insuring that the violation shall be mitigated as soon as possible.

§ 8. Establishing a PAL

A PAL shall be established, re-opened, renewed, increased, monitored, recorded, and reported in accordance with 40 CFR §52.21, paragraph (aa), except that the public participation requirements shall be replaced by §9 of this chapter.

§ 9. Public Participation

a. This paragraph provides the Public participation procedures, in addition to those provided in ch. 1, §5, which the AQP must follow prior to the issuance of a permit pursuant to this section.

b. The AQP shall provide a copy of the public notice to the state and local air pollution control agencies in the affected air quality control region (here, the Connecticut Air Quality Control Region);

c. The AQP shall make available, regardless of request, either at the Tribal environmental office, a local library or via posting to a publically accessible Web site, the public record. In addition to the content specified in ch. 1, §5e of this subtitle, the public record shall include:

- (1) the AQP's analysis of the application and any additional information submitted by the applicant, including the BACT analysis and, where applicable, the degree of increment consumption that is expected from the source or Modification, and analysis of the effect of the proposed facility on air quality;
- (2) a copy of the draft permit or the decision to deny the permit with the justification for denial; and
- (3) all other information described within this section as being part of the administrative record.

d. The AQP must address all comments in making the final decision.

- (1) Any person may submit written comments on the draft permit and may request a public hearing. These comments must raise any reasonably ascertainable issue with supporting arguments by the close of the public comment period (including any public hearing).
- (2) The AQP must keep a record of the commenters and of the issues raised during the public participation process and such records must be available to the public.

e. The AQP must hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a draft permit. The AQP may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.

- (1) The AQP must provide notice of any public hearing at least 30 days prior to the date of the hearing.
- (2) Public notice of the hearing may be concurrent with that of the draft permit and the two notices may be combined.
- (3) Reasonable limits may be set upon the time allowed for oral statements at the hearing.
- (4) The AQP must make a tape recording or written transcript of any hearing available to the public.

§ 10. Permit Issuance

a. If the permit is denied, the reasons for such denial and the procedures for appeal, as outlined in subtitle 12.4, ch. 3, shall be provided in writing.

b. If the AQP issues a final permit, it shall provide it to the permittee and make a copy of the permit available at any location where the draft permit was made available.

- (1) In addition, the AQP must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials.
- (2) A final permit becomes effective 30 days after service of notice of the final permit decision, unless:
 - (a) a later effective date is specified in the permit;

- (b) review of the final permit is requested under subtitle 12.4, ch. 3, §1b(2), in which case the specific terms and conditions of the permit that are the subject of the request for review must be stayed; or
- (c) The draft permit was subjected to a public comment period and no comments requested a change in the draft permit or a denial of the permit, in which case the AQP may make the permit effective immediately upon issuance.

§ 11. Administrative Record

- a. The AQP must base final permit decisions on an administrative record consisting of:
 - (1) all comments received during any public comment period, including any extension or reopening;
 - (2) the tape or transcript of any hearing(s) held;
 - (3) any written material submitted at such a hearing;
 - (4) any new materials placed in the record as a result of the AQP's evaluation of public comments;
 - (5) other documents in the supporting files for the permit that were relied upon in the decision-making;
 - (6) the final permit;
 - (7) the application and any supporting data furnished by the permit applicant;
 - (8) the draft permit or notice of intent to deny the application or to terminate the permit; and,
 - (9) other documents in the supporting files for the draft permit that were relied upon in the decision-making.
- b. The additional documents required under paragraph a. of this section should be added to the record as soon as possible after their receipt or publication by the Reviewing Authority. The record must be complete on the date the final permit is issued.
- c. Material readily available or published materials that are generally available and that are included in the administrative record under the standards of paragraph a of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in that file.
- d. The AQP shall retain this administrative record for a period of not less than five (5) years.

~~**SUBTITLE 12.3 OPERATING PERMITS**~~

~~**CHAPTER 1. GENERAL PROVISIONS**~~

~~**§ 1. Scope**~~

~~This subtitle establishes requirements for Stationary Sources operating within Mashantucket.~~

- ~~(1) It establishes Source registration requirements to ensure facility compliance and facilitate maintenance of Mashantucket's emission inventory.~~
- ~~(2) It establishes a non Title V Source operating permit program to ensure that Sources, that otherwise would not require a permit, comply with any applicable Emissions Standard requirements.~~
- ~~(3) It specifies the provisions applicable to Title V Sources required to obtain permits to operate consistent with the requirements of Title V of the Act ((42 U.S.C. 7401 et seq.) and defines the Reviewing Authority who will administer the Title V program within Mashantucket.~~

~~**§ 2. Applicability**~~

~~Requirements stated within this subtitle are applicable to any Person who owns, operates or seeks to construct or modify a Stationary Source of Air Pollutants within Mashantucket.~~

- ~~(1) All Stationary Sources are required to maintain an up-to-date registration of Emission Units in accordance with chapter 2 of this subtitle.~~
- ~~(2) All Stationary Sources or Modifications subject to an applicable Emissions Standard must obtain a permit to operate pursuant to chapter 3 of this subtitle, unless:
 - ~~(a) a New Source Review permit is required pursuant to subtitle 12.2;~~
 - ~~(b) a Title V permit is required pursuant to chapter 4 of this subtitle; or~~
 - ~~(c) none of the applicable Emission Standards require post-construction compliance testing and/or reporting (not including simple notification requirements).~~~~
- ~~(3) Stationary Sources required to obtain an operating permit pursuant to Title V of the federal Clean Air Act (42 U.S.C. §§ 7661 to 7661f, incl.) must obtain a Title V permit in accordance with chapter 4 of this subtitle. This obligation is applicable regardless of the Source having previously obtained a New Source Review Permit pursuant to subtitle 12.2.~~

~~**§ 3. Definitions**~~

- ~~a. Unless noted within this subtitle definitions previously defined within this title are applicable.~~
- ~~b. As used in this subtitle, all terms not defined herein will have the meaning given them within the Clean Air Act.
 - ~~(1) For sources of Regulated NSR Pollutants in Attainment or Unclassifiable Areas, the definitions in 40 CFR §52.21 apply to the extent that they are used in this subtitle.~~
 - ~~(2) For sources of Regulated NSR Pollutants in Nonattainment Areas, the definitions in 40 CFR Part 51, Appendix S, paragraph H.A apply to the extent that they are used in this subtitle.~~
 - ~~(3) For sources of HAP, the definitions in 40 CFR §63.2 apply to the extent that they are used in this subtitle.~~
 - ~~(4) For Title V Sources, the definitions in 40 CFR §71.2 apply to the extent that they are used in this subtitle.~~~~
- ~~e. The following definitions apply to this chapter.
 - ~~(1) "Post Operational Requirements" mean, in context of an Emission Standard, requirements stated within an applicable standard other than:
 - ~~(a) pre-operational conditions conditions that apply to purchase or installation (e.g. installation of a non-resettable hour meter for generators); and~~
 - ~~(b) requirements involving notification only (e.g. notification to the Administrator of first fire).~~~~~~

- (2) ~~"Title V Source" means a Stationary Source required to obtain an operating permit, as specified within chapter 4, § 2 of this title, pursuant to Title V of the federal Clean Air Act (42 U.S.C. §§ 7661 to 7661f, incl.).~~

~~CHAPTER 2. MINOR SOURCE REGISTRATIONS~~

~~§ 1. Purpose~~

~~The purpose of this section is to establish reporting requirements and procedures for sources that have not otherwise applied for a permit as specified within this Title.~~

~~§ 2. Applicability~~

a. ~~The Owner/Operator of an Existing Source must, no later than 90 Days after being requested by the AQP, file an initial registration.~~

- ~~(1) Within its request, the AQP shall provide all Source specific information currently within MPTN's emission inventory.~~
- ~~(2) The Owner/Operator must review, correct, and if necessary, supplement the information provided, in accordance with §3 of this chapter, and return it to the AQP.~~
- ~~(3) The AQP may extend the time period to file an initial registration by an additional 90 Days if requested.~~

b. ~~The Owner/Operator of a proposed New Source or a proposed Modification at an Existing Source, which is otherwise not required to obtain a permit pursuant to this Title, must provide all the source specific information specified within §3 of this chapter when applying to the MPTN Land Use Commission (LUC) for a permit.~~

- ~~(1) 14 M.P.T.L. ch. 5, §1, requires that all Land Use Activities obtain a permit from the LUC prior to Commencing the activity.~~
- ~~(2) 14 M.P.T.L. ch. 2, §1(b)(18) defines a Land Use Activity as including activities with the potential to impact natural resources including discharges to air and projects with the potential to cause the release of a polluting substance.~~
- ~~(3) The LUC representative for the Natural Resources Protection discipline shall provide the AQP (if different entities) with all information submitted to the LUC pertinent to this Title and shall cast a veto vote for any LUC permit application involving an Emission Unit whenever the information specified in paragraph c. of this section is not provided.~~
- ~~(4) Pursuant to 14 M.P.T.L. chapter 6, §1, all work permitted by the LUC shall be completed in accordance with plans, specifications and submittals approved by the LUC. Changes require the Commission's review and approval before the work proceeds. Minor changes, such as make and model of Emission Units specified, may be authorized by the Natural Resources Protection discipline following review by the AQP (if different entities). Significant and material changes require a formal modification of the LUC permit as described within 14 M.P.T.L. ch. 6, §3.~~
- ~~(5) Unapproved changes to the project may result in issuance of an enforcement order and/or penalties as specified within 14 M.P.T.L. and/or 47 M.P.T.L.~~

e. ~~Owners/Operators of an Existing Source seeking to undertake a Modification that will make the source subject to the New Source Review requirements specified in subtitle 12.2 shall not Begin Actual Construction without obtaining the relevant air permit.~~

~~§ 3. Registrations~~

a. ~~Registrations shall include the following applicable information:~~

- ~~(1) Facility information including:~~

- ~~(a) name of the Stationary Source (Facility) and the nature of the business;~~
- ~~(b) street address, mailing address, telephone and email contact information for the following:
 - ~~(i) Stationary Source (Facility);~~
 - ~~(ii) Owner/Operator;~~
 - ~~(iii) individual responsible for compliance with this title; and~~
 - ~~(iv) any other individuals to contact in case additional information is required;~~
 - ~~(v) the Facility's typical operating schedule, including number of hours per day, number of days per week, and number of weeks per year; and~~~~
- ~~(2) a listing of each Emission Unit including:
 - ~~(a) make and model number;~~
 - ~~(b) description of process or function including:
 - ~~(i) type of fuels, including maximum heat input nameplate rating of the unit; and,~~
 - ~~(ii) if applicable, type and maximum estimated quantity of raw materials used or amount of final product produced on an annual basis;~~~~
 - ~~(c) any manufacturer provided emission information such as emission factors or other guarantees;~~
 - ~~(d) a designation of units that are Emergency Engines as defined in subtitle 12.2, ch. 1, § 3b(6); and~~
 - ~~(e) a description of any air pollution control equipment including make and model, and the stated reduction efficiency for each pollutant controlled.~~
 - ~~(f) any other information specifically requested by the AQP.~~~~

~~b. Relocation~~

- ~~(1) After initial registration, the Owner/Operator of an air pollution source must report any relocation of an emission source to the AQP in writing no later than ten (10) days following the relocation of the source.~~
- ~~(2) The report must update the information required in paragraph a. of this section if it will change as a result of the relocation.~~
- ~~(3) Submitting a report of relocation does not relieve the Owner/Operator from the requirement to obtain:
 - ~~(a) a New Source Review permit prior to Beginning Actual Construction if the relocation of the air pollution source would be a New Source or Modification subject to subtitle 12.2 of this title.~~
 - ~~(b) a Land Use permit pursuant to 14 M.P.T.L. ch. 5, §1.~~~~

~~e. Report of Closure~~

~~After initial registration, except for regular seasonal closures, the Owner/Operator of an air pollution source must submit a report of closure to the AQP in writing within ninety (90) Days after the cessation of all operations at the air pollution source.~~

~~CHAPTER 3. NON TITLE V OPERATING PERMITS~~

~~§ 1. Purpose~~

~~This chapter establishes an operating permit program to ensure that Sources subject to an Emission Standard with Post Operational Requirements are aware of their on-going compliance obligations. It establishes a mechanism for the AQP to confirm a Sources fulfillment of those obligations.~~

~~§ 2. Applicability~~

- ~~a. Owners/Operators of a Stationary Source that is, or will become, subject to an Emissions Standard with Post Operational Requirements must have a permit that details those obligations.~~
- ~~b. Owners/Operators with a valid New Source Review permit pursuant to subtitle 12.2, or are required to obtain a Title V permit, pursuant to chapter 4 of this subtitle:~~

- ~~(1) are not required to obtain a separate permit under this chapter; however,~~
- ~~(2) are required to obtain an Administrative Revision to their permit, pursuant to this chapter, any time that the facility, or units within that facility, become subject to an Emissions Standard with Post Operational Requirements and a new permit or permit revision is otherwise not required.~~

~~e. Permits, or permit revisions, must be obtained prior to the first applicable compliance date specified within any applicable Emission Standard (typically the initial notice to be filed with the Administrator).~~

~~§ 3. General Permits~~

~~Owners/Operators who are required to obtain a permit pursuant to this chapter may alternately seek coverage under one or more general permits issued pursuant to subtitle 12.2, ch. 2, §4 provided that:~~

- ~~(1) the source type for each applicable Emission Standard is consistent with that identified within a general permit issued by the MPTN AQP, and~~
- ~~(2) the Owner/Operator complies with all provisions established within that general permit.~~

~~§ 4. Applications~~

~~a. Applications for permits to operate shall include all information specified within subtitle 12.2, ch. 2, §3 paragraph b of this title except that the following is not required:~~

- ~~(1) the case-by-case control technology review specified within paragraph b(1)(c)(ix) of that section; and~~
- ~~(2) the Air Quality Impact Analysis outlined in paragraph b(1)(c) of that section.~~

~~b. Applications submitted without the permit application fee, specified within subtitle 12.4, chapter 1 of this title, shall not be deemed as received until the fee is received.~~

~~e. Each application shall include a certification signed by the Authorized Representative as to the truth, accuracy, and completeness of the information. This certification must state that, after reasonable inquiry, the statements and information are true, accurate, and complete to the best of his/her knowledge and belief.~~

~~d. Applications for revised permits~~

- ~~(1) Applications shall also include an itemized list, with dates submitted to the AQP and/or Administrator, of all test data, monitoring reports and monitoring plans required during the term of the existing permit.~~
- ~~(2) The application shall also detail any additions or changes that have occurred at the facility during the term of the existing permit.~~

~~§ 5. Review Criteria~~

~~a. The AQP shall review the application to ensure compliance with:~~

- ~~(1) all applicable elements of the MPTN TIP (subtitle 12.2);~~
- ~~(2) all applicable Emission Standards or other federal requirements governing Air Pollutants; and~~
- ~~(3) the compliance status with any conditions within an existing permit.~~

~~b. The AQP shall, within 30 days of receiving the application, notify the applicant of any additional information required to:~~

- ~~(1) complete the application;~~
- ~~(2) evaluate compliance with an existing permit; or,~~
- ~~(3) assess applicability of other requirements of this title.~~

~~§ 6. Permit Issuance~~

~~a. The AQP shall have 30 days from the date it receives all information~~

~~b. The AQP shall not issue a permit under the provisions of this chapter when:~~

- ~~(1) a New Source Review permit, pursuant to subtitle 12.2, and/or a Title V permit, pursuant to chapter 4 of this subtitle is required;~~
- ~~(2) the Owner/Operator is found not to be in compliance with the conditions of a previously issued permit.~~

~~§ 7. Permit Duration~~

~~a. Once issued the permit to operate shall remain valid until either:~~

- ~~(1) a revision is issued pursuant to this chapter;~~
- ~~(2) a New Source Review permit, pursuant to subtitle 12.2, and/or a Title V permit, pursuant to chapter 4 is issued; or~~
- ~~(3) the permit is revoked by the AQP for cause or, at the request of the applicant, is terminated.~~
- ~~(4) the Owner/Operator removes applicable sources or otherwise believes that a condition of their permit has ceased to be come applicable they must apply for a permit revision or, if all applicability criteria become moot, a permit termination.~~

~~b. If the AQP denies to issue, or revokes for cause, the permit to operate, the Owner/Operator shall cease operations as of:~~

- ~~(1) the date of the denial, if the applicant does not appeal the denial within 30 days after a final permit decision has been issued; or~~
- ~~(2) the date the denial is affirmed after all available appeals, as outlined in subtitle 12.4, ch. 3, have been exhausted.~~

~~CHAPTER 4. TITLE V OPERATING PERMITS~~

~~§ 1. Purpose~~

~~This section details the provisions applicable to Title V sources required to obtain permits to operate consistent with the requirements of Title V of the Act (42 U.S.C. §§ 7661 to 7661f, incl.).~~

~~§ 2. Applicability~~

~~a. The following sources, unless exempted as provided in paragraph b. of this section, are Title V Sources subject to the operating permit requirements of this section and shall have a permit to operate that assures compliance with all applicable requirements:~~

- ~~(1) any major source;~~
- ~~(2) any source, including an Area Source, subject to a standard, limitation, or other requirement under section 111 of the Act (42 U.S.C. § 7411) commonly referred to as New Source Performance Standards (NSPS);~~
- ~~(3) any source, including an Area Source, subject to a standard or other requirement under section 112 of the Act (42 U.S.C. § 7412), except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of this Act;~~
- ~~(4) any affected source as defined in 40 CFR §72.2; and,~~
- ~~(5) any source in a source category designated by the Administrator pursuant to the Act.~~

~~b. The following source categories are exempted from the requirements of this section:~~

- ~~(1) sources which are not major, and for which all source applicable standards and requirements under either section 111 or 112 of the Act have been exempted by the Administrator from the requirement to obtain a~~

~~permit under 40 CFR Parts 70 or 71;~~

- ~~(2) all sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA—Standards of Performance for New Residential Wood Heaters; and~~
- ~~(3) all sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M—National Emission Standard for Hazardous Air Pollutants for Asbestos, 40 CFR §61.145, Standard for Demolition and Renovation.~~

~~§ 3. Program administration~~

~~Until such time as the Administrator has explicitly granted full or interim approval to the MPTN AQP for a Title V permit program in compliance with the requirements of 40 CFR Part 70, the Reviewing Authority will issue, administer and enforce Part 71 permits until they may be replaced by permits issued under the approved MPTN AQP Title V program.~~

- ~~(1) For the purpose of administering the Part 71 program the Reviewing Authority shall be:
 - ~~(a) the Administrator unless the authority to administer a Part 71 program has been delegated to the MPTN AQP;~~
 - ~~(b) the MPTN AQP following publication of notice of delegation approval for the MPTN AQP to administer a Part 71 program.~~~~
- ~~(2) The Reviewing Authority will suspend the issuance of Part 71 permits promptly upon publication of notice of approval of the MPTN AQP Title V permit program.~~
- ~~(3) The Reviewing Authority may retain jurisdiction over any Part 71 permits for which an administrative or judicial review process is not complete.~~

~~§ 4. Definitions~~

~~a. As used in this chapter, all terms not defined herein, or within Chapter 1 §4b of this Title, will have the meaning given them in the Clean Air Act.~~

~~b. Definitions~~

- ~~(1) “Part 71 Permit” means any permit or group of permits covering a Title V source that has been issued, renewed, amended or revised pursuant to a Federal operating permits program under 40 CFR Part 71.~~
- ~~(2) “Permitting Authority” means either of the following:
 - ~~(a) the Administrator, in the case of EPA implemented programs; or~~
 - ~~(b) the MPTN Air Quality Program (AQP) if authorized by the Administrator to carry out the permit programs of this chapter.~~~~

~~§ 5. Permits~~

~~a. Until such time as the Administrator has explicitly granted full or interim approval to the MPTN AQP for a Title V permit program in compliance with the requirements of 40 CFR Part 70, persons required to obtain operating permits for their Title V source shall apply to the Reviewing Authority for a Part 71 permit as stipulated within 40 CFR Part 71.~~

~~b. Reserved~~

~~**SUBTITLE 12.4 ADMINISTRATIVE RULES AND REFERENCES**~~

~~**CHAPTER 1. PERMIT FEES**~~

~~**§ 1. Application Fees**~~

~~a. New Source Review~~

- ~~(1) The fee for an application submitted in accordance with subtitle 12.2 of this title will be based on annual Allowable Emissions, as defined in ch. 1, §3b(4) of that subtitle.~~
- ~~(2) Except as provided in paragraph a(3) thru (5) of this section, the fee for permits shall be set equal to \$100 per ton calculated using the highest Regulated NSR Pollutant emitted by the Facility.~~
- ~~(3) The fee for an application for coverage under a general permit shall be established within the general permit at the time it is issued.~~
- ~~(4) The fee for Facilities that fall under the umbrella of tribal government operations shall be half the rate specified within this section.~~
- ~~(5) There shall be no fee for an administrative permit revision.~~

~~b. Operating Permits~~

- ~~(1) There is no fee associated with filing a Minor Source Registration pursuant to subtitle 12.3, chapter 2.~~
- ~~(2) The fee for applications submitted for a new Non-Title V Operating Permit, in accordance with subtitle 12.3 of this title, is the lesser of the following:
 - ~~(a) \$100 for each unit subject to an applicable Emission Standard; or~~
 - ~~(b) \$250 for each Emission Standard that is applicable to the Source.~~~~
- ~~(3) The fee for applications to revise a Non-Title V Operating Permit shall be calculated as described in paragraph b(2) of this section except that only the units or Emission Standards applicable to the revision shall be used to calculate the fee.~~
- ~~(4) Fees associated with permits for a Title V permit pursuant to subtitle 12.3, chapter 4, shall be:
 - ~~(a) determined as specified within 40 CFR §71.9.~~
 - ~~(b) In the case that the part 71 program has been delegated to the AQP and EPA has suspended their fee collection, the application fee shall be that specified within paragraph a. of this section.~~~~

~~**§ 2. Permit Issuance Fee**~~

~~a. General~~

~~Except as specified in paragraph b of this section, a permit issuance fee shall only be assessed in cases where the AQP required, due to permit complexity, the assistance of 3rd party technical assistance. In such cases,~~

- ~~(1) the permit issuance fee shall be the total cost of the 3rd party technical assistance less fifty percent (50%) of the permit application fee previously assessed.~~
- ~~(2) The AQP shall notify the applicant of the need for 3rd party technical assistance prior to, or at the same time the applicant is notified of the AQP's completeness determination.~~

~~b. Title V permits~~

~~In addition to the requirements specified in paragraph a. of this section, the permit issuance fee shall include any amount required, as stipulated 40 CFR §71.9, for the first annual operating period.~~

~~**§ 3. Annual Operating Fees**~~

~~a. Except for Title V Sources no fees shall be assessed after permit is issuance.~~

~~b. Title V Sources issued a permit pursuant to subtitle 12.3, chapter 4 of this title are required to pay annual fees~~

~~based on Actual Emissions. Such fees shall be specified within the issued Title V permit.~~

~~§ 4. Payment~~

- ~~a. Fees will be paid to the Mashantucket Pequot Tribal Air Quality Program.~~
- ~~b. Fees collected may be utilized by the Air Quality Program to support any costs associated with evaluation, issuance, or ensuring compliance of the permit.~~
- ~~c. Application fees are due at the time of submittal. The timely review periods specified within chapter 2 of this subtitle shall not commence until the application fee is collected.~~
- ~~d. Permit issuance fees, if any, are due prior to the issuance of a permit by the AQP.~~
- ~~e. Annual operating fees, if any, are due as specified within the facility's operating permit and are a condition of the permit. Late payment of an annual operating fee constitutes a permit violation subject to enforcement action.~~

~~CHAPTER 2. TIMELY REVIEW~~

~~§ 1. General~~

- ~~a. The AQP shall act on permit applications as expeditiously as possible by, at minimum, striving to comply with the schedules outlined within this chapter.~~
- ~~b. If circumstances arise in which the AQP believes that the schedule defined within this chapter is unattainable, the AQP shall attempt to establish a mutually agreed upon schedule with the applicant.~~

~~§ 2. Requests for General Permit Coverage~~

- ~~a. The AQP shall strive to notify the applicant of the final decision within ninety (90) Days of its receipt of the coverage request and collection of the application fee.~~
- ~~b. The AQP shall first commence a 45-day completeness review period to determine if the request for coverage under a general permit is complete.
 - ~~(1) Within thirty (30) Days after the receipt of the coverage request, the AQP shall make an initial request for any additional information necessary to process the coverage request and the applicant must submit such information within fifteen (15) Days.
 - ~~(a) If the applicant does not submit the requested information within fifteen (15) Days from the request for additional information and this results in a delay that is beyond the 45-day completeness review period, the 90-day permit issuance period for the general permit will be extended by the additional days it takes to submit the requested information beyond the 45-day period.~~
 - ~~(b) If the AQP notifies the applicant after the 30-day period that additional information necessary to process the coverage request, the applicant will still have fifteen (15) Days to submit such information and the AQP shall still grant or deny the request for coverage under a general permit within the 90-day general permit issuance period and without any time extension.~~~~
 - ~~(2) If the AQP determines that the request for coverage under a general permit has all the relevant information and is complete, it will notify the applicant in writing as soon as that determination is made. If the applicant does not receive from the AQP a request for additional information or a notice that the request for coverage under a general permit is complete within the 45-day completeness review period as described in this section, the request will be deemed complete.~~~~

~~§ 3. Permits~~

- ~~a. The AQP shall strive to act on the permit application, by denying the application or preparing a draft permit that~~

~~describes the proposed limitations and its effect on the Potential to Emit of the source within one hundred and twenty (120) Days of its receipt of the application and collection of the application fee.~~

~~b. The AQP shall determine if the application is complete within sixty (60) Days of receipt.~~

- ~~(1) Within forty five (45) Days after the receipt of the application, the AQP must make an initial request for any additional information necessary to process the application and the applicant must submit such information within fifteen (15) Days.~~
 - ~~(a) If the applicant does not submit the requested information within fifteen (15) Days from the request for additional information and this results in a delay that is beyond the 60-day completeness review period, the 120-day period to deny or prepare a draft permit will be extended by the additional Days it takes to submit the requested information beyond the 60-day period.~~
 - ~~(b) If the AQP notifies the applicant after the 45-day period that additional information necessary to process the application, the applicant shall have fifteen (15) Days to submit such information and the AQP must still deny or prepare a draft permit within the 120-day period and without any time extension.~~
- ~~(2) If the AQP determines that the application contains all the relevant information and is complete, it will notify the applicant in writing as soon as that determination is made. If the applicant does not receive a request from the AQP for additional information or a notice that the application is complete within the 60-day completeness review period described in this paragraph, the application will be deemed complete.~~

~~CHAPTER 3. PROCEDURES FOR APPEAL~~

~~§ 1. Administrative Review~~

- ~~a. As specified in 47 M.P.T.L. ch. 5, §1, a Person may, within 30 days after a final permit decision has been issued request a hearing before the AQP if they have been denied a Permit; in addition,~~
- ~~b. Within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the AQP to review any condition of the permit decision.~~
 - ~~(1) Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent that the changes from the draft to the final permit or other new grounds were not reasonably ascertainable during the public comment period on the draft permit.~~
 - ~~(2) The 30-day period within which a person may request review under this section begins with the service of notice of the final permit decision, unless a later date is specified in that notice.~~
- ~~e. The petition must include a statement of the reasons supporting the review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations, unless the petitioner demonstrates that it was impracticable to raise such objections were not reasonably ascertainable within such period or unless the grounds for such objection arose after such period and, when appropriate, a showing that the condition in question is based on:~~
 - ~~(1) a finding of fact or conclusion of law that is clearly erroneous; or~~
 - ~~(2) an exercise of discretion or an important policy consideration that the AQP should, in its discretion, review.~~
- ~~d. The AQP may also decide on its own initiative to review any condition of any permit issued under this program.~~
- ~~e. Within a reasonable time following the filing of the petition for review, the AQP will issue an order either granting or denying the petition for review.~~
 - ~~(1) To the extent review is denied, the conditions of the final permit decision become final AQP action. If the AQP denies review, the permit applicant and the person(s) requesting review must be notified through means that are adequate to assure reasonable access to the decision, which may include mailing a notice to each party.~~

~~(2) If granted, a review hearing shall be conducted following the procedures outlined within 40 M.P.T.L. ch. 2.~~

~~f. The AQP, at any time prior to the rendering of the decision to grant or deny review of a permit decision, may, upon notification to any interested parties, withdraw the permit and prepare a new draft permit addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part.~~

~~g. A petition to the AQP under this section is a prerequisite to seeking judicial review of the final agency action. For purposes of judicial review, final agency action occurs when a final permit is issued or denied by the AQP and administrative review procedures are exhausted. A final permit decision will be issued by the AQP:~~

- ~~(1) when the AQP issues notice to the parties that review has been denied;~~
- ~~(2) when the AQP issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or,~~
- ~~(3) upon the completion of remand proceedings if the proceedings are remanded, unless the AQP's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.~~

~~§ 2. Judicial Review~~

~~After exhausting the available administrative remedies, a Person dissatisfied with a final decision of the AQP is entitled to Tribal Court review provided that a complaint is filed pursuant to the procedures set forth in the Tribal Administrative Procedures Act (40 M.P.T.L.).~~

~~CHAPTER 4. COMPLIANCE TESTING AND MONITORING~~

~~§ 1. Purpose and Applicability~~

~~a. Purpose—This section outlines compliance testing and monitoring requirements to be followed if stipulated within your Facility's permit.~~

~~b. Applicability~~

- ~~(1) Owners/Operators with permit conditions specifying compliance testing and monitoring must follow the procedures outlined within this section, except that;~~
- ~~(2) If the Owner/Operator is subject to a Federal standard specified within 40 CFR Parts 60, 61, 62 or 63 which requires testing of the same Emissions Unit(s), the AQP will accept that compliance testing and monitoring provided that the AQP is copied on all required notifications plans and reports submitted to EPA.~~

~~§ 2. Testing, Enforcement, Inspection and Complaints~~

~~a. When required by a federal standard, or requested by the AQP to determine compliance or non-compliance with any air pollution control plan, rule or regulation, the source Owner/Operator must submit an acceptable report of measured emissions within thirty (30) Days of testing. The source Owner/Operator shall bear the cost of measurement and preparing the report of measured emissions. Failure of such person to submit a report acceptable to the AQP within the stated time shall be sufficient reason for the AQP to suspend or deny a permit. In the event a source Owner/Operator can demonstrate to the AQP such time is not sufficient, he/she may request an extension in writing and be granted a thirty (30) Day extension.~~

~~b. A source Owner/Operator shall submit a detailed description of proposed testing protocols to the AQP for approval not less than thirty (30) Days prior to the test. Such notification shall include, but is not limited to, the following:~~

- ~~(1) the Facility name, address, telephone number, and contact;~~
- ~~(2) the name of the contractor testing company, company contact, telephone number and email information;~~

- ~~(3) the reasons for performing the compliance stack test;~~
- ~~(4) a complete test program description;~~
- ~~(5) a description of the process or device to be tested;~~
- ~~(6) a description of the operational mode of the process during the testing period;~~
- ~~(7) a list of operational and process data to be collected;~~
- ~~(8) a list of test methods to be used;~~
- ~~(9) a description of any requested alternatives or deviations from standard EPA testing methods or from the requirements of this part;~~
- ~~(10) a list of calibration methods and sample data sheets;~~
- ~~(11) a description of pre-test preparation procedures;~~
- ~~(12) a list of sample collection and analysis methods;~~
- ~~(13) a description of quality assurance procedures specific to the testing;~~
- ~~(14) a description of standard operating procedures (SOPs) for laboratory analysis of samples, or reference to SOPs already on file with the division; and~~
- ~~(15) a description of Facility safety/emergency response procedures applicable to the area of the Facility in which the test will occur.~~

~~e. The source Owner/Operator shall allow the AQP, or a designated representative, free access to observe the stack testing being conducted. No person shall conceal an emission by the use of air or other gaseous diluent to achieve compliance with an Emission Standard or Emission Limitation, which is based on the concentration of a contaminant in the gases emitted through a stack.~~

~~d. Emission testing, sampling and analytical determinations to ascertain compliance with this section shall be conducted in accordance with test methods acceptable to the AQP and U.S. EPA. The Reference Methods contained in 40 CFR Part 60 Appendix A and 40 CFR Part 61 Appendix B shall be considered acceptable test methods for those sources and contaminants for which they are expressly applicable.~~

~~e. Enforcement of these rules and regulations shall be performed by the AQP. AQP staff will also be responsible for inspecting the facilities annually, any unannounced audits, or based on any complaints received. Findings shall be recorded and a copy given to both the Facility and the AQP. For the purpose of ascertaining compliance or noncompliance with any air pollution control plan, rule or regulation, the AQP may conduct separate or additional emission tests on behalf of the Tribe. A source Owner/Operator shall provide sampling ports, scaffolding, and other pertinent equipment required for emission testing. The Facility shall bear the costs of such equipment.~~

~~§ 3. Continuous Emissions Monitoring Systems (CEMS)~~

~~a. CEMS continuously measure concentrations of pollutants emitted into the atmosphere in exhaust gases from combustion or industrial processes. CEMS components could include:~~

- ~~(1) A NO_x pollutant concentration monitor;~~
- ~~(2) A CO pollutant concentration monitor;~~
- ~~(3) A volumetric flow monitor;~~
- ~~(4) A diluent gas (oxygen (O₂) or CO₂) monitor; or~~
- ~~(5) A computer-based data acquisition and handling system for recording and performing calculations with the data.~~

~~b. The Owner/Operator of a source that is required by Federal regulation or by the AQP to monitor emissions using CEMS must install and operate the CEMS, and assure the quality of the data for emissions and volumetric flow at each such unit.~~

~~e. At least ninety (90) Days prior to the installation of a CEMS, the Owner/Operator shall submit a CEMS monitoring plan to the AQP and when applicable, the Administrator, including, but not limited to, the following:~~

- ~~(1) A complete description of the emission monitoring system including, but not limited to:

 - ~~(a) the identity of the CEMS vendor, including the company name, address, telephone number and email information;~~
 - ~~(b) the identity of the manufacturer, model number, measurement method employed, and range of each of the major components or analyzers being used;~~
 - ~~(c) a description of the sample gas conditioning system;~~
 - ~~(d) a description and diagram showing the location of the monitoring system, including sampling probes, sample lines, conditioning system, analyzers, and data acquisition system; and,~~
 - ~~(e) a description of the data acquisition system, including sampling frequency, and data averaging methods.~~~~
- ~~(2) The mathematical equations used by the data acquisition system, including the value and derivation of any constants, to calculate the emissions in terms of the applicable Emission Standards;~~
- ~~(3) An example of the data reporting format;~~
- ~~(4) A description of the instrument calibration methods, including the frequency of calibration checks and manual calibrations, and path of the sample gas through the system;~~
- ~~(5) The means used by the data acquisition system of determining and reporting periods of excess emissions, monitor downtime, and out-of-control periods; and,~~
- ~~(6) A description of the means used to provide for short-term and long-term emissions data storage.~~

~~d. The Owner/Operator shall conduct performance specification testing of the CEMS in accordance with the following:~~

- ~~(1) For a CEMS monitoring opacity or gaseous emissions, the performance specification requirements of 40 CFR 60, Appendix B shall apply;~~
- ~~(2) All performance specification testing shall be conducted within one hundred eighty (180) Days of the CEMS equipment initial startup;~~
- ~~(3) The AQP and, when applicable, the Administrator shall be notified of the date or dates of the performance specification testing at least thirty (30) Days prior to the scheduled dates so that they may be present during the testing; and,~~
- ~~(4) A written report summarizing the results of the testing shall be submitted to the AQP and, when applicable, the Administrator within thirty (30) Days of the completion of the test.~~

~~e. Emissions Calculated for Periods of Missing Data~~

Annual Availability (%) of Monitor or System	Number of Hours Missing (N)	Value Substituted for Each Missing Hour
Greater than or equal to 95%	N is less than or equal to 24 hours N is greater than 24 hours	Average of the hours recorded before and after missing period 90th percentile value recorded in previous 30 days of service or the before/after value, whichever is greater
Less than 95% but greater than or equal to 90%	N is less than or equal to 8 hours N is greater than 8 hours	Average of the hours recorded before and after missing period 95th percentile value recorded in previous 30 days of service or the before/after value, whichever is greater
Less than 90%	N is greater than 0 hours	Maximum value recorded in previous 30 days of service

~~f. Certification Requirements – The monitoring plan requires the following performance certification tests for CEMS as per the schedule in the unit’s operating permit:~~

- ~~(1) a 7-day calibration error test for each monitor;~~
- ~~(2) a linearity check for each pollutant concentration monitor;~~
- ~~(3) a relative accuracy test audit for each monitor;~~
- ~~(4) a bias test for each flow monitor, and the NO_x or CO CEMS;~~
- ~~(5) a cycle time test for each pollutant concentration monitor;~~
- ~~(6) an interference test for flow monitors; and,~~
- ~~(7) an accuracy test for fuel flow meters, as applicable.~~

~~g. Quality Assurance/Quality Control~~

- ~~(1) The Operator must perform periodic performance evaluations of the equipment, including calibration error tests, interference tests for flow monitors, relative accuracy test audits and bias tests.~~
- ~~(2) The Owner/Operator must develop and implement a written quality assurance/quality control plan for each system. The quality control plan must include complete, step-by-step procedures and operations for calibration checks, calibration adjustments, preventive maintenance, audits, and recordkeeping and reporting. The quality assurance plan must include procedures for conducting periodic performance tests.~~

~~§ 4. Control Equipment/Catalyst Monitoring Plans~~

~~a. Owners/Operators of an Emissions Unit that relies on air pollution control equipment to comply with an Emission Limitation specified in a permit shall provide a written monitoring plan detailing all maintenance, monitoring, and any sampling/testing specified by the manufacturer, to ensure the continued effectiveness of the control equipment.~~

~~b. The Owner/Operator shall submit the Control Equipment Monitoring Plan as part of the application for a permit.~~

~~e. The Control Equipment Monitoring Plan shall include the following information for each device:~~

- ~~(1) the type of control device;~~
- ~~(2) the manufacturer of the control device;~~
- ~~(3) the model and serial number of the control device, if known;~~
- ~~(4) the pollutant(s) controlled by the device;~~
- ~~(5) a description of the control device and how it operates in the process;~~
- ~~(6) the capture efficiency of the device and its method of determination;~~
- ~~(7) the control efficiency of the device and its method of determination;~~
- ~~(8) the operational parameters of the device that are or will be monitored, such as temperature, pressure, differential pressure, pH, and flowrate, the normal range for each parameter monitored, and the range of each parameter during startup or shutdown conditions, if different;~~
- ~~(9) a description of any data recording or recordkeeping, parameter setpoints and alarms, and corresponding operator responses to malfunctions of the device to prevent uncontrolled emissions of air pollution;~~
- ~~(10) the manufacturer's recommended procedures for operation of the device;~~
- ~~(11) the manufacturer's recommended scheduled for service, maintenance, and calibration of the device; and~~
- ~~(12) any other operational parameters that affect the ability of the device to control air pollution.~~

~~d. If the air pollution control device uses a catalyst as part of its operation to reduce the volume or concentration of pollutant passing through it, the owner or operator shall submit a Catalyst Management Plan for the catalytic device which includes the following:~~

- ~~(1) the information listed in (c)(1) – (12), above;~~
- ~~(2) a description of the method for catalyst sampling and determination of catalyst activity; and~~

~~(3) the frequency of catalyst replacement.~~

~~e. If the Owner/Operator determines that the information and procedures documented in the Control Equipment Monitoring Plan or Catalyst Management Plan need to be changed at any time to accurately represent the activities performed to maintain the control equipment, the owner or operator shall submit a revised monitoring or management plan, as applicable, to the AQP in writing.~~