

Attachment
Section – 5:
Model Codes and Rules



Model Rule for Minor New Source Review Program in

[Insert Name of Tribe] Reservation

[Note to the Tribes: You may use all or part of this model rule or may develop different requirements if they are more appropriate to your needs. An asterisk (*) will indicate areas we think may be severable elements for your consideration.]

- I. Program Overview
 - A. What is the purpose of this program?
 - B. When and where does this program apply?
 - C. Demonstration of the [Insert Name of Tribe's] Legal Authority to be Treated in the Same Manner as a State (TAS) under the Clean Air Act (CAA or the Act)
 - D. How Will [Insert Name of Tribe] Administer and Enforce the TIP?
 - E. How will the [Insert Name of Tribe] Document the Air Quality Status in its Jurisdiction?
 - F. What general provisions apply under this program?
 - G. What is the process for issuing permits under this program?
- II. Definitions
- III. Applicability
 - A. Does this program apply to me?
 - B. How do I determine the increase in allowable emissions from a physical or operational change at my source?
 - C. What emissions units and activities are exempt from this program?
- IV. Permit Application Requirements
 - A. What information must my permit application contain?
 - B. How is my permit application determined to be complete?
 - C. How will the [Insert Name of Tribe] determine the emission limitations that will be required in my permit?
 - D. When may the [Insert Name of Tribe] require an Air Quality Impacts Analysis (AQIA)?
- V. Permit Requirements
 - A. What information must a permit include?
 - B. Can my permit become invalid?
- VI. General Permits
 - A. What is a general permit?

- B. How will [Insert Name of Tribe] issue general permits?
 - C. For what categories will general permits be issued?
 - D. What are the procedures for obtaining coverage under a general permit?
 - E. What information must be contained in an application for a general permit?
- VII. Public Participation Requirements
- A. What permit information will be publicly available?
 - B. How will the public be notified and participate?
 - C. How will the public comment and will there be a public hearing? [Or Insert or Reference Tribal Procedures]
- VIII. Synthetic Minor Source Permits
- A. What information must my synthetic minor source permit application contain?
 - B. What are the procedures for obtaining a synthetic minor source permit?
 - C. What are my responsibilities under this program for my source that already has synthetic minor source or synthetic minor Hazardous Air Pollutant (HAP) source status prior to the effective date of this rule?
- IX. Final Permit Issuance and Administrative and Judicial Review
- A. How will final action occur, and when will my permit become effective?
 - B. How long will the [Insert Name of Tribe] retain my permit-related records?
 - C. What is the administrative record for each final permit?
 - D. Can permit decisions be appealed?
 - E. Can my permit be reopened?
 - F. What is an administrative permit revision
- X. Registration Program for Stationary Sources
- A. Does this section apply to my source?
 - B. What sources are exempted from this section?
 - C. What are the requirements for registering your minor source?
 - D. What are the requirements for additional reports?

I. Program Overview

This Tribal Implementation Plan (TIP) is written in a "plain language" format. It uses a question-and-answer format and other techniques to make it easier for a reader

to find and understand information in this rule. It also uses the pronoun "you" to refer to the owner/operator of a source.

A. What is the purpose of this program?

The purpose of this TIP is to safeguard the air resources of the [Insert Name of Tribe] by implementing, maintaining, and enforcing the National Ambient Air Quality Standards (NAAQS) in the [Insert Name of Tribe and area (e.g., reservation, Rancheria, etc.)]

1. It establishes a preconstruction permitting program for new and modified minor sources (minor sources) and minor modifications at major stationary sources located in [Insert Name of the Area] to meet the requirements of the Act.
2. It establishes a registration system that will allow the Tribe to develop and maintain a record of minor source emissions in [Insert Tribal Jurisdiction].(*)
3. It provides a mechanism for a major stationary source to voluntarily accept restrictions "on its potential to emit" to become a synthetic minor source. This mechanism may also be used by a major

stationary source of Hazardous Air Pollutants (HAPs) to voluntarily accept restrictions on its potential to emit to become a synthetic minor HAP source.

4. It provides an additional mechanism for case-by-case maximum achievable control technology (MACT) determinations for those major sources of HAPs subject to such determinations under section 112(g)(2) of the Act. (*)
5. It sets forth the criteria and procedures that the [Insert Name of Tribe] will use to administer the program.

B. When and where does this program apply?

The provisions of this program become effective on [Insert Date Determined by Tribe] within the external boundaries of [Insert Tribal Jurisdiction]. [Insert Brief Description of Territory] (See St. Regis Mohawk TIP Section 8.1,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

C. Demonstration of the [Name of Tribe's] Legal Authority to be Treated in the Same Manner as a State (TAS) under the CAA.

On [Insert Date], the Regional Administrator for the

US Environmental Protection Agency (EPA) approved the [Insert Name of Tribe's] request for TAS under the CAA (see Appendix ...). EPA determined the [Insert Name of Tribe] met the criteria at 40 CFR 49.6.

1. The applicant is an Indian Tribe recognized by the Secretary of the Interior;
2. The Indian Tribe has a governing body carrying out substantial governmental duties and functions;
3. The functions to be exercised by the Indian Tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the Tribe's jurisdiction;
4. The [Insert Name of Tribe] is reasonably expected to be capable of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

On [Date], [Insert Name of Tribe] signed Tribal Council Resolution(s) that authorize the Tribe's Air Quality Program to submit applications for federal assistance and to receive delegation of the federal CAA authority, as allowed by law under the CAA. The TIP shall become effective 30 days from

[Insert Name of Tribe] Tribal Council approval.
(See St. Regis Mohawk TIP Section 2.0,
[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

D. How will [Insert Name of Tribe] administer and enforce the TIP?

This TIP will be administered and implemented primarily by the [Insert Name of Tribal Environmental Department's] Air Quality Program staff and the Tribe's attorneys. [Provide a brief description of the experience, qualifications, and capability of Tribe's Air Quality Program.] (See St. Regis Mohawk TIP Section 3.0,
[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf).)

E. How will the [Insert Name of Tribe] document the air quality status in its jurisdiction?

[Insert Name of Tribe] will conduct an initial emissions inventory to establish a baseline for air pollutants impacting the reservation. The emissions inventory is a means to compare impacts that might arise from development and industrialization. [Insert Name of Tribe] will update the emissions inventory every 3 years afterwards. (See St. Regis Mohawk TIP Section 10,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

F. What general provisions apply under this program?

The following general provisions apply to you as an owner/operator of a stationary source:

1. If you commence construction of a new source or modification that is subject to this program after [Insert Date Determined by Tribe], the effective date of this rule, without applying for and receiving a permit pursuant to this program, 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 minor New Source Review (NSR) permit, you will be subject to appropriate enforcement action.
3. If you are subject to the registration requirements of this program, you must comply with those requirements.
4. Issuance of a permit does not relieve you of the responsibility to comply fully with applicable provisions of any EPA-approved Implementation Plan or Federal Implementation Plan (FIP) and any other requirements under applicable law.
5. You must complete and submit an annual emissions

inventory on a form created by the [Insert Name of Tribe]. The emissions inventory is due on [date determined by tribe] and shall cover emissions from the previous calendar year. The emissions inventory shall be determined using the actual emissions and shall be based on the measured data or emissions factors specified on the emissions inventory form.

G. What is the process for issuing permits under this program?

All actions related to the permit, other than a general permit and synthetic minor permits (covered under parts VI. and VIII.), listed in paragraphs G.1. through 8., of this section, need to be completed for [Insert Name of Tribe] to issue a final permit decision under this program:

1. You, as owner/operator of the source, must submit a permit application that meets the requirements of part IV.A.
2. [Insert Name of Tribe] must determine whether your permit application is complete as provided in part IV.B., within 45 days of receiving the application (60 days for minor modifications at major sources). Your application will be deemed complete if you do

not receive a request for additional information or a notice of complete application postmarked within 45 days of receipt of the permit application by the reviewing authority for site-specific permits and general permits (60 days for synthetic minor permits and minor modification at major sources).

3. [Insert Name of Tribe] must determine the appropriate emission limitations and permit conditions for your affected emissions units under part IV.C.
4. [Insert Name of Tribe] may require you to submit an AQIA if it has reason to be concerned that the construction of your minor source or modification would cause or contribute to a violation of a NAAQS or Prevention of Significant Deterioration (PSD) increment violation.
5. If an AQIA is submitted, [Insert Name of Tribe] must determine whether the new or modified source will or will not cause or contribute to a NAAQS or PSD increment violation.
6. The [Insert Name of Tribe] must develop a draft permit that meets the permit content requirements of part V.A.

7. The [Insert Name of Tribe] must provide for public participation, including a 30-day period for public comment, according to the requirements of part VII.
8. The [Insert Name of Tribe] must issue a final permit that meets the requirements of part V.A., or must deny the permit and provide a reason(s) for the denial, within 135 days (or within 1 year for minor modifications at major sources) after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided. (See Gila River TIP, Section 4.0, <http://www.epa.gov/region9/air/actions/gila-river.html#tip>)

II. Definitions

- A. For sources of regulated NSR pollutants in nonattainment areas, the definitions in 40 CFR §49.167 apply to the extent that they are used in this program (except for terms defined in paragraph D. of this section.)
- B. 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

program (except for terms defined in paragraph D. of this section).

C. For sources of HAP, the definitions in 40 CFR §63.2 apply to the extent that they are used in this program (except for terms defined in paragraph D. of this section).

D. The following definitions also apply to this program:

1. Affected emissions units means the following emissions units, as applicable:

a) For a proposed new minor source, all the emissions units.

b) For a proposed modification, the new, modified, and replacement emissions units involved in the modification.

2. Affected facility means, with reference to a stationary source, any apparatus to which a standard is applicable.

3. Allowable emissions means "allowable emissions" as defined in 40 CFR §52.21(b)(16), except that the allowable emissions for any emissions unit are calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

4. Commenced means, with respect to the definition of "new source" in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.
5. Construction means fabrication, erection, or installation of an affected facility.
6. Criteria pollutant means any of the following: sulfur dioxide, particulate matter, nitrogen oxides, carbon monoxide, ozone, lead, and any other pollutants for which NAAQS have been established in the CFR, title 40, part 50, as amended, or for which tribal ambient air quality standards have been established.
7. Emission facility means any structure, work, equipment, machinery, device, apparatus or other means whereby an emission is caused to occur.
8. Emission limitation means a requirement established by the [Insert Name of Tribe] 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.

9. Enforceable as a practical matter means that an emission limitation or other standard is both legally and practically enforceable as follows:
- a) An emission limitation or other standard is legally enforceable if the [Insert Name of Tribe] has the authority to enforce it.
 - b) Practical enforceability for an emission limitation or for other standards (design standards, equipment standards, work practices, operational standards, 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.

10. Excess emissions means emissions of air pollutant in excess of an emission standard or limit(ation).

11. Existing source means an emission facility at which construction, modification, or reconstruction was commenced before the effective date of this program.

12. Fugitive emission means emissions of a regulated NSR pollutant or HAP which could not reasonably pass through a stack, vent, chimney or other functionally equivalent opening.
13. Hazardous Air Pollutant (HAP) is any one of the compounds listed in 40 CFR Part 61. Note: For all listings which contain the word "compounds", and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as that chemical's infrastructure.
14. Indian Reservation means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
15. Indian governing body means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
16. Minor modification at a major source means a modification at a major source that does not qualify as a major modification under 40 CFR

§49.167 or 40 CFR §52.21, as applicable.

17. Minor NSR threshold means any of the applicability cutoffs for this program listed in Table 1 of 40 CFR §49.153.
18. Minor source means, for purposes of this rule, a source, not including the exempt emissions units and activities listed in 40 CFR §49.153(c), that has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds in 40 CFR §49.167 or 40 CFR §52.21, as applicable, but equal to or greater than the minor NSR thresholds in 40 CFR §49.153. The potential to emit includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in 40 CFR Part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR §52.21(b)(1)(iii), as applicable.
19. Mobile source is a term used to describe a wide variety of vehicles, engines, and equipment that generate air pollution and that move, or can be moved, from place to place.
20. Modification, under this final rule, means any physical or operational change that would cause an

increase in the allowable emissions of a minor source or an increase in the actual emissions (based on the applicable test under the major NSR program) of a major source for any regulated NSR pollutant, or that would cause the emission of any regulated NSR pollutant not previously emitted. 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 40 CFR 52.21(b)(1)(iii) for PSD and 40 CFR part 51, Appendix S, paragraph II.A.4(iii) for nonattainment major NSR. The following exemptions apply:

- a) A physical or operational change does not include routine maintenance, repair, or

replacement¹.

- b) 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 (as defined in 40 CFR 49.152).
- c) A change in ownership at a stationary source.
- d) The emissions units and activities listed in 40 CFR 49.153(c).

21. New facility means an emission facility on which

¹ "For over two decades," EPA has interpreted "the RMRR exclusion as limited to de minimis circumstances." New York v. EPA, 443 F.3d 880, 884 (D.C. Cir. 2006), cert. denied 127 S. Ct.2127 (2007) (citing Alabama Pow. Co, v. Costle, 636 F.2d 323 (D.C. Cir 1980)). EPA's historic policy is that "in determining whether proposed work at an existing facility is 'routine,' EPA makes a case-by-case determination by weighting the nature, extent, purpose, frequency and cost of the work, as well as other relevant factors, to arrive at a common-sense finding." Memorandum from Don R. Clay, Acting Assistant Administrator, Office of Air and Radiation, U.S. EPA, ``Applicability of Prevention of Significant Deterioration (PSD) and New Source Performance Standards (NSPS) Requirements to the Wisconsin Electric Power Company (WEPCO) Port Washington Life Extension Project'' (Sep. 9, 1988) (<http://www.epa.gov/region07/air/nsr/nsrmemos/wpco2.pdf>). EPA further explained these factors in a letter dated May 23, 2000, from Francis X. Lyons, Regional Administrator, Region V, U.S. EPA, to Henry Nickel, Counsel for the Detroit Edison Company, Hunton & Williams (<http://www.epa.gov/region07/air/nsr/nsrmemos/detedisn.pdf>).

construction, modification, or reconstruction was commenced after the effective date of this rule.

22. Monitoring system means any system, required under the monitoring sections in applicable subparts of this rule, used to sample and condition (if applicable), to analyze, and to provide a record of emissions or process parameters.
23. Owner or operator means any person who owns, leases, operates, controls, or supervises a stationary source.
24. Potential to emit means the maximum capacity of a 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, as defined at §52.21(b)(18), do not count in determining the potential to emit of a source.
25. 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.

26. Stationary source means an assemblage of all emissions units and emission facilities that belong to the same industrial grouping are located at one or more contiguous or adjacent properties and are under the control of the same person (or persons under common control). Emissions units or emission facilities must be considered as part of the same industrial grouping if they belong to the same "major group" (that is, which have ~~the~~ same two-digit code) as described in the Standard Industrial Classification Manual.
27. Synthetic minor source means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in 40 CFR §49.167, §52.21, or §71.2, as applicable, but that has taken a restriction so that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.
28. Synthetic minor HAP source means a source that otherwise has the potential to emit HAPs in amounts that are at or above those for major sources of HAP

in 40 CFR §63.2, but that has taken a restriction so that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

29. True minor source means a source, not including the exempt emissions units and activities listed in §49.153(c), that emits or has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds in 40 CFR §49.167 or 40 CFR §52.21, as applicable, but equal to or greater than the minor NSR thresholds in 40 CFR §49.153, without the need to take an enforceable restriction to reduce its potential to emit to such levels. That is, a true minor source is a minor source that is not a synthetic minor source. The potential to emit includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR §52.21(b)(1)(iii), as applicable.

III. Applicability

A. Does this program apply to me?

The requirements of this program apply to you, the owner/operator, as set out in paragraphs A.1. through 5., of this section. (See Gila River TIP, Section 2.0, <http://www.epa.gov/region9/air/actions/pdf/gila/gric-part2-permit-requirements.pdf>; and St. Regis Mohawk TIP Section 11.2, [http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

1. New and Modified Sources. In all NSR applicability determinations, you must evaluate each regulated NSR pollutant individually because the area where your source is located may be attainment for some pollutants and nonattainment for others. For a given new source or modification, a particular pollutant may be subject to review under PSD, nonattainment major NSR, or minor NSR. However, the new source or modification may not be subject to any of these programs. (See St. Regis Mohawk TIP Section 12.0, [http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

- a) New Source. Use the following steps to determine applicability for each regulated NSR pollutant:
- i. Step 1. Determine whether your new source's

Potential to Emit (PTE) is higher than the major source threshold for any of the NSR regulated pollutants. (See Table 1) If the PTE is higher than the major source threshold, your source is subject to the major NSR rule. If not, continue to Step 2 (paragraph A.1.a)ii., of this section).

Table 1. Minor NSR thresholds.^a

Regulated NSR pollutant	Minor NSR thresholds for nonattainment areas (tpy)	Minor NSR thresholds for attainment areas (tpy)
Carbon monoxide (CO).....	5	10
Nitrogen oxides (NO _x)	5 ^b	10
Sulfur dioxide (SO ₂)	5	10
Volatile Organic Compounds (VOC) .	2 ^b	5
PM.....	5	10
PM ₁₀	1	5
PM _{2.5}	0.6	3
Lead.....	0.1	0.1
Fluorides.....	NA*	1
Sulfuric acid mist.....	NA	2
Hydrogen sulfide (H ₂ S)	NA	2
Total reduced sulfur (including H ₂ S)	NA	2
Reduced sulfur compounds (including H ₂ S)	NA	2
Municipal waste combustor emissions.....	NA	2
Municipal solid waste landfill emissions (measured as nonmethane organic compounds) .	NA	10

*NA = Not Applicable

^a If part of a tribe's area of Indian country is designated as attainment and another part as nonattainment, the applicable threshold for a proposed source or modification is determined based on the designation where the source would be located. If the source straddles the two areas, the more stringent thresholds apply.

^b In extreme ozone nonattainment areas, section 182(e)(2) of the Act requires any change at a major source that results in any increase in emissions to be subject to major NSR permitting. In other words, any changes to existing major sources in extreme ozone nonattainment areas are subject to a "0" tpy threshold, but that threshold does not apply to minor sources.

ii. Step 2. Determine whether your source's PTE is equal to or higher than the minor source threshold for any of the NSR regulated pollutants (including fugitive emissions, to the extent they are quantifiable if the source belongs to one of the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR §52.21(b)(1)(iii), as applicable). If it is, you are subject to the permitting requirements of this minor NSR program for that pollutant.

b) Modification at an Existing Source. Determine whether your proposed modification is subject to review for any of the NSR regulated pollutants under the major NSR program. Your modification will be considered minor and

subject to the minor NSR program requirements
if:

- i. The modification does not qualify as a major modification based on the actual-to-projected-actual test; and
 - ii. The emissions increase from the actual-to-projected-actual test is equal to or exceeds the minor NSR threshold listed in Table 1 of this section.
- c) De Minimis Facilities. You are not subject to this program if the emission increase from the proposed modification does not exceed the minor NSR thresholds listed in Table 1, of this section.

2. Increase in an emissions unit's annual allowable emissions limit. If you make a physical or operational change of an emissions unit at your minor or major stationary source, you may increase the allowable emissions of a regulated NSR pollutant above the existing annual allowable emissions limit. If the proposed change does exceed the emissions limit, you must obtain a permit revision from the [Insert Name of Tribe] to account

for the increase in the limit before making the change. If your proposed physical or operational change is not subject to review under major NSR or this program, you should obtain an administrative permit revision from the [Insert Name of Tribe]. This will account for an increase in the annual allowable emissions limit as provided in part IX.F.

3. Minor Source Permits.

a) If you have an existing true minor source on which construction commenced prior to [Insert Date Determined by Tribe] and that is subject to the registration requirements of part X., you must submit the initial registration for the source by [Insert Date Determined by Tribe]. You are exempt from this requirement if your source has already registered and submitted emissions data under [Insert Tribal Regulation, if any].(*)

b) If you wish to commence construction of a new true minor source or a modification at an existing true minor source on or after [Insert Date Determined by Tribe] and the construction or modification is subject to this program, you

must obtain a permit pursuant to parts IV. and V., (or a general permit pursuant to Part VI., if applicable) prior to commencing construction. The proposed new source or modification will also be subject to the registration requirements of part X., except for sources that are subject to [Insert Tribal registration regulation, if any or refer them to the national registration process].

4. Synthetic Minor Source Permits This rule will allow you to voluntarily accept emission limitations on the PTE of your otherwise major source in Indian country to become a "synthetic minor source." (See St. Regis Mohawk TIP Section 13.0,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

Synthetic minor sources may include sources that emit regulated NSR pollutants and/or HAPs and any limitations on PTE must be enforceable as a practical matter. A synthetic minor source is not subject to the Title V-Federal Operating Permit Program, unless it is subject to that rule for any reason other than being a major source. In addition, a synthetic minor source is subject to

all applicable tribal and federal rules, regulations, and other requirements. The owner or operator of a major source who chooses to request synthetic minor source status shall make such a request within the following timeframes:

- a) If you want to construct a synthetic minor source and/or a synthetic minor HAP source at your existing major source, you must submit a permit application on or after [Insert Date Determined by Tribe].
- b) If you wish to construct a new synthetic minor source and/or a new synthetic minor HAP source on or after [Insert date determined by tribe], you must obtain a permit before commencing construction.
- c) If you wish to modify an existing synthetic minor source and/or synthetic minor HAP source, on or after [Insert date determined by tribe], you must obtain a permit before commencing construction.
- d) You do not need to take any action under this program if you own or operate a synthetic minor source or synthetic minor HAP source that was

established before [Insert date determined by tribe], under an EPA-approved rule or permit program limiting potential to emit.

- e) If you have a part 71 permit that was issued before [Insert Date Determined by Tribe] and established a synthetic minor source or synthetic minor HAP source, the [Insert Name of Tribe] has the discretion to require you to apply for a synthetic minor permit under this program by [Insert Date Determined by Tribe].
- f) If you obtained synthetic minor status or synthetic minor source permits through a mechanism other than those described in paragraphs c) and d), of this section, including state-issued permits, you must submit an application for a synthetic minor source permit under this program by [Insert Date Determined by Tribe].

- 5. Case-by-case maximum achievable control technology (MACT) determinations. (*) If you propose to construct or reconstruct a major source of HAPs such that you are subject to a case-by-case MACT determination under section 112(g) (2) of the Act,

you may decide to have this determination approved under the provisions of this program. If you select this option, you still must comply with the requirements of 40 CFR §63.43 [Or insert tribal citation] (that apply to all case-by-case MACT determinations).

- a) The Notice of MACT Approval will contain a MACT emission limitation or a work practice standard to control the emissions of HAP. The MACT emission limitation or standard will be determined by the [Insert Name of Tribe] and will conform to the principles of MACT determinations.
- b) The Notice of MACT Approval will list any notification, operation and maintenance, performance testing, monitoring, reporting and record keeping requirements.
- c) All provisions contained in the Notice of MACT Approval shall be federally enforceable on [Insert Date Determined by Tribe].
- d) The Notice of MACT Approval shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless

the [Insert Name of Tribe] has granted an extension which shall not exceed an additional 12 months.

B. How do I determine the increase in allowable emissions from a physical or operational change at my source?

Determine the increase in allowable emissions in tons per year (tpy) of each regulated NSR pollutant after considering all increases from the change. A physical or operational change may involve one or more emissions units. You will need to include fugitive emissions, to the extent they are quantifiable, if your source belongs to one of the source categories listed pursuant to section 302(j) of the CAA. The total increase in allowable emissions resulting from your proposed change would be the sum of the following:

1. For each new emissions unit that is to be added, the incremental emissions increase would be the potential to emit of the emissions unit.
2. For each emissions unit with an allowable emissions limit that is to be changed or replaced, subtract the allowable emissions prior to the change or replacement from the allowable emissions of the

emissions unit after the change or replacement. This is your emissions increase. However, this may not be a negative number. Use zero in your calculation if the allowable emissions of an emissions unit would be reduced as a result of the change or replacement.

3. For each unpermitted emissions unit (a unit without any enforceable permit conditions) that is to be changed or replaced, subtract the potential to emit prior to the change or replacement from the allowable emissions of the emissions unit after the change or replacement. This is your emissions increase. However, this may not be a negative value. Use zero in the calculation if an emissions unit's post-change allowable emissions would be less than its pre-change potential to emit.

C. What emissions units and activities are exempt from this program?

This program does not apply to the emissions units and activities at a source that are listed below:

1. Mobile sources.
2. Ventilating units for comfort that do not exhaust air pollutants into the ambient air from any

manufacturing or other industrial processes.

3. Noncommercial food preparation.
4. Consumer use of office equipment and products.
5. Janitorial services and consumer use of janitorial products.
6. Internal combustion engines used for landscaping purposes.
7. Bench scale laboratory activities, except for laboratory fume hoods or vents.

IV. Permit Application Requirements

This section applies to you if you are subject to this program under part III.A.1., for the construction of a new minor source or a modification at an existing source. (As an alternative, you may apply for a general permit under part VI., if an applicable general permit is available for your source type.) This section also applies to you if you wish to establish a synthetic minor source or a synthetic minor HAP source (see part VIII.).

A. What information must my permit application contain?

Paragraphs A.1. through 3., of this section govern the content of the application. (See Gila River TIP, Section 4.0,

[Page 33 of 82](http://www.epa.gov/region9/air/actions/pdf/gila/gric-</u></p></div><div data-bbox=)

part2-permit-requirements.pdf; St. Regis Mohawk TIP

Section 11.4,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

1. General provisions for permit applications. The following provisions apply to permit applications under this program:

- a) The [Insert Name of Tribe] will develop permit application forms for your use.
- b) The permit application need not contain information on the exempt emissions units and activities listed in part III.C.
- c) The permit application for a modification need only include information on the affected emissions units as defined in part II.D.

2. Required permit application content. Except as specified in paragraphs A.1.b) and c) of this section, you must include the information listed in paragraphs 2.a) through i) of this section in your application for a permit under this program. The [Insert Name of Tribe] may require additional information as needed to process the permit application.

- a) Identifying information, including your name

and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

- b) A description of your source's processes and products.
- c) A list of all affected emissions units (with the exception of the exempt emissions units and activities listed in part III.C.)
- d) For each new emissions unit that is listed, the potential to emit of each regulated NSR pollutant in tpy (including fugitive emissions, to the extent that they are quantifiable if the source belongs to one of the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR §52.21(b)(1)(iii), as applicable). You must provide supporting documentation. In your calculation of the potential to emit for an emissions unit, you must account for any proposed emission limitations.
- e) For each modified emissions unit and replacement unit that is listed, the allowable emissions of each regulated NSR pollutant in

typy both before and after the modification (including fugitive emissions, to the extent that they are quantifiable). For emissions units that do not have an allowable emissions limit prior to the modification, report the potential to emit.

- f) The following information to the extent it is needed to determine or regulate emissions: fuel types, fuel use, raw materials, production rates, and operating schedules.
- g) Identification and description of any existing air pollution control equipment and compliance monitoring devices or activities.
- h) Any existing limitations on source operation affecting emissions or any work practice standards, where applicable, for all NSR regulated pollutants at your source.
- i) For each emission point associated with an affected emissions unit, provide stack or vent dimensions and flow information

3. Optional permit application content. At your option, you may propose emission limitations for each affected emissions unit, which may include

pollution prevention techniques, air pollution control devices, design standards, equipment standards, work practices, operational standards, or a combination thereof. You may include an explanation of why you believe the proposed emission limitations to be appropriate.

B. How is my permit application determined to be complete?

Paragraphs B.1. through 3., of this section govern the completeness review of your permit application.

1. An application for a permit under this program will be reviewed by the [Insert Name of Tribe] within 45 days of its receipt (60 days for minor modifications at major sources) to determine whether your application contains all the information necessary for processing the application.
2. If the [Insert Name of Tribe] determines that your application is not complete, it will request additional information from you as necessary to process the application. If the [Insert Name of Tribe] determines that the application is complete, it will notify you in writing. The completeness

determination or request for additional information should be postmarked within 45 days of receipt of the permit application by the [Insert Name of Tribe] (60 days for minor modifications at major sources). If you do not receive a request for additional information or a notice of complete application postmarked within 45 days of receipt of the permit application by the [Insert Name of Tribe] (60 days for minor modifications at major sources), your application will automatically be deemed complete.

3. If the [Insert Name of Tribe] determines that additional information is necessary to evaluate or take final action on the application, it will request additional information from you and require your response within a reasonable time period. Once the [Insert Name of Tribe] receives the requested information, your application will be deemed complete.
4. Any permit application will be granted or denied no later than 135 days (1 year for minor modifications at major sources) after the date the application is deemed complete and all additional information

necessary to make an informed decision has been provided.

- C. How will the [Insert Name of Tribe] determine the emission limitations that will be required in my permit?

After determining that your application is complete, the [Insert Name of Tribe] will conduct a case-by-case control technology review to determine the appropriate level of control, if any, necessary to assure that NAAQS are achieved, as well as the corresponding emission limitations for the affected emissions units at your source.

1. In carrying out this case-by-case control technology review, the [Insert Name of Tribe] will consider the following factors:
 - a) Local air quality conditions.
 - b) Typical control technology or other emissions reduction measures used by similar sources in surrounding areas.
 - c) Anticipated economic growth in the area.
 - d) Cost-effective emission reduction alternatives.
2. The [Insert Name of Tribe] must require a numerical limit on the quantity, rate, or concentration of

emissions for each regulated NSR pollutant emitted by each affected emissions unit at your source for which such a limit is technically and economically feasible.

3. The emission limitations required by the [Insert Name of Tribe] 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.
4. The emission limitations required by the [Insert Name of Tribe] must assure that each affected emissions unit will comply with all requirements of 40 CFR parts 60, 61, and 63 as well as any FIPs or TIPS that apply to the unit.
5. The emission limitations required by the [Insert Name of Tribe] must 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 §51.118(b). If the [Insert Name of Tribe] 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 notify the public of the availability of the demonstration study and must provide opportunity for a public hearing according to the requirements of §49.157 for the draft permit.

D. When may the [Insert Name of Tribe] require an air quality impacts analysis (AQIA)?

Paragraphs D.1. through 3., of this section govern AQIA requirements under this program.

1. If the [Insert Name of Tribe] has reason to be concerned that the construction of your minor source or modification would cause or contribute to a NAAQS or PSD increment violation, it may require you to conduct and submit an AQIA.
2. If required, you must conduct the AQIA using the dispersion models and procedures in the Federal Guideline on Air Quality Models found at 40 CFR part 51, Appendix W [Or insert tribal citations].
3. If the AQIA reveals that construction of your source or modification would cause or contribute to a NAAQS or PSD increment violation, the [Insert

Name of Tribe] will require you to reduce or mitigate such impacts before it can issue you a permit.

V. Permit Requirements

This section applies to your permit if you are subject to this program under part III.A.1., for construction of a new minor source or a modification at an existing source. It does not apply if you applied for a general permit under part VI. However, this section does apply to your permit if you wish to establish a synthetic minor source or a synthetic minor HAP source under part VIII.

A. What information must a permit include?

The permit issued to you by the [Insert Name of Tribe] must include the requirements in paragraphs A.1. through 7., of this section

1. General Requirements. The permit must include the following elements:

- a) The effective date of the permit and the date by which you must commence construction in order for your permit to remain valid (i.e., within 18 months of the permit effective date);
- b) The emissions units subject to the permit and their associated emission limitations; and

c) Monitoring, recordkeeping, reporting, and testing requirements to assure compliance with the emission limitations. (See Gila River TIP, Section 6.0, <http://www.epa.gov/region9/air/actions/gila-river.html#tip>)

2. Emission Limitations. The permit must include the emission limitations determined by the [Insert Name of Tribe] under part IV.C., for each affected emissions unit. The permit must also include an annual allowable emissions limit for each affected emissions unit and for each regulated NSR pollutant emitted by the unit if the unit is issued an enforceable emission limitation lower than the potential to emit of that unit.

3. 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 your source. The [Insert Name of Tribe] may require, as appropriate, any of the following requirements: (See Gila River TIP Section, 6.0,

<http://www.epa.gov/region9/air/actions/pdf/gila/gri-c-part2-permit-requirements.pdf>; St. Regis Mohawk

TIP Section 14.0;

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

a) Any emissions 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.

b) As necessary, requirements concerning the use, maintenance, and installation of monitoring equipment or methods.

4. Recordkeeping Requirements. The permit must include recordkeeping requirements which assure compliance with the emission limitations and monitoring requirements, and it must require the elements

below: (See Gila River TIP, Sections 6.5,

<http://www.epa.gov/region9/air/actions/pdf/gila/gri-c-part2-permit-requirements.pdf>; St. Regis Mohawk

TIP Sections 12.5 and 14.0,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

a) Records of required monitoring information that include the following information, 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.
- vi. The operating conditions existing at the time of sampling or measurement.

b) Retention for 5 years of records of all required monitoring data and support information for the monitoring sample, measurement, report, or application. 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. (See St. Regis Mohawk TIP Section 12.5,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf)

5. Reporting Requirements. The permit must include the following reporting requirements: (See Gila River TIP, Section 6.5,

<http://www.epa.gov/region9/air/actions/pdf/gila/gri-c-part2-permit-requirements.pdf>; St. Regis Mohawk

TIP Section 14.0,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

- a) Annual submittal of reports of monitoring required under paragraph A.3., of this section, including the type and frequency of monitoring, and a summary of results obtained by monitoring.
- b) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. Within the permit, the [Insert Name of Tribe] must define "prompt" in relation to the degree and type of deviation likely to occur and the applicable emission limitations.

6. Severability Clause. The permit must 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.

7. Additional Provisions. The permit must also contain provisions stating the following requirements:

- a) You must comply with all conditions of your permit, including emission limitations that apply to the affected emissions units at your source. Noncompliance with any permit term or condition is a violation of the permit and may constitute a violation of the Act and is grounds for enforcement action and for a permit termination or revocation.
- b) Your permitted source must not cause or contribute to a NAAQS violation or a PSD increment violation.
- c) It is not a defense for you 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.
- d) The permit may be revised, reopened, revoked and reissued, or terminated for cause. The

filing of a request by you 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. (See Gila River TIP, Section 5.7,

<http://www.epa.gov/region9/air/actions/pdf/gila/gric-part2-permit-requirements.pdf>; St. Regis

Mohawk TIP Section 7.0,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

- e) The permit does not convey any property rights of any sort or any exclusive privilege.
- f) You shall furnish, within a reasonable time, any information that the [Insert Name of Tribe] 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.
- g) Upon presentation of proper credentials, you must allow a representative of the [Insert Name

of Tribe] or the EPA (who must comply with the safety requirements of the permittee) to:

- i. Enter upon your premises where a source is located or emissions-related activity is conducted, or where records are required to be kept under the conditions of the permit;
- ii. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
- iii. Inspect, during normal business hours or while the source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.
- iv. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
- v. Record any inspection by use of written, electronic, magnetic, and photographic media. (See St. Regis Mohawk TIP Section

14.2

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf);
or Gila River TIP, Section 4.4,
<http://www.epa.gov/region9/air/actions/pdf/gila/gric-part2-permit-requirements.pdf>)

B. Can my permit become invalid?

Your permit to construct or modify will become invalid if the construction is not commenced within 18 months of the permit issuance date, or if work is suspended for more than 18 months after it has commenced. The [Insert Name of Tribe] may extend the 18-month period if you satisfactorily show that an extension is justified.

VI. General Permits

This section applies to general permits for the purposes of complying with the preconstruction permitting requirements for sources of regulated NSR pollutants under this program.

A. What is a general permit?

A general permit is a preconstruction permit issued by the [Insert Name of Tribe] that may be applied to a number of similar emissions units or sources. The purpose of a general permit is to simplify the permit

process for similar facilities so that the [Insert Name of Tribe] does not have to conduct case-by-case permit development for such facilities. A general permit may be written to address a single emissions unit, a group of the same type of emissions units, or an entire minor source.

B. How will [Insert Name of Tribe] issue general permits?

The [Insert Name of Tribe] will issue general permits as follows:

1. A general permit may be issued for a category of emissions units or sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, and recordkeeping. "Similar in nature" refers to size, processes, and operating conditions.
2. A general permit must be issued according to the requirements for public participation in part VII., and the requirements for final permit issuance and administrative and judicial review in part IX., below.
3. Once a general permit is issued for a source

category, the only issue that may be appealed is whether an individual source is eligible to participate in the general permit (see paragraph E. of this section).

C. For what categories will general permits be issued?

1. The [Insert Name of Tribe] will determine which categories of individual emissions units, groups of similar emissions units, or sources are appropriate for general permits in its area.
2. The [Insert Name of Tribe] has the discretion to issue a general permit or allow you to comply with a general permit promulgated by the EPA.

D. What are the procedures for obtaining coverage under a general permit?

1. If your source qualifies for a general permit, you may apply to the [Insert Name of Tribe] for coverage under the general permit.
2. You must complete and submit a permit application for a general permit provided by the [Insert Name of Tribe].
3. Your application must be reviewed by the [Insert Name of Tribe] within 45 days of receipt to determine whether it contains all the information

necessary for processing.

4. If the [Insert Name of Tribe] determines that your application is not complete, it will request additional information from you to process the application. If your application is deemed complete, the [Insert Name of Tribe] will notify you in writing. The response from the [Insert Name of Tribe] to your permit application must be postmarked within 45 days of its receipt.
5. Your permit application must be granted or denied no later than 90 days after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.
6. After completing one or more of the public participation procedures required in VII.B.1.b), the [Insert Name of Tribe] will determine whether to grant or deny your request for approval to construct under a general permit. The [Insert Name of Tribe] must send you a letter approving or denying your request to construct under a general permit. This decision may only be appealed to the [Insert Tribal Appeal Process] on the issue of

whether your source qualifies for the general permit.

7. If the [Insert Name of Tribe] has approved a general permit for your source, you must comply with all conditions and terms of the general permit. You will be subject to enforcement action for failure to obtain a preconstruction permit if you construct the emissions unit(s) or source with general permit approval and your source is later determined not to qualify for the conditions and terms of the general permit.
8. Your permit becomes invalid if you do not commence construction within 18 months after the effective date of your permit, discontinue construction for a period of 18 months or more, or do not complete construction within a reasonable time. The [Name of Tribe] may extend the 18 month period if you are able to satisfactorily show that an extension is justified.
9. You may request to be excluded from your general permit by applying for a permit under Part IV above.

E. What information must be contained in an application

for a general permit?

The following section governs the content of your application for a general permit:

1. General provisions for permit applications. The following provision applies to permit applications under this program:

The [Insert Name of Tribe] will develop application forms for general permits for your use.
2. Required permit application content. You must include the information listed in paragraphs 2.a) through j) of this section in your application for a general permit under this program. The [Insert Name of Tribe] may require additional information as needed to process the permit application.
 - a) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.
 - b) A description of your source's processes and products.
 - c) A list of all affected emissions units.
 - d) For each new emissions unit that is listed, the potential to emit of each regulated NSR

pollutant in tpy (including fugitive emissions, to the extent that they are quantifiable if the source belongs to one of the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR §52.21(b)(1)(iii), as applicable), with supporting documentation. In your calculation of the potential to emit for an emissions unit, you must account for any proposed emission limitations.

- e) For each modified emissions unit and replacement unit that is listed, the allowable emissions of each regulated NSR pollutant in tpy both before and after the modification (including fugitive emissions, to the extent that they are quantifiable). For emissions units that do not have an allowable emissions limit prior to the modification, report the potential to emit.
- f) The following information to the extent it is needed to determine or regulate emissions: fuel types, fuel use, raw materials, production rates, and operating schedules.
- g) Identification and description of any existing

air pollution control equipment and compliance monitoring devices or activities.

- h) Any existing limitations on source operation affecting emissions or any work practice standards, where applicable, for all NSR regulated pollutants at the source.
- i) For each emission point associated with an affected emissions unit, provide stack or vent dimensions and flow information.
- j) Other information requested by [Insert Name of Tribe].

VII. Public Participation Requirements

This section applies to the issuance of minor source permits and synthetic minor source permits, the initial issuance of general permits, and coverage of a particular source under a general permit.

A. What permit information will be publicly available?

All permit information will be available to the public with the exception of confidential business information (CBI). (See St. Regis Mohawk TIP Section 6.0, [http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf); or Gila River TIP, Section 10.0, <http://www.epa.gov/region9/air/actions/pdf/gila/gric->

part2-permit-requirements.pdf)

Confidential information is information that the permitting authority determines that a business may keep confidential because its disclosure may deprive the business of advantages it derives from the information. This includes the concept of trade secrets and other related legal concepts. The [Insert Name of Tribe] will establish procedures to make a determination on whether information should be designated as confidential business information. The [Insert Name of Tribe] will make available for public inspection the documents listed below:

[Insert Tribal Location for Public Review]

1. All information submitted as part of an application for a permit, except information that has been determined to be CBI.
2. Any additional information requested by the [Insert Name of Tribe].
3. The [Insert Name of Tribe's] analysis of the application and any additional information submitted for preconstruction permits and the initial issuance of general permits.
4. For minor source permits and the initial issuance

of general permit, the [Insert Name of Tribe's] analysis of the effect of the construction of the minor source or modification on ambient air quality.

5. The [Insert Name of Tribe's] analysis of whether a particular emissions unit or source meets the eligibility criteria for coverage under the general permit.
6. A copy of the draft permit or the decision to deny the permit with the justification for denial.

B. How will the public be notified and participate?

1. ~~Before~~ issuing a permit under this program, the [Insert Name of Tribe] will prepare a draft permit and provide adequate public notice as set out in paragraphs B.1.a) and b) of this section. The public notice must provide an opportunity for public comment and a public hearing on the draft permit.
 - a) The [Insert Name of Tribe] will provide a copy of the notice to the EPA, and [insert appropriate tribal, state, and local air pollution authorities having jurisdiction in areas potentially impacted by the air pollution

source.

b) The [Insert Name of Tribe] will notify the public for review through one of the following procedures, at the discretion of the [Insert Name of Tribe].

i. Mail or e-mail a copy of the notice to persons on a mailing list developed by the [Insert Name of Tribe] consisting of those persons who have requested to be placed on such a mailing list.[*]

ii. Post the notice on [insert tribal website].[*]

iii. Publish the notice in [insert publication appropriate to the tribe].[*]

iv. Post copies of the notice at: [insert locations appropriate to the tribe, such as post offices, trading posts, libraries, tribal environmental offices, community centers, or other gathering places in the community[*].

[*] List other means of notification as appropriate.

2. The public notice by [Insert Name of Tribe]

required pursuant to paragraph B.1., of this section must include the following information at a minimum:

- a) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact;
- b) The name and address of the [Insert Name of Tribe] processing the permit action, and the name and telephone number of a contact person from whom additional information may be obtained;
- c) The regulated NSR pollutants to be emitted, the emissions change involved in the permit action, the affected emissions units, and the emission limitations for each affected emissions unit in a minor source permit, the initial issuance of general permit, and coverage of a particular source under a general permit;
- d) Description of the proposed limitation in a synthetic minor source permit and its effect on the potential to emit of the source;
- e) Instructions for requesting a public hearing;

- f) Locations and times of availability of the information (listed in paragraph A., of this section) for public inspection; and
- g) A statement that any person may submit written comments, a written request for a public hearing, or both, on the draft permit action. The [Insert Name of Tribe] will provide a period of at least 30 days from the date of the public notice for comments, and for requests for a public hearing, and should specify the end date of the comment period in the request for comments.

C. How will the public comment and will there be a public hearing? [Or Insert or Reference Tribal Procedures]

- 1. Any person may submit written comments on the draft permit and may request a public hearing. A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised at the hearing. The [Insert Name of Tribe] must provide a hearing if requested.
- 2. The [Insert Name of Tribe] will consider all comments in making the final decision. The [Insert Name of Tribe] will respond in writing to all

comments and keep a record of the commenters and issues raised during the public participation process. These records will be available to the public.

3. The [Insert Name of Tribe] will hold a hearing whenever, on the basis of requests, there is a significant degree of public interest in a draft permit. The [Insert Name of Tribe] 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. The [Insert Name of Tribe] must provide notice of any public hearing at least 30 days prior to the date of the hearing.
4. The [Insert Name of Tribe] will extend the public comment period under paragraph B., of this section to the close of any public hearing under this section.
5. The [Insert Name of Tribe] will make a tape recording or written transcript of any hearing available to the public.

VIII. Synthetic Minor Source Permits

You may obtain a synthetic minor source permit under this

program to establish that your source's emissions are below the major source threshold for purposes of the applicable PSD, nonattainment major NSR, or CAA title V program and/or a synthetic minor HAP source for purposes of 40 CFR part 63 [Insert Tribal Citation]. (See St. Regis Mohawk TIP Section 13.0,

[http://www.srmtenv.org/pdf files/airtip.pdf](http://www.srmtenv.org/pdf_files/airtip.pdf))

Note that if you propose to construct or modify a synthetic minor source, you are also subject to the preconstruction permitting requirements in parts IV. and V., except for the permit application content and permit application completeness provisions included in IV.A.2. and IV.B.

A. What information must my synthetic minor source permit application contain?

1. Your application must include:

- a) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.
- b) The following information for each regulated NSR pollutant and/or HAP and each emissions unit to be covered by an emissions limitation:

- i. The proposed emission limitation and a description of its effect on actual emissions or the potential to emit. Proposed 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.
- ii. Proposed testing, monitoring, recordkeeping, and reporting requirements to be used to demonstrate and assure compliance with the proposed limitation.
- iii. Description of the production processes.
- iv. Identification of the emissions units.
- v. Type and quantity of fuels and/or raw materials used.
- vi. Description of the estimated efficiency of air pollution control equipment under present or anticipated operating conditions.
- vii. Estimates of the current actual emissions and current potential to emit, including all calculations for the estimates.

viii. 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.

c) Any other information specifically requested by the [Insert Name of Tribe].

2. Estimates of actual emissions must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the [Insert Name of Tribe]. Any emission estimates submitted to the [Insert Name of Tribe] must be verifiable using currently accepted engineering criteria.

B. What are the procedures for obtaining a synthetic minor source permit?

1. You must submit a permit application to the [Insert Name of Tribe]. The application must contain the information specified in paragraph A. of this section.

2. Within 60 days after receiving your application, the [Insert Name of Tribe] will determine if it contains the information specified in paragraph A., of this section.

3. If your application is determined to be complete, the [Insert Name of Tribe] will respond to you in writing within 60 days of receiving your permit application. You will be asked to provide additional information if the [Insert Name of Tribe] determines that your application is not complete. If you do not receive a request for additional information or a notice of complete application postmarked within 60 days of receipt of the permit application, your application will automatically be deemed complete.
4. The [Insert Name of Tribe] will prepare a draft synthetic minor source permit that describes the proposed limitation and its effect on the potential to emit of the source.
5. The [Insert Name of Tribe] will provide an opportunity for public participation and public comment on the draft synthetic minor source permit as set out in part VII.
6. The [Insert Name of Tribe] will consider all comments in making the final decision. The [Insert Name of Tribe] will respond in writing to all comments and keep a record of the commenters and

issues raised during the public participation process. These records will be available to the public.

7. The final synthetic minor source permit will be granted or denied no later than 1 year after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.
8. If approved, the final synthetic minor source permit will be issued and will be subject to administrative and judicial review as set out in part IX.

C. What are my responsibilities under this program for my source that already has synthetic minor source or synthetic minor HAP source status prior to the effective date of this rule? [Insert date determined by tribe]

1. You do not need to take any action under this program if you own or operate a synthetic minor source or synthetic minor HAP source that was established before [Insert date determined by tribe] under an EPA-approved rule or permit program limiting potential to emit, except for state rules

or permits.

2. If your existing synthetic minor source and/or synthetic minor HAP source was established under a permit with enforceable emissions limitations issued pursuant to the Part 71 Federal Operating Permit Regulation, the [Insert Name of Tribe] has the discretion to do any of the following:
 - a) Allow you to maintain the synthetic minor status for your source through your permit under the Part 71 Federal Operation Permit Program, including subsequent renewals of that permit.
 - b) Require you to submit an application for a synthetic minor source permit under this program by [Insert date determined by tribe]. You may also be required to meet additional requirements depending on the specific circumstances of your source.
 - c) Require you to submit an application for a synthetic minor source permit under this program at the same time that you apply to renew your permit under the Part 71 Federal Operating Permit Program.

3. If your existing synthetic minor source and/or synthetic minor HAP source was established through a mechanism other than those described in paragraphs C.1. and C.2., of this section, or by maintaining your actual emissions at less than 50 percent of the relevant major source threshold, you must submit an application for a synthetic minor source permit under this program by [Insert date determined by tribe].
4. If you are required to obtain a synthetic minor source permit under this program for your existing synthetic minor source and/or synthetic minor HAP source, the following provisions apply:
 - a) After submitting your synthetic minor source permit application, you must respond in a timely manner to any requests from the [Insert Name of Tribe] for additional information.
 - b) If you submit your application and any requested additional information, your source will continue to be considered a synthetic minor source or synthetic minor HAP source until your synthetic minor source permit under this program has been issued.

- c) If you fail to submit your application or any requested additional information, your source will no longer be considered a synthetic minor source or synthetic minor HAP source. Your source will become subject to all requirements for major sources.

IX. Final Permit Issuance and Administrative and Judicial Review

[Tribe may follow this procedure or develop tribal specific provisions.]

A. How will final action occur, and when will my permit become effective?

After making a decision on a permit, the [Insert Name of Tribe] will notify you of the decision, in writing, and if the permit is denied, of the reasons for such denial. The [Insert Name of Tribe] will 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. A final permit becomes effective 30 days after permit issuance, unless:

1. A later effective date is specified in the permit;

or

2. Review of the final permit is requested under paragraph D., of this section (in which case the specific terms and conditions of the permit that are under review must be stayed); or
3. The [Insert Name of Tribe] makes the permit effective immediately upon issuance because no comments were received requesting a change or a denial of the draft permit.

B. How long will the [Insert Name of Tribe] retain my permit-related records?

The records, including any required applications for each draft and final permit or application for permit revision, will be kept by the [Insert Name of Tribe] for not less than 5 years.

C. What is the administrative record for each final permit?

1. The [Insert Name of Tribe] will base final permit decisions on an administrative record consisting of:
 - a) The application and any supporting data furnished by you, the permit applicant;
 - b) The draft permit or notice of intent to deny

- the application;
- c) Other documents in the supporting files for the draft permit that were relied upon in the decision making;
 - d) All comments received during the public comment period, including any extension or reopening;
 - e) The tape or transcript of any hearing(s) held;
 - f) Any written material submitted at such a hearing;
 - g) Any new materials placed in the record as a result of the [Insert Name of Tribe's] evaluation of public comments;
 - h) The final permit; and
 - i) Other documents in the supporting files for the final permit that were relied upon in the decision making.

2. The additional documents required under paragraph C.1., of this section should be added to the record as soon as possible after their receipt or preparation by the [Insert Name of Tribe]. The record must be complete on the date the final permit is issued.

D. Can permit decisions be appealed?

Permit decisions may be appealed according to the following provisions: [Insert Tribal specific provisions]

E. Can my permit be reopened?

The [Insert Name of Tribe] may reopen a permit if it contains a material mistake or fails to assure compliance with applicable requirements. All other permit reopening shall be carried out after conducting public notice and comment, in accordance with one or more of the public participation requirements under part VII.B.1.b).

F. What is an administrative permit revision?

The following provisions govern administrative permit revisions.

1. An administrative permit revision is a permit revision that makes any of the following changes:
 - a) Corrects typographical errors.
 - b) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change to the information about the source.
 - c) Requires more frequent monitoring or reporting

by the permittee.

- d) Allows for a change in ownership or operational control of a source where the [Insert Name of Tribe] determines that no other change in the permit is necessary.
- e) Establishes an increase in an emissions unit's annual allowable emissions limit for a regulated NSR pollutant, when the action that causes the increase is not otherwise subject to review under major NSR or under this program.
- f) Incorporates any other type of change that the [Insert Name of Tribe] has determined to be similar to those in paragraphs F.1.a) through f), of this section.

- 2. An administrative permit revision is not subject to the permit application, issuance, public participation, or administrative and judicial review requirements of this program.

X. Registration Program for Stationary Sources

[Note the tribe may want to use the federal registration system]. This program establishes a registration program for existing minor sources to improve the tribal source emission inventory. This registration will be a one-time

registration (not an annual registration) of your source's estimated actual and allowable emissions.

A. Does this section apply to my source?

This section applies to you if you are the owner/operator of a stationary source with any of the following characteristics:

1. Your source is a true minor source on which construction commenced any time prior to [Insert Date Determined by Tribe].
2. Your source is a true minor source, subject to this rule, on which construction or modification of this source commenced any time on or after [Insert Date Determined by Tribe].

B. What sources are exempted from this section?

The exemptions below apply to the registration program of this section:

1. You are exempt from this registration program if any of the following apply to your source:
 - a) Your source is subject to the registration requirements under 40 CFR 49.138 "Rule for the registration of air pollution sources and the reporting of emissions."
 - b) Your source has a permit issued under the Part

71 Federal Operating Permit Program.

c) Your source is a synthetic minor source or a synthetic minor HAP source.

2. You are not required to include emissions from the emissions units and activities listed in part III.C., for purposes of determining the potential to emit, allowable or actual emissions of your source.

C. What are the requirements for registering your minor source?

The requirements for registration are as follows:

1. Due date. The due date of your source registration varies according to the following paragraphs:

a) If construction commenced on your source any time prior to [Insert Date Determined by Tribe], you must submit your source registration by [Insert Date Determined by Tribe] or within 90 days after the source begins operation, whichever is later.

b) If construction or modification of your source commenced any time on or after [Insert Date Determined by Tribe] and your source is subject to this rule, your permit application

information will be used to fulfill the registration requirements in Part X (C) (2). Additionally, for registration purposes, you must also report your source's actual emissions (if available) as part of your permit application.

2. Content. You must submit all registration information on forms provided by the [Insert Name of Tribe]. Each registration must include the following information, as applicable:
 - a) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.
 - b) A description of your source's processes and products.
 - c) A list of all emissions units (with the exception of the exempt emissions units and activities listed in part III.C).
 - d) The allowable and estimated actual annual emissions of each regulated NSR pollutant (including fugitive emissions, to the extent that they are quantifiable) for each emissions

unit that is listed, if the emissions unit or source is in one of the source categories listed in 40 CFR §51, Appendix S, paragraph II.A.4(iii)II(b)(1)(e) [Or Insert Tribal Citations].

- e) Information on fuel types, fuel use, raw materials, production rates, and operating schedules.
- f) Identification and description of any existing air pollution control equipment and compliance monitoring devices or activities.
- g) Any existing limitations on source operation affecting emissions or any work practice standards, where applicable, for all NSR regulated pollutants at the source.
- h) Any other information specifically requested by the [Insert Name of Tribe].

3. Procedure for estimating emissions. Your registration should include the potential to emit or estimates of the allowable and actual emissions, in tons per year, of each regulated NSR pollutant for each emissions unit at the source.

- a) Estimates of allowable emissions must be

consistent with the definition of that term in II.D.2. Allowable emissions must be calculated based on 8,760 operating hours per year (i.e., operating 24 hours per day, 365 days per year) unless the [Insert Name of Tribe] approves a different number of annual operating hours as the basis for the calculation.

- b) Estimates of actual emissions must take into account equipment, operating conditions, and air pollution control measures.
- c) The allowable and actual emission estimates must be based upon actual test data or, in the absence of such data, upon procedures acceptable to the [Insert Name of Tribe]. Any emission estimates submitted to the [Insert Name of Tribe] must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:
 - i. Source-specific emissions tests;
 - ii. Mass balance calculations;
 - iii. Published, verifiable emission factors

that are applicable to the source;

- iv. Other engineering calculations; or
- v. Other procedures to estimate emissions specifically approved by the [Insert Name of Tribe].

4. Duty to obtain a permit. Submitting a registration does not relieve you of the requirement to obtain any required permit, including a preconstruction permit, if your source or any physical or operational change at your source would be subject to any minor or major NSR rule.

D. What are the requirements for additional reports?

After you have registered your source, you must submit the following additional reports, when applicable:

- 1. Report of relocation. After your source has been registered, you must report any relocation of your source to the [Insert Name of Tribe] in writing no later than 30 days prior to the relocation of the source. However, you do not need to submit a report if you obtained a major or minor NSR permit for the relocation. Submitting a report of relocation does not relieve you of the requirement to obtain a preconstruction permit if the change is subject to

any major NSR or minor NSR rule.

2. Report of change of ownership. After your source has been registered, the new owner/operator must report any change of ownership of a source to the [Insert Name of Tribe] in writing within 90 days after the change in ownership is effective.
3. Report of closure. Except for regular seasonal closures, after your source has been registered, you must submit a report of closure to the [Insert Name of Tribe] in writing within 90 days after the cessation of all operations at your source.