

Federal Plan for Implementing the Indian Country Minor New Source Review Program for the Oil and Natural Gas Industry: Fact Sheet

SUMMARY OF ACTION

- On May 12, 2016, the U.S. Environmental Protection Agency (EPA) finalized a federal implementation plan (FIP) to implement the agency's Indian Country Minor New Source Review (NSR) program for the oil and natural gas production and natural gas processing segments of the oil and natural gas sector.
- The final plan limits emissions of harmful air pollutants, while streamlining the preconstruction permitting process for this large and complex industry.
- The FIP is part of a package of final rules that together will combat climate change, reduce air pollution that harms public health, and provide greater certainty about Clean Air Act permitting requirements.
- The final FIP will be used instead of source-specific minor NSR preconstruction permits in Indian country. It incorporates emissions limits and other requirements from eight federal standards, applying limits for a range of equipment and processes used in oil and natural gas production and natural gas processing. The eight standards are:
 - The final New Source Performance Standards for the Oil and Natural Gas Industry, also issued May 12.
 - Performance standards for volatile organic compound (VOC) liquid storage tanks,
 - Performance standards for stationary compression ignition internal combustion engines,
 - Performance standards for stationary spark ignition internal combustion engines,
 - Performance standards for new stationary combustion turbines,
 - Air toxics standards for industrial, commercial and institutional boilers and process heaters,
 - Air toxics standards for oil and natural gas production facilities, and
 - Air toxics standards for stationary reciprocating internal combustion engines.
- The agency also issued a number of updates to the Indian Country Minor NSR rule to accommodate the FIP.

What the FIP Covers

- Requirements in the FIP apply to all new and modified true minor sources in the oil and natural gas production and the natural gas processing segments of the oil and gas industry.

EPA anticipates the majority of true minor sources needing preconstruction permits in Indian country in the oil and gas sector will be in those segments.

- For crude oil, production operations include equipment and activities generally found prior to the point where crude oil enters storage and transmission terminals where the oil is loaded for transport to refineries.
- For natural gas, production and processing operations include equipment and activities that occur prior to natural gas plants or prior to the point where natural gas enters the transmission and storage segment for distribution.
- Under the final rule, beginning Oct. 3, 2016, new and modified true minor sources using the FIP will be required to register using a specific form tailored to the FIP, rather than a permit application.
- Owners/operators may choose to seek a source-specific minor source NSR permit instead of complying with the FIP. EPA also may determine that a source-specific permit is required based on local or reservation-specific air quality concerns. The agency will provide advance notice before requiring source-specific permits in these instances.
- The final FIP applies throughout Indian country except non-reservation areas, unless a tribe or EPA demonstrates jurisdiction for those areas. It does not apply in areas designated as nonattainment for a National Ambient Air Quality Standard (NAAQS). Sources locating in nonattainment areas will have to seek a source-specific permit, or comply with reservation-specific FIPs where those exist. EPA will consider whether to apply requirements of the FIP to true minor sources in specific nonattainment areas in the future.

Additional requirements

- Owners/operators planning to use the FIP also are required to address threatened and endangered species, and historic properties. They can accomplish this in one of two ways:
 - Submitting documentation to the EPA that demonstrates that prior Endangered Species Act and/or National Historic Preservation Act compliance has been completed by another federal agency in connection with the specific oil and natural gas activity operated under this FIP; or
 - Submitting completed EPA-developed screening procedures for consideration of threatened and endangered species and/or historic properties and obtaining written confirmation from EPA of satisfactory completion.

BACKGROUND

- The oil and gas industry has grown rapidly in many areas of Indian country, prompting air quality concerns in some areas, along with concerns about potential permitting delays for minor sources covered by the Indian Country NSR rule.

- NSR is a Clean Air Act program that requires industrial facilities to install modern pollution control equipment when they are built or when they make a change that has the potential to significantly increase emissions. The program accomplishes this by requiring owners or operators to obtain permits that limit air emissions before they begin construction. For that reason, NSR is commonly referred to as the “preconstruction permitting program.”
- The purpose of the NSR program is to protect public health and the environment, even as new industrial facilities are built and existing facilities expand. NSR is designed to ensure that emissions from new and expanding industrial facilities do not worsen air quality in areas with unhealthy air (nonattainment areas), or that they do not significantly degrade air quality in areas where the air is currently clean (attainment areas).
- EPA issued the Indian Country NSR rule in 2011, as part of a FIP that put in place the two remaining pieces of the NSR program in Indian country. The 2011 rule includes requirements for EPA to issue air permits to sources in Indian country but allows tribes to take responsibility for issuing air permits according to EPA’s requirements.
- Together with existing rules for permitting major sources in areas of Indian country that currently meet clean air health standards, the 2011 rule established federal programs for issuing all minor pre-construction air permits in Indian country. These permit programs are similar to those being implemented by states.
- The 2011 rule requires preconstruction permits for certain smaller sources of air pollution commonly found in Indian country, including the oil and natural gas industry. The rule covers new and modified “minor” sources of air pollution.
 - Minor sources have the potential to emit a number of pollutants in amounts above the minor NSR thresholds established in the 2011 rule, but below major NSR thresholds. These thresholds vary by pollutant, and by whether the area where the source is located is designated as attainment or nonattainment for a NAAQS.

FOR MORE INFORMATION

- The final FIP is available at <https://www.epa.gov/tribal-air/tribal-minor-new-source-review>
- For additional information and to read the other oil and natural gas rules, visit <https://www3.epa.gov/airquality/oilandgas/actions.html>