



# Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Hot Mix Asphalt Plants in Indian Country

## Technical Support Document

**Permittee:** Valley Paving and Asphalt, Incorporated  
P.O. Box 308  
Cottonwood, Idaho 83522

**Project Name:** Valley Portable Hot Mix Asphalt Plant

### Locations:

Site Name*	Street Address*	City/Town	Area of Indian Country
Brandt Quarry	46° 13' 20" N 116° 28' 21" W	Unincorporated	Nez Perce Reservation
Braun Quarry	46° 21' 41" N 116° 14' 53" W	Unincorporated	Nez Perce Reservation
Clear Creek Quarry	46° 07' 11" N 115° 56' 36" W	Unincorporated	Nez Perce Reservation
Gauksheim Quarry	46° 12' 37" N 116° 24' 44" W	Unincorporated	Nez Perce Reservation
Howell Quarry	46° 09' 04" N 115° 58' 24" W	Unincorporated	Nez Perce Reservation
Kinzer Quarry	46° 08' 02" N 116° 30' 50" W	Unincorporated	Nez Perce Reservation
Roberts Quarry	46° 08' 15" N 116° 03' 46" W	Unincorporated	Nez Perce Reservation
Summers Quarry	46° 28' 53" N 116° 35' 49" W	Unincorporated	Nez Perce Reservation

\*Approval is for operation within the previously disturbed portion of each existing quarry only.

**Source Contact:** Christopher Rehder, (208) 962-3314, seubexcr@gmail.com

**Date:** May 18, 2018

**Permit #:** R10TNSR01000

## Background

The Clean Air Act (CAA) provides the U.S. Environmental Protection Agency (EPA) with broad authority to protect air resources throughout the nation, including air resources in Indian Country. Unlike States, Indian Tribes are not required to develop CAA new source review (NSR) permitting programs. See, e.g., Indian Tribes: Air Quality Planning and Management, 63 Fed. Reg. 7253 (Feb. 12, 1998) (also known as the Tribal Authority Rule). In the absence of an adequately implemented EPA-approved NSR program, in 2011, the EPA finalized the Tribal NSR Rule, codified at 40 CFR Part 49, as part of a Federal Implementation Plan in order to protect tribal air resources from impacts due to the construction of new or modified stationary sources of air pollutants. 76 Fed. Reg. 38748 (July 1, 2011). Among other requirements, the Tribal NSR Rule set forth procedures and terms under which the Agency would administer a minor NSR permitting program in Indian Country.

As part of the Tribal NSR Rule, the EPA adopted the option of developing general permits for certain categories of minor sources to which the Tribal NSR Rule would apply. The purpose of a general permit is to provide for the protection of air quality while simplifying the permit issuance process for similar

facilities in order to minimize the burden on the reviewing authority and the regulated sources. The EPA finalized the General Air Quality Permit for New or Modified Minor Source Hot Mix Asphalt Plants (HMA General Permit) in Indian Country effective June 1, 2015 (80 Fed. Reg. 25068 (May 1, 2015)). New and modified minor sources that are true minor sources or major sources seeking to become synthetic minor sources may apply for coverage under the HMA General Permit if their potential to emit for new, modified, and existing units is below major source thresholds and the source can meet the throughput limits and other terms and conditions set forth in the General Permits. Sources seeking coverage under this General Permit must also demonstrate that they meet certain additional eligibility criteria.

### **Request for Coverage under HMA General Permit**

On September 9, 2015, Region 10 received an initial Request for Coverage under the HMA General Permit from Valley Paving and Asphalt, Incorporated (Valley) to operate as a synthetic minor source on the Nez Perce Indian Reservation which is located in North Central Idaho. This Request for Coverage was certified and signed as being true, accurate and complete by Christopher Rehder on August 31, 2015. The project for which HMA General Permit coverage is sought is the operation of a portable HMA plant, which will entail operation of the portable equipment at several existing active quarries within the exterior boundaries of the Nez Perce Indian Reservation (the Project). Valley is considered the “Applicant” and the “Permittee” for the Project.

This Approval and the HMA General Permit authorize the Permittee to operate the Project within the previously disturbed portion of each existing quarry only at the locations listed below (see also attached map).

<b>Site Name</b>	<b>Street Address</b>	<b>City/Town</b>	<b>Area of Indian Country</b>
Brandt Quarry	46° 13' 20" N 116° 28' 21" W	Unincorporated	Nez Perce Reservation
Braun Quarry	46° 21' 41" N 116° 14' 53" W	Unincorporated	Nez Perce Reservation
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The geographic area where the HMA will be located is designated as either attainment/unclassifiable or unclassifiable under the CAA for all National Ambient Air Quality Standards (NAAQS) pollutants. The available information on air quality in the area shows that ambient concentrations are well below the levels of the NAAQS. The HMA General Permit contains limits on emissions and operations sufficient to ensure that the HMA is not a major source and to ensure that emissions would not cause or contribute to a violation of any NAAQS. Region 10 believes that the HMA General Permit is appropriately protective of the NAAQS.

### **Approval of Request for General Permit Coverage**

Based on a review of, and in reliance on, all of the information and representations provided in the Request for Coverage, and other relevant information, Region 10 has determined that the Project meets

all the criteria for coverage under the HMA General Permit and is approving the Request for Coverage for the Project. Region 10’s review with respect to the criteria is discussed in more detail below.

### Equipment Description

Table 1. List of Affected Emission Units Covered by this Approval of Request for HMA General Permit Coverage

ID #	Description of Affected Emission Units	Control Technology	Date of Manufacture
VPA1	Virgin Aggregate Bins; 200 tons/hour	None	1993
VPA2	Virgin Aggregate Conveyor 1; 200 tons/hour	None	1995
VPA3	Virgin Aggregate Conveyor 2; 200 tons/hour	None	1995
VPA4	Virgin Aggregate Screen; 200 tons/hour	None	1978
VPA5	RAP Bins; 200 tons/hour	None	2011
VPA6	RAP Conveyor 1; 200 tons/hour	None	1995
VPA7	RAP Conveyor 2; 200 tons/hour	None	1995
VPA8	RAP Screen; 200 tons/hour	None	1977
VPA9	Drum Dryer/Mixer; 400 tons/hour; Burner 96.8 MMBtu/hour	Baghouse	1999
VPA10	Drag Conveyor; 400 tons/hour	None	2002
VPA11	Hot Mix Asphalt Storage; 400 tons/hour	None	1994
APV15	Generator 1; 1,430 brake horsepower; #2 Diesel	None	5/27/1994
APV16	Generator 2; 335 brake horsepower; #2 Diesel	None	7/31/1996
APV17	Tank Heater; 0.5 MMBtu/hour; electric	None	1994
ST1	Reprocessed Fuel Oil Tank; capacity 20,000 gallons; vapor pressure 0.002	None	2004
ST2	Diesel Fuel Tank; capacity 10,000 gallons; vapor pressure 0.058 psi	None	1989

### Eligibility Criteria

Based upon our review of the Request for Coverage, Region 10 has determined the Project qualifies for the HMA General Permit because it meets the following criteria:

- The Project is for a synthetic minor source HMA plant. See Potential to Emit section below.
- The Permittee has agreed to comply with Condition 15.a. of the HMA General Permit to produce hot mix asphalt not to exceed the limit of 83,000 tons-per-month of hot mix asphalt based on a 12-month rolling average from a drum mix asphalt plant. The Project will not be co-located with a stone quarrying, crushing, and screening facility.
- The Project is located in an attainment/unclassifiable or unclassifiable areas for all NAAQS pollutants.
- As discussed further below, the Applicant has met the eligibility criteria related to listed species and historic properties, and environmental justice.

## Potential to Emit (in tons/year)

Potential to emit (PTE) means the maximum capacity of a stationary source to emit an air pollutant under its physical and operational design. The HMA General Permit includes enforceable physical or operational limitations on the maximum capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on the type or amount of material combusted, stored, or processed. PTE is meant to be a worst case emissions calculation and is used in many cases to determine the applicability of federal CAA requirements. Actual emissions are typically lower than PTE. Our evaluation of whether the Project qualifies for the HMA General Permit included consideration of the limitations on PTE in the HMA General Permit.

The Tribal NSR Rule establishes specific PTE thresholds for new or modified stationary sources that trigger the requirement to obtain a preconstruction permit under the Tribal Minor NSR program. See Table 2.

Table 2. Tribal Minor NSR Permitting Thresholds (tons per year)

<b>Pollutant</b>	<b>Nonattainment Areas</b>	<b>Attainment Areas</b>
CO	5	10
NOx	5	10
SO2	5	10
VOC	2	5
PM	5	10
PM10	1	5
PM2.5	0.6	3
Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2
Hydrogen sulfide	NA	2
Total reduced sulfur	NA	2
Reduced sulfur compounds	NA	2

Projects at new or modified sources that must obtain Tribal Minor NSR program preconstruction permits based on PTE at or above these Tribal minor NSR thresholds may qualify for coverage under a Tribal Minor NSR general permit in lieu of obtaining a site-specific permit. In order to qualify for the HMA General Permit, the new or modified source must have a PTE below the major NSR source thresholds and meet criteria related to the size of equipment and maximum production rates at the source and other eligibility criteria. If a new or modified source does not meet the specified criteria, the source does not qualify for coverage under the HMA General Permit and must apply for a site-specific Tribal NSR permit or other applicable NSR permit.

In this case, Valley determined that the Project triggered the preconstruction permit requirements under the Tribal Minor NSR Rule and is seeking to obtain coverage under the HMA General Permit in lieu of obtaining a site-specific permit. As such, Region 10 has taken into account the enforceable limitations

under the HMA General Permit in determining the PTE for the Project, whether it is a major source, and whether it is eligible for the HMA General Permit.

The Project’s PTE does not exceed the applicable CAA Title V and NSR major source thresholds in attainment areas (100 tons per year for the NAAQS pollutants and 250 tons per year for particulate matter (PM) because it is not a NAAQS pollutant). The potential emissions contained in Table 3 are based on the material throughput limits and fuel consumption limits for HMA plants that are specified in the HMA General Permit. For more information about how these emissions were calculated please see the Background Document: General Air Quality Permit for New or Modified Minor Source Hot Mix Asphalt Plants in Indian Country (Final) (PDF)(25 pp, 857 K, 03/23/15) at <https://www.epa.gov/sites/production/files/2016-05/documents/hotmixasphaltbackgrounddocument.pdf>. Accordingly, the Project’s potential emissions are at a level that qualifies it for coverage under the HMA General Permit.

Table 3. Hot Mix Asphalt Potential to Emit Summary (includes controls)

Process	Pollutant (tons/year)						
	PM	PM <sub>10</sub>	PM <sub>2.5</sub>	SO <sub>2</sub>	NO <sub>x</sub>	CO	VOC
Hot Mix Asphalt Plant	86	26	14	18	71	80	28

**Listed Species-Related Eligibility Criteria**

The EPA developed eligibility criteria related to species that are listed as threatened or endangered under the federal Endangered Species Act (ESA) that applicants must satisfy to qualify for coverage under the HMA General Permit. Appendix A to the Request for Coverage form for the HMA General Permit provides detailed screening procedures for applicants to follow to assess the potential impacts of their sources on federally-listed species and their critical habitat. To be eligible for coverage under a General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the species-related eligibility criteria, provide sufficient documentation supporting the criterion selected, and obtain confirmation from the EPA that they have done so.

The Request for Coverage states that the Project meets Criterion B of Appendix A with respect to listed species protection. The Request for Coverage included information pertaining to the Project and supporting their selection of Criterion B of Appendix A. Based on habitat requirements and an analysis of the available habitat within the boundaries of the proposed Project locations and the respective action areas, the information shows that listed species could exist in the Project’s action area. In accordance with the Criterion B procedures, Region 10 requested review of the proposed eight sites from the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS). Also, Region 10 specifically requested that the FWS and NMFS consider the impacts of particulate air emissions, invasive weed species, and stormwater and sediment runoff to the listed threatened and endangered species and their critical habitat. These species include steelhead and bull trout and their critical habitat that may exist in surface waters adjacent to the sites of operation (see Valley Request for Coverage, Appendix A-1, dated August 27, 2015). The FWS and NMFS conducted their review under the ESA and considered the specific impacts expressed by Region 10 as stated above. In an email dated January 3, 2018, the reviews of the FWS and NMFS concluded that the operation of an HMA plant under EPA’s

General Permit is not likely to adversely affect the listed threatened or endangered species or their critical habitat under the ESA at the eight sites proposed for operation of the portable HMA plant.

After review and consideration of this information, Region 10 agrees that the Applicant has completed the species-related screening procedures and has demonstrated, providing appropriate information, that the proposed Project meets Criterion B, of the listed species-related eligibility criteria for coverage under the HMA General Permit. Per Appendix A of the Request for Coverage, this facility would meet Criterion B because the FWS and NMFS have indicated that the operation of an HMA plant under the HMA General Permit is not likely to adversely affect the listed threatened or endangered species or their critical habitat that could exist within the specific action area of the Project.

The EPA stormwater program has been notified that the eight sites listed in the approval letter are being approved for coverage under the EPA's HMA General Permit and that the applicant will apply for the necessary stormwater permits prior to beginning operation.

### **Historic Properties-Related Eligibility Criteria**

The EPA developed the screening process in Appendix B of the Request for Coverage form to enable source owners/operators to appropriately consider the potential impacts, if any, resulting from the construction, modification, and/or operation of a new or modified emission source on historic properties and, if applicable, determine whether actions can be taken to mitigate any such impacts. To be eligible for coverage under the HMA General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the historic property-related eligibility criteria, provide sufficient documentation supporting the criterion selected, and obtain confirmation from the EPA that they have done so.

With respect to the Project, the Applicant indicated in the Request for Coverage that the screening process in Appendix B of the Request for Coverage form had been completed to determine if the construction, modification or operation of the Project has the potential to cause effects to historic properties. The Request for Coverage indicated that no historic properties would be affected by the Project. This conclusion was based on the fact that the sources are existing quarries and prior earth disturbances preclude the existence of historic properties in the area, both in the quarries and on the access roads. On the Nez Perce Reservation, the Tribal Historic Preservation Officer (THPO) is the lead for the historical preservation program. Region 10 contacted the THPO for input on the proposed site locations regarding historic properties and cultural issues. After reviewing the information available and the proposed site locations, the THPO concurred that there will not be any historical or cultural issues as long as Valley locates their equipment and operation within the previously disturbed areas of the quarries.

Region 10 has concluded that the Project meets one of the historic property-related eligibility criteria, in this case, "no historic properties affected." Region 10 has concluded that the Project is consistent with the historic property-related eligibility criterion for coverage under the HMA General Permit, based on the review provided by the Nez Perce Tribe's THPO.

## **Environmental Justice**

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA believes the human health or environmental risk associated with this action will not have disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. EPA's primary goal in developing the HMA General Permit is to ensure that air resources in Indian Country will be protected in the manner intended by the CAA. The HMA General Permit will reduce adverse impacts by restricting operations and emissions. In addition, the HMA General Permit is part of a flexible preconstruction permitting program for minor sources in Indian Country that is comparable to similar programs in neighboring states in order to create a more level regulatory playing field for owners and operators within and outside of Indian Country. The HMA General Permit will reduce an existing disparity by filling the regulatory gap. Therefore, this final action will not have a disproportionately high and adverse human health or environmental effects on minorities, low-income, indigenous populations in the United States.

## **Tribal Consultation**

On June 15, 2015, Region 10 sent a letter to the Chairman of the Nez Perce Tribe offering consultation on this EPA permitting action. In addition, Region 10 provided a copy of the request for coverage application as well as a copy of the draft approval letter and technical support document to the Nez Perce tribal environmental authority. The Nez Perce Tribe did not request consultation.

## **Public Participation**

As described in 40 CFR 49.157, issuance of general permits pursuant to the Tribal NSR Rule must meet public participation requirements. Before issuing a permit under the Tribal NSR program, the EPA must prepare a draft permit and must provide adequate public notice to ensure that the affected community and the general public have access to the draft permit information. The public notice must provide an opportunity for a 30-day public comment period and notice of a public hearing, if any, on the draft permit. Consistent with these requirements, during the development of the proposed HMA General Permit, the EPA followed the applicable public participation process and received numerous comments. The EPA considered and addressed these comments in its issuance of the final HMA General Permit (See 80 Fed. Reg. 25068 (May 1, 2015)).

For coverage of a particular source under the HMA General Permit, the Region 10 is required to provide the public an opportunity to comment on whether the source meets the criteria for coverage under the general permit. Region 10 accomplishes this by posting the request for coverage of a particular source on Region 10's air permits website prior to the issuance of any decision to approve or deny the request for coverage. Region 10's air permits website is found at: <https://www.epa.gov/caa-permitting/air-permits-issued-epa-region-10>.

Region 10's Approval of the Request for Coverage for the Project is a final agency action for purposes of judicial review only for the issue of whether the Project is eligible for coverage under the HMA General Permit (see 40 CFR 49.156(e)(6)).



# Quarry Locations in the Nez Perce Reservation

