



Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Stone Quarrying, Crushing and Screening Facilities in Indian Country

Technical Support Document

Permittee: HNS, Inc.
63830 Industrial Lane
La Grande, Oregon 97850

Project Name: HNS Stone Quarrying, Crushing and Screening Facility – Patawa Pit

Location: Patawa Pit
Thompson Road, Pendleton, Oregon
Umatilla County
Umatilla Indian Reservation
Latitude: 45°35'53.52" N; Longitude: 118°38'46.67" W

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Permit #: R10TNSR02000

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. In 2011, the EPA finalized the Tribal New Source Review (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 where there is no EPA-approved NSR program. 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. See 40 CFR 49.156. 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 Stone Quarrying, Crushing and Screening Facilities (SQCS 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 SQCS General Permit if the 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 Permit. Sources seeking coverage under this General Permit must also demonstrate that they meet certain additional eligibility criteria.

This Technical Support Document (TSD) describes Region 10's analysis of the Applicant's Request for Coverage for the Project and our determinations concerning this request.

Request for Coverage under SQCS General Permit

On February 14, 2019, Region 10 received an official Request for Coverage under the SQCS General Permit from HNS to construct and operate a SQCS facility synthetic minor source on the Umatilla Indian Reservation (the Project). An electronic copy was received on January 16, 2019. The request included one location, the Patawa Pit, which is within the exterior boundaries of the Umatilla Indian Reservation in Oregon state. Additional information was requested by Region 10 on March 13 and 21, 2019, and received on March 20 and 27, 2019.

HNS plans to co-locate the SQCS plant with a hot mix asphalt (HMA) plant. The HMA approval is being processed as a separate Region 10 action, as explained below. HNS is considered the "Applicant" and the "Permittee" for the Project.

Approval of Request for General Permit Coverage

Based on a review of and 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 qualifies for coverage under the SQCS General Permit because it meets all of the required criteria. In particular, and as further described below:

- The Project is for a synthetic minor SQCS plant that only processes nonmetallic materials with a combination of crushers and screens and is located within Indian Country.
- The Project is located in an attainment, unclassifiable or attainment/unclassifiable area for all National Ambient Air Quality Standards (NAAQS) pollutants.
- The plant will only use distillate fuel oil (a type of diesel) fuel with no more than 0.0015% sulfur content by weight.
- The Project will be co-located with a HMA plant and will comply with conditions 16 and 19.e of the SQCS General Permit to limit combined emissions of regulated NSR-regulated pollutants to less than 100 tons per year.
- The Applicant has met the eligibility criteria related to federally-listed species and has completed the screening process for historic properties.

This Approval and the SQCS General Permit authorize the Permittee to operate the Project within the exterior boundaries of the Umatilla Indian Reservation at the location described on page 1 of this TSD (Patawa Pit).

Project Description

The Patawa Pit is an active quarry. HNS has a lease agreement to mine sand and gravel in the quarry. HNS proposes to construct (locate) and operate a portable SQCS plant at the Patawa Pit. The SQCS plant has a design capacity of 100 to 250 tons per hour of crushed rock, depending on the size product. HNS has also proposed to locate a hot mix asphalt plant at Patawa Pit. That project will be processed separately from this permit action. HNS has requested to be subject to the co-location requirements in the SQCS General Permit.

HNS SQCS Plant: Affected Emission Units Covered by this Approval

ID #	Description of Affected Emission Units	Controls ¹
002	Generator: CAT 3508 internal combustion engine; 1250 hp capacity; No. 2 Diesel; model year 2001	Wet suppression
011	Crusher: Cedar Rapids 2743 primary cone crusher; 250 tons/hour capacity; constructed 1984	Wet suppression
021	Crusher: Simmons 4¼” secondary cone crusher; 150 tons/hour capacity	Wet suppression
022	Crusher: Simmons 4” secondary cone crusher; 150 tons/hour capacity	Wet suppression
023	Crusher: Nordberg HP4 tertiary cone crusher; 150 tons/hour capacity	Wet suppression
024	Crusher/Screen: Nordberg HP4 cone crusher with regular screen; 150 tons/hour capacity	Wet suppression
026	Crusher: Pioneer 3040 fines roll crusher; 100 tons/hour capacity	Wet suppression
031	Screen: JCI 620 fines screen; 150 tons/hour capacity; constructed 2002	Wet suppression
042	Loader: CAT 988 loader for material handling	Wet suppression
050	Rock Truck: CAT 769 truck for material hauling	None
060	Diesel Storage Tank: above-ground storage tank; No. 2 diesel; 9000 gallons capacity	None
100-108	Conveyors: HNS-built conveyors; 50-300 tons/hour capacity; constructed 2004	Half-covers & wet suppression on drop points

¹ Wet suppression was not proposed in the application but is required by the permit.

Ambient Air Quality

The geographic area where the Project will be located is designated attainment or attainment/unclassifiable under the CAA for all NAAQS pollutants. The SQCS General Permit contains limits on emissions and operations sufficient to ensure that the SQCS plant is not a major source and to ensure that emissions would not cause or contribute to a violation of any NAAQS. 80 Fed. Reg. at 25085. Region 10 does not have reason to be concerned that operation of the operations in compliance with the general permits would cause or contribute to a NAAQS or PSD increment violation. Region 10 therefore believes that the SQCS General Permit is appropriately protective of the NAAQS.

Regarding high ambient pollution levels caused by wildfires during the road construction season, NAAQS violations attributed to wildfires may qualify as exceptional events and be excluded in determining attainment of the NAAQS under EPA’s Exceptional Event Rule (40 CFR 50.14). Nonetheless, the EPA has the authority to address emissions detrimental to public health and welfare under the Federal Air Rules for Reservations (FARR) and under the CAA. Under 40 CFR 49.137, if the EPA determines that air pollutants are approaching, or have reached, levels that could lead to a threat to human health, the agency is authorized to declare air pollution alerts, warnings or emergencies. During an air pollution warning or air pollution emergency, the EPA may issue an order to any air pollution source requiring such source to curtail or eliminate the emissions. The agency also has the authority to issue an order pursuant to Section 303 of the CAA to require an owner or operator to immediately reduce or cease the emission of air pollutants that are presenting an imminent and substantial endangerment to public health or welfare or to the environment.

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 SQCS General Permit includes enforceable physical or operational limitations on the maximum capacity of a source to emit air pollutants, 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 SQCS General Permit included consideration of the limitations on PTE in the SQCS 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.

Tribal Minor NSR Permitting Thresholds (tons per year)

Pollutant	Nonattainment Areas	Attainment Areas
CO	5	10
NO _x	5	10
SO ₂	5	10
VOC	2	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	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. To qualify for the SQCS 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 SQCS General Permit and must apply for a site-specific Tribal NSR permit or other applicable NSR permit.

In this case, HNS determined that the Project triggered the preconstruction permit requirements under the Tribal Minor NSR Rule and is seeking to obtain coverage under the SQCS General Permit in lieu of obtaining a site-specific permit. As such, Region 10 has taken into account the enforceable limitations in the SQCS General Permit in determining the PTE for the Project, whether it is a major source, and whether it is eligible for the SQCS General Permit.

The Project’s PTE will be limited to below 100 tons per year for the NAAQS pollutants and 250 tons per year for PM (which is not a NAAQS pollutant) making the Project a synthetic minor source for the Title V and NSR major source thresholds in attainment areas. The potential emissions contained in the Table below are based on the material throughput limits and fuel consumption limits for co-located SQCS facilities subject to the co-location requirements specified in the respective general permits. For more information about how these emissions were calculated, please see the Background Document: General Air Quality Permit for New or Modified Minor Source Stone Quarrying, Crushing, and Screening Facilities in Indian Country at <https://www.epa.gov/tribal-air/5-source-categories-stone-quarrying-crushing-and-screening-facilities-final-rule>. Accordingly, the Project’s potential emissions are at a level that qualifies it for coverage under the SQCS General Permit.

SQCS & HMA Plant (Controlled) Potential to Emit Summary

Process	Pollutant (tons/year)						
	PM	PM ₁₀	PM _{2.5}	SO ₂	NO _x	CO	VOC
SQCS & HMA Source-wide Emission	86	63	30	18	90	78	27

Listed Species-Related Eligibility Criteria

The EPA developed eligibility criteria related to species that are listed as endangered or threatened under the federal Endangered Species Act that applicants must satisfy to qualify for coverage under the SQCS General Permit. Appendix A to the Request for Coverage form for the SQCS 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.

Patawa Pit is located in a rural, agricultural area. The Applicant’s Request for Coverage states that the Project meets Criterion D of Appendix A with respect to listed species protection. The Request for Coverage included an Environmental Assessment for the issuance of a mining lease prepared by the Bureau of Indian Affairs in February 2016 and a Biological Evaluation of the Effects on Threatened and Endangered Species for Extraction of Basalt Aggregate from Allotments UM-5 and 878 (Patawa Pit) prepared by the Bureau of Indian Affairs in March 2016. The Environmental Assessment and Biological Evaluation considered impacts to threatened and endangered species, concluding a finding of no significant impact and may affect but not likely to affect. Criterion D applies if consultation between another federal agency and the services under Section 7 of the Endangered Species Act has been concluded.

After review and consideration of this information, Region 10 agrees that the Applicant has completed the species-related screening procedures and has demonstrated by providing the appropriate information and documentation that the proposed Project meets Criterion B (rather than Criterion D) of the listed species-related eligibility criteria for coverage under the SQCS General Permit. It is not clear whether consultation between the Bureau of Indian Affairs and the services regarding the 2016 Environmental Assessment has been concluded sufficiently to meet Criterion D. However, the Project would meet Criterion B because the supporting Environmental Assessment and Biological Evaluation show that the Project is not likely to cause any adverse effects to the listed threatened or endangered species or their critical habitat by (1) identifying the federally listed species and/or designated critical habitat located within the action area of the project; (2) the relative distance between the project and the listed species

and/or designated critical habitat; and (3) including a map of the action area. As explained in Appendix A of the Request for Coverage, the Project must comply with the mitigation measures identified in the Biological Evaluation (page 6). Region 10 concludes that, according to Appendix A of the Request for Coverage, the Project is not likely to cause any adverse effects to the listed threatened and endangered species or their critical habitat.

Historic Properties-Related Eligibility Criteria

EPA engaged in the National Historic Preservation Act (NHPA) Section 106 process when the General Permit was issued. Requests for approval under the General Permit are not subject to NHPA Section 106, but are subject to the NHPA screening requirements in Appendix B of the Request for Coverage. The EPA developed the screening process in Appendix B of the Request for Coverage 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 that are either listed on or eligible for listing on the National Register of Historic Places and, if applicable, determine whether actions can be taken to mitigate any such impacts. To be eligible for coverage under the SQCS 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 has been completed to determine if the Project has the potential to cause effects to historic properties pursuant to NHPA. The Request for Coverage included an Environmental Assessment for the issuance of a mining lease for Patawa Pit prepared by the Bureau of Indian Affairs in February 2016. The Environmental Assessment concluded that, though mining has the potential to impact cultural resources, since no cultural resources were found during a cultural survey in 1988 (associated with a zone change from farm pasture to surface mining), there is minimal potential for impacts to archeological/historic properties.

On the Umatilla Indian 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 location regarding historic properties and cultural issues. The THPO requested a clear map and a description of the extent of the proposed permit application area. The applicant provided additional information on March 20 and March 27, 2019. The THPO also shared that the undertaking is within a historic property of religious and cultural significance to the CTUIR called wáapniš, a seasonal camp and hunting area of the Cayuse and Umatilla tribes. The undertaking is also in close proximity to historic property of religious and cultural significance šišnamíiš, a seasonal camp and hunting area of all three tribes. If air quality exceeds standards, potential adverse effects to wáapniš and šišnamíiš may need to be mitigated.

As explained in the Ambient Air Quality section above, the SQCS General Permit contains limits on emissions and operations sufficient to ensure that emissions would not cause or contribute to a violation of any NAAQS. The EPA may terminate this approval if the permittee is not in compliance with the provisions in the SQCS General Permit or the EPA determines that the emissions resulting from the Project significantly contribute to NAAQS violations which are not adequately addressed by the requirements in the SQCS General Permit. Region 10 has concluded that the Project meets the historic property-related eligibility criteria “no historic properties affected” and that the Project is consistent with the historic property-related eligibility criterion for coverage under the SQCS General Permit.

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. The EPA's primary goal in developing the SQCS General Permit was to ensure that air resources in Indian Country will be protected in the manner intended by the CAA. The SQCS General Permit will limit adverse impacts by restricting operations and emissions. In addition, the SQCS 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 and creates a more level regulatory playing field for owners and operators within and outside of Indian Country. The SQCS General Permit reduces an existing disparity by filling the regulatory gap.

As explained above, the general permit was designed to be protective of the NAAQS, and Region 10 therefore believes that the SQCS General Permit is appropriately protective of the NAAQS with respect to the Project. Compliance with the NAAQS is emblematic of achieving a level of public health protection that demonstrates that a proposed facility will not have a disproportionately high and adverse human health or environmental effects on minorities or low-income populations. See, e.g., *In re Shell Offshore Inc.*, 13 E.A.D. 357, 404-5 (EAB 2007).

Tribal Consultation

Region 10 forwarded an electronic copy of the SQCS application and supporting information to the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) environmental staff and THPO on January 31, 2019. Additional information was shared with the tribal staff as it was received. On March 12, 2019, Region 10 staff and CTUIR staff discussed the Project by telephone. Region 10 sent a letter to the Chairman of the CTUIR on February 1, 2019, offering consultation on this EPA permitting action. The CTUIR requested information and worked with EPA staff regarding the Project including a conference call but did not request formal Government to Government consultation between the Director of Region 10 and the CTUIR governing body associated with the Project.

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 SQCS 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 SQCS General Permit (See 80 Fed. Reg. 25068 (May 1, 2015)).

In contrast, a 30-day public comment period under 40 CFR 49.157 is not required for an approval of a request for coverage of a particular source under a General Permit. Region 10 posted the request for

coverage on its website on about February 27, 2019, prior to the issuance of any decision to approve or deny the request for coverage and requested the public to submit any concerns about the applicant's eligibility to construct under the General Permit. Region 10's air permits website can be found at: <https://www.epa.gov/caa-permitting/caa-permitting-epas-pacific-northwest-region>.

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 SQCS General Permit (see 40 CFR 49.156(e)(6)). Any petition for review of this approval action must be filed in the United States Court of Appeals for the appropriate circuit pursuant to CAA section 307(b).