

**THE MOHEGAN TRIBE OF INDIANS OF CONNECTICUT**  
**Resolution No. 2009-28**

***Approval of Amended Tribal Air Program Area wide NOx Emission Limitation Regulation***  
***(Tribal Implementation Plan "TIP")***

**WHEREAS**, the Mohegan Tribe of Indians of Connecticut (the "Mohegan Tribe") is an American Indian Tribe recognized by the government of the United States pursuant to the provisions of Title 25 of the Code of Federal Regulations, Part 83; and

**WHEREAS**, pursuant to Article IX, Section 2 of the Mohegan Tribal Constitution (the "Constitution"), the Mohegan Tribal Council ("Tribal Council") has the authority to exercise all executive and legislative powers reasonable and necessary to achieve the tribal goals set forth in the Constitution, including to promote the general welfare of the Mohegan Tribe; and

**WHEREAS**, the Tribal Council has a primary interest in the protection, control, conservation and utilization of all natural resources within the exterior boundaries of the Mohegan Indian Reservations; and

**WHEREAS**, the Tribal Council has determined, through the advice of and consultation with governmental and legal advisers and through its own due diligence, that it would be in the best interest of The Mohegan Tribe and its Tribal Members to amend the Tribal Air Program Area wide NOx Emission Limitation Regulation (Tribal Implementation Plan) in substantially the form attached hereto as Exhibit A; and

**NOW, THEREFORE**, be it resolved that the Tribal Council does hereby, on behalf of the Mohegan Tribe approve the Tribal Implementation Plan in substantially the form attached hereto as Exhibit A.

Dated this 18<sup>th</sup> day of February, 2009, at Uncasville, Connecticut.

THE MOHEGAN TRIBE OF INDIANS OF  
CONNECTICUT

By: \_\_\_\_\_

Bruce S. Bozsum, Chairman

ATTEST:

Alison D. Johnson  
Alison D. Johnson, Recording Secretary

Exhibit "A"

**Amended Tribal Air Program Area wide NOx Emission Limitation Regulation  
(Tribal Implementation Plan "TIP")**

## ARTICLE XIII. AREA WIDE LIMITATION FOR NO<sub>x</sub> EMISSIONS

### Sec. 5-301. Purpose.

The purpose of this Area Wide Limitation for NO<sub>x</sub> (AWL) is to ensure the health, economic, esthetic and cultural well-being of all people present, and residing upon The Mohegan Indian Reservation and to establish a federally enforceable limitation on NO<sub>x</sub> emissions from specified stationary sources.

### Sec. 5-302. Applicability.

These rules apply to all stationary sources of NO<sub>x</sub> emissions that:

- (1) Directly emit, or have the potential to emit, NO<sub>x</sub> via fuel combustion;
- (2) Are owned or operated by The Mohegan Tribal Gaming Authority;
- (3) Generate greater than, or equal to, five million (5,000,000) Btu/hour; and
- (4) Are located within the external boundaries of The Tribe's Reservation.

### Sec. 5-303. Definitions.

For purposes of this Article, the terms defined in the Clean Air Act, as amended, 42 USC 7401 et seq., and its implementing federal regulations shall apply unless otherwise defined or noted herein:

*Administrator* shall mean the Administrator of The Mohegan Environmental Protection Department.

*Area Wide* or *Facility* shall mean the geographic area within the external boundaries of The Tribe's Reservation and within which NO<sub>x</sub> emission units owned or operated by The Mohegan Tribal Gaming Authority are located.

*Clean Air Act* or *CAA* shall mean the federal Clean Air Act, as amended, 42 USC 7401 et seq.

*Department* shall mean The Mohegan Environmental Protection Department.

*Controlled Diesel Generator* shall mean diesel generators with emissions controlled by selective catalytic reduction (SCR) or equivalent technology to control NO<sub>x</sub> emissions.

*Mohegan Court* shall mean either the Mohegan Tribal Court or the Mohegan Gaming Disputes Court, as appropriate.

*Uncontrolled Diesel Generator* shall mean diesel generators with no add on controls for NO<sub>x</sub> emissions.

*Emission Unit* shall mean any source of NO<sub>x</sub> emissions described in Section 5-302 and to which this Article applies.

*Modification* shall mean any physical change or change in the method of operation of a NOx emission unit, including but not limited to the use of alternate fuels or changes to associated control equipment, resulting in the increase of the amount of NOx emitted into the atmosphere by such unit.

*Mohegan EPD* or *MEPD* shall mean The Mohegan Environmental Protection Department established pursuant to Mohegan Tribal Ordinance No. 2002-12.

*Mohegan Tribal Gaming Authority* or *MTGA* shall mean The Tribal entity established pursuant to Article XIII of The Tribe's Constitution by Tribal Ordinance 95-2 (July 1995) and empowered to regulate gaming, including all associated facilities, on Tribal lands.

*Mohegan Tribe* or *Tribe* shall mean The Mohegan Tribe of Indians of Connecticut, recognized by the United States government on March 15, 1994 (59 FR 12140).

*Tribal Authority Rule* or *TAR* shall mean the regulations issued by the USEPA as set forth in the Federal Register on February 12, 1998 (Volume 63, Number 29, Page 7253-7274).

*Tribal Reservation* or *Reservation* shall mean all land within the exterior boundaries of The Mohegan Tribe Reservation.

*USEPA* shall mean the United States Environmental Protection Agency.

#### **Sec. 5-304. Authority to Administer Program.**

(a) The Tribe has the authority to promulgate, implement, administer and enforce this Article pursuant to the Clean Air Act, The Tribal Authority Rule, and The Tribe's inherent sovereign authority and jurisdiction over its land, water and air resources.

(b) The Administrator of The Mohegan Environmental Protection Department is authorized to take all necessary and appropriate steps to implement, administer and enforce the requirements of this Article.

#### **Sec. 5-305. Area Wide Limitation for NOx.**

(a) The MTGA shall submit an Air Emissions Inventory, in such form as prescribed by the Administrator, to the Administrator within thirty (30) days of the effective date of the ordinance from which this Article is derived. Such Inventory shall be submitted in conformity with Section 5-309(3)a of this Article.

(b) The following requirements shall apply to all NOx emission units and associated control equipment:

(1) The modification or installation of any NOx emission unit that causes the total NOx emissions in any twelve (12)-month rolling year to exceed the Area Wide Limitation established in Section 5-305(d)(1) of this Article is prohibited.

(2) Prior to the modification of any NOx emission unit identified in the Air Emissions Inventory, the MTGA shall submit a written request to the Administrator in conformity with Section 5-309(2)c of this Article. The Administrator shall approve a request for modification upon finding that the proposed modification will not cause total NOx emissions in a representative set of twelve (12)-month rolling years to exceed the Area Wide Limitation established in Section 5-305(d)(1) of this Article.

(3) Prior to the construction or installation of any new NOx emission unit not identified in the Air Emissions Inventory, the MTGA shall submit a written request to the Administrator in conformity with Section 5-309(2)d of this Article. The Administrator shall approve a request for construction or installation upon finding that the proposed construction or installation will not cause total NOx emissions in a representative set of twelve (12)-month rolling years to exceed the Area Wide Limitation established in Section 5-305(d)(1) of this Article.

(c) The total NOx emissions from NOx emission units owned or operated by the MTGA shall not exceed the Area Wide Limitation established in Section 5-305(d)(1) of this Article.

(d) Determination of the Area Wide NOx Emissions.

(1) The Area Wide Limitation for NOx emissions shall be 49 TPY for each twelve (12)-month rolling year.

(2) The MTGA shall use the following formulas to verify compliance with the Area Wide Limitation:

*Formula #1: Monthly NOx Emissions from Boilers*

$$\text{NOx (boiler)} = [(\text{BG} * \text{NOx EF}) + (\text{BO} * \text{Nox EF})]/[2,000\text{Lb/Ton}]$$

TABLE INSET:

BG	=	Actual boiler natural gas usage in MMCF per month
BO	=	Actual boiler fuel oil usage in kgal per month
kgal	=	1,000 gallons of fuel oil
MMCF	=	Millions of cubic feet of natural gas
NOx EF*	=	Emission factor for boiler firing natural gas in Lb/MMCF or fuel oil in Lb/kgal

*Formula #2: Monthly NOx Emissions from Uncontrolled Diesel Generators (UDG) (Tons/Month)*

$$\text{NOx (UDG)} = (\text{DGO} * \text{HVdiesel} * \text{Ddiesel} * \text{NOx EF})/(2,000\text{Lb/Ton})$$

TABLE INSET:

DGO	=	Actual diesel generator fuel oil use in gallons per month
HVdiesel	=	Heating value of diesel at 0.0193 MMBTU/Lb
Ddiesel	=	Density of diesel fuel at 7.1Lb/gallon
Nox EF*	=	NOx emissions factor for EG firing diesel fuel in Lb/MMBTU

*Formula #2a: Monthly NOx Emissions from Controlled Diesel Generators (CDG) (Tons/Month)*

$$\text{NOx (CDG)} = (\text{DGO} * \text{HVdiesel} * \text{Ddiesel} * \text{NOx EF}) / (2,000\text{Lb/Ton}) * (1 - \text{ER} / 100)$$

TABLE INSET:

DGO	=	Actual diesel generator fuel oil use in gallons per month
HVdiesel	=	Heating value of diesel at 0.0193 MMBTU/Lb
Ddiesel	=	Density of diesel fuel at 7.1Lb/gallon
Nox EF*	=	NOx emissions factor for EG firing diesel fuel in Lb/MMBTU
ER	=	SCR Emission Reduction Efficiency, Percent control (%)

*Formula #3: Monthly NOx Emissions from Fuel Cells (Tons/Month)*

$$\text{NOx (FuelCell)} = (\text{FCG} * \text{NOx EF}) / (2,000\text{Lb/Ton})$$

TABLE INSET:

FCG	=	Actual fuel cell Natural Gas Usage in MMCF per month
NOx EF	=	NOx emissions factor for fuel cell using natural gas in Lb/MMCF

*Formula #4: Monthly NOx Emissions from Wood Burning Devices (Tons/Month)*

$$[\text{NOx (wood)}] = (\text{CW}) * (2.85 \text{ tons/cord}) * \text{NOx EF} / (2,000\text{Lb/Ton})$$

TABLE INSET:

CW	=	Actual wood usage in cords of dry wood burned per month
NOx EF	=	NOx emissions factor for device burning wood at 2.8 Lb/ton

*Formula #5: Monthly NOx Emissions from Coal Fired Oven Devices (Tons/Month)*

$$[\text{NOx (coal)}] = (\text{Tons of coal burned /month}) * (\text{number of ovens}) * \text{NOx EF} / (2,000\text{Lb/Ton})$$

TABLE INSET:

NOx(coal)	=	Actual Tons of coal burned per month
NOx EF	=	NOx emissions factor for coal burning at 3 Lb/ton

*Formula #6: Monthly Area Wide NOx Emissions (Tons/Month)*

TABLE INSET:

NOx(Monthly)	=	[NOx(Boiler 1 + 2 +... n) + NOx(UDG 1 + 2 +... n) + NOx(CDG 1+2+...n) + NOx(Fuel Cell 1 + 2 +... n) + NOx(Wood) + NOx(Coal) ]
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*Formula #7: Area Wide NOx Emissions for 12-Month Rolling Year*

TABLE INSET:

NOx(Facility)	=	[Sum of NOx(Monthly) from the current and previous 11 months
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\*See Subsection (3) below for the appropriate NOx emissions factor.

(3) Within thirty (30) days of the effective date of the ordinance from which this Article is derived, the MTGA shall submit to the Administrator a proposed list of NOx emission factors for each NOx emission unit covered by this Article. The Administrator shall approve this proposed list, and subsequent requests to revise emission factors, only if each factor is based on emissions rates determined on the basis of the following data:

- a. Data from continuous emissions monitoring equipment that is installed, operated, and certified in accordance with 40 CFR 60; or
- b. If continuous emissions monitoring data are unavailable, then data from stack testing conducted in accordance with Sections 5-307 (a) through (d) of this Article; or
- c. If continuous emissions monitoring and stack testing data are unavailable, data supplied by the manufacturer of the subject emissions unit, but only if the data were derived from USEPA-approved emissions testing of such unit performed by or for the manufacturer; or
- d. If none of the data described above are available, data from "Compilation of Air Pollutant Emission Factors (AP-42)" published by the USEPA.

(4) NOx emissions from all emission units operated by the MTGA shall be calculated on a monthly basis according to the method specified in Section 5-305(d)(2). The results of these calculations shall be included in the Monthly Report, in conformity with Section 5-309(4)a of this Article.

(5) The Area Wide NOx emissions from all emission units operated by the MTGA shall be calculated on a twelve (12)-month rolling basis according to the method specified in Section 5-305(d)(2).

(6) The MTGA shall submit a Quarterly Report of the monthly emission totals to the Administrator in conformity with Section 5-309(3)b of this Article.

**Sec. 5-306. Compliance with Clean Air Act New Source Performance Standards, 40 CFR 60.40c et seq.**

Pursuant to its authority under the Clean Air Act and 40 CFR 60.13(i), on January 2, 2001, the USEPA granted a waiver of the federal requirement that individual fuel meters must be used for monitoring each boiler (40 CFR 60.48c(g)). The waiver mentioned in this section is

attached to the ordinance from which this Article is derived. Such waiver is not printed herein but incorporated in this Article by reference.

### **Sec. 5-307. Testing.**

- (a) An initial stack test shall be performed by the MTGA on NOx emission units:
  - (1) Within ninety (90) days of the effective date of the ordinance from which this Article is derived for each existing NOx emission unit (if not previously performed); and
  - (2) Within ninety (90) days of the initial startup of a NOx emission unit not identified in the Air Emissions Inventory required by Section 5-305(a).
- (b) A periodic stack test shall be performed on each NOx emission unit every three (3) years after the date of the initial stack test. The periodic stack test requirement is waived for emission units equipped with a CEMS satisfying the requirements of 40 CFR Part 60, Subpart A.
- (c) The MEPD or the USEPA may require additional stack testing.
- (d) Before conducting any stack testing described in this section, the MTGA shall:
  - (1) Submit to the Administrator and the USEPA a notice of intent to test, containing the items enumerated in Section 5-309(2)b of this Article, at least sixty (60) days prior to the anticipated test date.
  - (2) Conduct compliance stack testing in accordance with procedures set forth in Appendix A of 40 CFR 60 or another method approved by the Administrator and the USEPA.
  - (3) Submit the emission test report to the Administrator and the USEPA within sixty (60) days of the completion of the compliance stack testing, in conformity with Section 5-309(3)d.
- (e) The MTGA shall perform an inspection and maintenance on each NOx emission unit in accordance with the manufacturer's requirements and test each unit for efficient operation at least once each calendar year. The results of said testing and the dates upon which it was performed shall be recorded in conformity with Section 5-309(4)d of this Article.

### **Sec. 5-308. Monitoring.**

- (a) Upon completion of any initial stack tests, and prior to the operation of any NOx emission unit, the MTGA shall install an automatic data acquisition and reporting system to track and record fuel use and to calculate air emissions from all existing and planned NOx emission units. This automatic data acquisition and reporting system shall operate continuously. The data and acquisition system shall be calibrated, inspected and maintained by MTGA in accordance with the manufacturer's and/or the supplier's recommendations.
- (b) Upon completion of testing, and prior to the operation of any NOx emission unit, the MTGA shall install, at the fuel inlet line for each such unit, a gas flow meter or an oil flow meter. If the NOx emission unit can burn both gas and oil, the MTGA shall install both a gas and an oil flow meter on that unit. If a return flow fuel nozzle is installed on the unit, a supply and return flow meter shall also be installed on that unit.
- (c) The MTGA shall install an automatic energy tracking and control system. This energy tracking and control system shall track fuel use data, calculate part-load efficiencies for each boiler and boiler combination, and identify the optimum boiler selection to reduce fuel use and

emissions. The energy tracking and control system shall operate continuously. Prior to operating any NOx emission unit, the MTGA shall ensure such unit is connected to the automatic energy tracking and control system.

(d) The MTGA shall install and operate automated boiler plant controls on the energy tracking and control system described in Subsection (c) of this Article. Such automatic controls shall be programmed to select and maintain optimum boiler operation combinations in order to minimize NOx emissions. Prior to operating any NOx emission unit, the MTGA shall ensure such unit is connected to the automated boiler plant controls of the energy tracking and control system.

(e) The energy tracking and control system described in Subsections (c) and (d) of this Article shall track and record information in conformity with Section 5-309(4)c of this Article.

(f) Flue gas oxygen sensors shall be installed on each boiler and monitored continuously.

(g) MTGA shall ensure the Selective Catalytic Reduction (SCR) unit is operational and performing in accordance with manufacturer specifications. On a continuous basis, the automated data acquisition system will monitor and record the following operating parameters:

- 1) catalyst differential pressure
- 2) catalyst temperature
- 3) urea flowrate

Note: If equivalent technology is utilized then the manufacturers specifications should be used for the alternate technology.

The ammonia slip rate shall be determined by measuring the urea flowrate and fuel usage on a continuous basis.

### **Sec. 5-309. Recordkeeping and Reporting Requirements.**

The MTGA shall follow the reporting and recordkeeping requirements related to this Article as follows:

(1) Verbal Notification by MTGA to Administrator:

a. If one (1) or more diesel generators cumulatively operate(s) more than twenty-four (24) hours, the MTGA shall verbally notify the Administrator within four (4) hours. This verbal notification must be followed up with written notification within two (2) business days to the Administrator of such event.

b. If, during stack testing conducted pursuant to Section 5-307 of this Article, there are any changes in the emissions factors for the fuel combustion sources and combustion efficiencies for each boiler, the MTGA shall verbally notify the Administrator within twenty-four (24) hours. This verbal notification must be followed up with written notification within two (2) business days to the Administrator of such event.

(2) Written Notification by MTGA to Administrator:

a. In any month that Area Wide NOx Emissions for the associated twelve (12)-month rolling year (NOx(Area Wide)) exceeds the Area Wide Limitation established in Section 5-305(d)(1),

the MTGA shall notify the Administrator, in writing, within fifteen (15) days of the end of that month.

b. At least (60) days prior to any scheduled Performance Testing of the NO<sub>x</sub> emission units required under Section 5-307 of this Article, the MTGA shall submit to the Administrator and the USEPA a notice of intent to test. Such notice shall contain the test protocol/test methodology to be utilized by the MTGA and all relevant information pertinent to conducting such performance testing. (See Section 5-307(d)).

c. Prior to the modification of any existing NO<sub>x</sub> emission unit, including the use of any alternate fuel other than natural gas or fuel oil, the MTGA shall submit a written request for review and approval by the Administrator of such modification. The written request shall contain a detailed description of the nature of the proposed modification, a description of the potential effect of the modification on the NO<sub>x</sub> emissions of the unit, the scheduled completion date of the modification and date of return to online status of the unit, and any other supporting documentation showing that the proposed modification meets all applicable Tribal and federal requirements. (See Section 5-305(b)(2).)

d. Prior to the construction or installation of any new NO<sub>x</sub> emission unit, the MTGA shall submit a written request for review and approval by the Administrator of such construction or installation. The request shall contain a detailed description of the proposed construction or installation showing the potential effect on total NO<sub>x</sub> emissions and showing that the addition of such NO<sub>x</sub> emission unit meets all applicable Tribal and federal requirements. (See Section 5-305(b)(3).)

e. If the MTGA, based on the results of performance testing, wishes to revise the NO<sub>x</sub> emissions factors approved of in Section 5-305(d)(3), the MTGA shall submit a request to the Administrator. The Administrator shall provide the MTGA with the necessary paperwork, including the required documentation necessary for submission of such request. Upon completion of all necessary documentation, the Administrator shall review the request for approval. The Administrator shall approve NO<sub>x</sub> emissions factors only if each factor is based on emission rates determined in accordance with Section 5-305(d)(3).

(3) Required Reports from MTGA to Administrator:

a. Air Emissions Inventory -- The MTGA shall submit such inventory within thirty (30) days of the effective date of the ordinance from which this Article is derived. The inventory shall identify each existing NO<sub>x</sub> emission unit and, for each existing unit, the yearly and monthly emissions of:

1. NO<sub>x</sub>;
2. Particulate matter (PM);
3. Volatile organic compounds; and
4. Carbon monoxide. (See Section 5-305(a).)

b. Quarterly NO<sub>x</sub> Emissions Report -- The MTGA shall submit a quarterly report containing the previous three (3) months' Monthly Reports, as described in Section 5-309(4)a of this Article, due no later than thirty (30) calendar days following the end of each calendar quarter. (See Section 5-305(d)(6) and Section 5-309(4)a.)

c. Quarterly NSPS Report -- If the MTGA switches fuel types from natural gas to distillate oil in any boiler monitored by the alternate plan in lieu of 40 CFR 60.48c(g) [individual fuel meters on

each boiler], the MTGA shall submit quarterly reports to the Administrator of fuel sulfur content in accordance with 40 CFR 60.48c(e)(11) and 60.48c(f)(1). (See Section 5-306.)

d. Performance Testing Report -- If the MTGA conducts stack testing pursuant to Section 5-307 of this Article, the Combustion and Emissions Test Forms and the Summary Reports shall be sent to the Administrator within forty-eight (48) hours of completing the tests. The Summary Report shall include the test equipment used, most recent calibration test results, all Combustion and Emissions Test Forms, and narratives describing test procedures and observations. The final emission test report shall be submitted to the Administrator and the USEPA within sixty (60) days of the completion of stack testing.

(4) Records to be maintained by the MTGA:

a. The monthly report shall contain the following information:

1. The area wide NOx Emissions for the twelve (12)-month rolling year (NOx(Facility));
2. The total monthly natural gas consumption in each boiler and fuel cell (in MCF per month);
3. The total monthly number two (2) fuel oil consumption in each boiler (in gallons per month);
4. The total monthly NOx emissions from each NOx emission unit calculated in accordance with Formula #1 = NOx(Boiler), Formula #2=NOx(Uncontrolled DiesGen), Formula #2a=NOx(Controlled DiesGen), Formula #3=NOx(Fuel Cell), Formula #4=NOx(Woodburning) and Formula #5=NOx(Coalburning);
5. The monthly actual fuel use for all diesel generators;
6. The monthly usage of wood in cords and coal in tons; and
7. The running totals of Section 5-309(4)a(2-6) above, for the previous twelve (12)-month rolling year.

b. The Combustion and Emissions Test Forms and Summary Reports created during performance testing shall be made available for inspection and securely stored for a period of at least five (5) years by the MTGA. (See Section 5-309(3)d.)

c. The MTGA shall track and record, as part of the Energy Tracking and Control System that shall operate continuously, the following information:

1. Natural gas use by each boiler;
2. Fuel oil use by each boiler;
3. Fuel oil use by each diesel generator
4. Natural Gas Use by fuel cells;
5. Thermal and electrical output from fuel cells;
6. Actual wood and coal usage for pizza ovens; and
7. Outdoor air temperature.

d. The MTGA shall record the dates and results of the inspection and maintenance conducted on each NOx emission unit in accordance with the manufacturer's requirements. These records shall be made available for inspection and securely stored for a period of at least five (5) years by the MTGA. (See Section 5-307(e).)

e. Daily Records. The MTGA shall maintain a record of the following information on a twenty-four (24)-hour calendar day basis:

1. The total daily natural gas consumption in each boiler (in MMCF per day);
2. The total daily fuel oil consumption in each boiler (in gallons per day);
3. All data recorded by the energy tracking and control system described in Section 5-309(4)c of this Article;
4. The running totals of the amounts specified in Subsection 5-309(4)c(1-6) for the previous calendar month.
5. The parameter readings for the SCR unit as provided in 5-308(g).

(5) If the MTGA uses the alternate monitoring plan described in Section 6 in lieu of the requirements of 40 CFR 60.48c(g) [individual fuel meters on each boiler], the MTGA shall record, on a daily basis, the information below.

a. The MTGA shall record the total natural gas usage daily from a single meter and will monitor and record on a daily basis the amount of feedwater flow to each boiler. The total fuel use and feedwater flow to each boiler shall be recorded each day on boiler log sheets. If #2 fuel oil is combusted in any or all of the boilers a separate fuel metering system shall be used and the same formula shall be used to determine the daily fuel use for each boiler. The following formula shall be used to allocate the total natural gas, or #2 fuel oil used by each boiler:

Boiler # gas use = daily gas use × feedwater to boiler #/feedwater to all boilers.

This equation will be used for all 40 CFR 60.40c boilers operated by MTGA. The total fuel use and feedwater flow to each boiler will be recorded each day on boiler log sheets. If #2 fuel oil is combusted in any or all of the boilers, a separate fuel metering system shall be used and the same formula shall be used to determine the daily fuel use for each boiler.

b. If during the use of the alternate monitoring plan, the MTGA uses any fuel other than natural gas or low sulfur distillate fuel oil in the 40 CFR 60.40c boilers, the MTGA shall measure and record the fuel usage on a daily basis for each source.

c. If during the use of the alternate monitoring plan, the MTGA switches fuel types from natural gas to distillate oil, the MTGA shall record fuel sulfur content in accordance with NSPS Subpart Dc at 40 CFR 60.42c(h)(1) and 60.44c(h).

(6) The Administrator may, with sixty (60) days' written notice, require the MTGA to monitor, record and report information in addition to those noted in this Article that the Administrator deems necessary to assure compliance with this Article and to protect human health, the environment, and the best interests of The Tribe. Such notice to the MTGA may be less than sixty (60) days, if the Administrator determines that it is reasonable to obtain such information in less than sixty (60) days.

(7) All records and reports required by this Article shall be securely maintained for a period of at least five (5) years and shall be made available for inspection by the Administrator or USEPA and shall not be discarded after five (5) years without prior approval of the Administrator.

#### **Sec. 5-310. Penalties and Enforcement.**

- (a) Any entity or individual who violates any provision of this Article shall be liable for a civil penalty for each violation up to \$25,000.00 per day per violation, as assessed by the

Administrator in accordance with this Article. The entity or individual may additionally be liable for civil penalties pursuant to Mohegan law. The Administrator is authorized to establish a schedule of civil penalties to be assessed for violations of this Article, subject to approval by Tribal Council.

- (b) Whenever, on the basis of any information available to the Administrator, the Administrator reasonably believes that an entity or individual is in violation of any requirement or prohibition of this Article and that the continuing violation constitutes a serious and imminent threat to the environment or human health, safety, and welfare, the Administrator shall issue a cease and desist order. The Mohegan Tribal Police Department shall assist the Administrator, upon request, to deliver and enforce a cease and desist order
- (c) The Administrator may, in his/her discretion, refer an alleged violation to the USEPA for either civil or criminal enforcement. Nothing in this Article shall limit EPA's authority under the Clean Air Act to enforce the requirements of this Article that are approved into the Mohegan tribal implementation plan under the CAA.

**Sec. 5-311. Powers and Duties of the Administrator.**

- (a) MEPD employees or USEPA are authorized to enter any building or structure within the exterior boundaries of The Tribal Reservation for the purpose of inspecting any air pollution source, investigate any condition it believes may be causing air pollution, or to examine any records required to be maintained by this Article or other directive by the Administrator.
- (b) When the Administrator finds a condition that is in violation of any provision of this Article, he/she shall assess a civil penalty in accordance with this Article. Civil penalty payments are due thirty (30) days from the date of issuance of the citation. Such fines shall be made payable to the Mohegan Tribe.
- (c) If the civil penalty payment remains outstanding after forty-five (45) days from the date of issuance of the citation, the Administrator shall have the authority to direct the construction manager, general contractor, general manager, director, owner, or any other individual to offset the amount of the civil penalty from any outstanding or future monies coming due to the individual or entity responsible for payment of such fine.
- (d) Any entity or individual whose legal rights have been affected by any decision of the Administrator regarding the enforcement of this Article ("appellant") may file an appeal to the Director of Regulation and Compliance. An appeal must be filed in writing via certified mail or hand-delivery to the Director of Regulation and Compliance within ten (10) days of mailing/hand delivery of citation.
- (e) The Director of Regulation and Compliance shall hold a hearing to review the decision of the Administrator within ten (10) days of receipt of request for an appeal, unless a reasonable extension of time is necessary in the sole discretion of the Director of Regulation and Compliance. The Director of Regulation and Compliance shall render such decision within ten (10) days of the conclusion of the hearing, unless in his/her sole discretion more time is necessary. He/she shall mail a copy of such decision by certified mail or hand-delivery to the appellant and shall deliver a copy of such decision by interoffice mail to the Administrator. The appellant may

appeal the decision of the Director of Regulation and Compliance to the Mohegan Court within twenty (20) days of the mailing of the decision.

**Sec. 5-312. Public Notice.**

The Administrator shall take appropriate steps to notify the MTGA regarding the requirements of this Article and any other preliminary and final actions taken that directly affect consultants, agents or employees of the MTGA.