

THE MOHEGAN TRIBE OF INDIANS OF CONNECTICUT
Resolution No. 2022-31

***Approval of Ordinance, "Minor New Source Review Program",
Mohegan Tribe Code, Part II, Chapter 5, Article III-A***

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 Indians Reservation; and


WHEREAS, the Tribal Council has determined, through the advice and assistance of its staff and of the Office of Legal Counsel, that it would be in the best interest of the Mohegan Tribe and its Tribal Members to adopt the Ordinance, "Minor New Source Review Program", Mohegan Tribe Code, Part II, Chapter 5, Article III-A substantially in the form attached hereto as Exhibit A, and desires to approve the same.

NOW, THEREFORE, be it resolved that the Tribal Council, on behalf of the Mohegan Tribe, does hereby adopt the Ordinance, "Minor New Source Review Program", Mohegan Tribe Code, Part II, Chapter 5, Article III-A, in substantially the form attached hereto as Exhibit A.

FURTHER RESOLVED, that the Tribal Council directs that the adopted Ordinance, "Minor New Source Review Program", Mohegan Tribe Code, Part II, Chapter 5, Article III-A be submitted for codification in the proper format.

Dated this 6 day of April, 2022 at Uncasville, Connecticut.

THE MOHEGAN TRIBE OF INDIANS OF
CONNECTICUT

By: 
R. James Gessner, Jr., Chairman

ATTEST:


Patricia A. LaPierre, Recording Secretary

Exhibit "A"

***[Attached – Ordinance, "Minor New Source Review Program",
Mohegan Tribe Code, Part II, Chapter 5, Article III-A]***

ARTICLE XIII-A. MINOR NEW SOURCE REVIEW PROGRAM

Minor new source review (NSR) is a preconstruction permitting program for stationary sources of air pollution, except for stationary sources of NO_x regulated under Article XIII of the TIP (Area Wide Limitation for NO_x Emissions). Stationary sources subject to Article XIII of the TIP are subject to this section for regulated NSR pollutants and/or hazardous air pollutants other than NO_x. Additionally, sources of NO_x not subject to the NO_x TIP under Article XIII are potentially subject to this minor NSR TIP under Article XIII-A.

A stationary source, as defined in Sec. 5-302-A, is a building, structure, facility, or installation which emits or may emit a regulated NSR pollutant. A stationary source is one or more pollutant-emitting activities or emission units, belonging to the same industrial grouping located on one or more contiguous or adjacent properties, and under the control of the same person (or persons under common control).

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-301-A. Purpose.

This program establishes and sets forth the criteria and procedures that the Administrator (as defined in Sec. 5-302-A) will use to administer a preconstruction permitting program for all new and modified minor sources and minor modifications at major sources, and establishes a registration system that will allow the Administrator to develop and maintain a record of minor source emissions. A minor source is a stationary source with potential emissions less than major source thresholds, as defined in Sec. 5-302-A.

This program also provides a mechanism for an otherwise major source to voluntarily accept restrictions on its potential to emit to become a synthetic minor source (i.e., Area-Wide Limit). This mechanism may also be used by an otherwise major source of hazardous air pollutants (HAP) to voluntarily accept restrictions on its potential to emit to become a synthetic minor HAP source. Such restrictions must be enforceable as a practical matter.

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 Federal Clean Air Act (Act).

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-302-A. Definitions.

(a) For sources of regulated NSR pollutants in nonattainment areas, the definitions provided 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 provided 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 provided 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:

ADMINISTRATOR means the Administrator of The Mohegan Environmental Protection Department.

AFFECTED EMISSION UNITS means the following emissions units, as applicable:

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

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

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.

APPLICANT means a person or entity completing an application to the Administrator to obtain a permit to construct, install, modify, and operate an emission unit or process that would emit a regulated NSR pollutant on the Tribal Reservation.

BEGIN CONSTRUCTION means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. The following preparatory activities are excluded: Engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, grading, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel.

BUILDING, STRUCTURE, FACILITY, OR INSTALLATION means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

COMMENCE CONSTRUCTION means, as applied to a new minor stationary source or minor modification at an existing stationary source subject to this subpart, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun on-site activities including, but not limited to, installing building supports and foundations, laying underground piping or erecting/installing permanent storage structures.

The following preparatory activities are excluded: Engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, grading, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

EMISSION LIMITATION means a requirement established by the Administrator 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.

EMISSION UNIT means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant.

ENFORCEABLE AS A PRACTICAL MATTER means that an emission limitation or other standard is both legally and practicably enforceable as follows:

(1) An emission limitation or other standard is legally enforceable if the Administrator has the right to enforce it.

(2) 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.

(3) 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 Administrator 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.

ENVIRONMENTAL APPEALS BOARD means the Tribal appeals to the Director of Compliance and Regulations as defined in Article XIII, Section 5-311-A, Powers and Duties of the Administrator.

MAJOR SOURCE THRESHOLD is 50 tons per year or more for NO_x or VOC, and 100 tons per year or more for any other regulated NSR pollutant.

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.

MINOR NSR THRESHOLD means any of the applicability cutoffs for this program listed in Table 1 of Sec. 5-303-A.

MINOR SOURCE means, for purposes of this rule, a source, not including the exempt emissions units and activities listed in Sec. 5-303-A paragraph (d), 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 §52.21, as applicable, but equal to or greater than the minor NSR thresholds in Sec. 5-303-A. 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 §52.21(b)(1)(iii), as applicable.

MODIFICATION means any physical or operational change at a source 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 Part 51, Appendix S, paragraph II.A.4(iii) or 40 §52.21(b)(1)(iii), as applicable. The following exemptions apply:

(1) A physical or operational change does not include routine maintenance, repair or replacement.

(2) 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.

(3) A change in ownership at a stationary source.

(4) The emissions units and activities listed in Sec. 5-303-A paragraph (d).

POTENTIAL TO EMIT means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the 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 40 CFR §52.21(b)(18), do not count in determining the potential to emit of a source.

PROCESS means an activity or a group of emission unit(s) that emit or would have the potential to emit any regulated NSR pollutant(s) on the Tribal Reservation.

REGULATED NSR POLLUTANT is as defined at 40 CFR 51.166(b)(49). For purposes of this minor new source review program, stationary sources subject to Article XIII of the TIP (Area Wide Limitation for NO_x Emissions) are subject to this section for regulated NSR pollutants and/or hazardous air pollutants other than NO_x. Additionally, sources of NO_x not subject to the NO_x TIP under Article XIII are potentially subject to this minor NSR TIP under Article XIII-A

STARTUP OF PRODUCTION is as defined at 40 CFR §60.5430a.

STATIONARY SOURCE means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

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.

SYNTHETIC MINOR SOURCE means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above the major source thresholds, as defined in this section, 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.

TRIBAL RESERVATION or RESERVATION shall mean all land within the exterior boundaries of The Mohegan Tribe of Indians of Connecticut Reservation.

TRIBE means the Mohegan Tribe of Indians of Connecticut, a federally recognized Indian Tribe

TRUE MINOR SOURCE means a source, not including the exempt emissions units and activities listed in Sec. 5-303-A paragraph (d), that emits or has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds, as defined in this section, but equal to or greater than the minor NSR thresholds in Sec. 5-303-A, 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.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-303-A. Applicability.

(a) The provisions of this program apply within the Tribe's Reservation according to the implementation schedule in paragraphs (a)(1) through (3) of this section.

(1) Registration program.

(i) **Existing true minor source.** If you own or operate an existing true minor source, you must register your source with the Administrator within 60 days after the date of enactment of this section of the TIP. If you commence construction of your new true minor source after the date of enactment of this section of the TIP, you must also register your source with the Administrator pursuant to Sec. 5-312-A and Appendix D within 90 days after the source begins operation.

(ii) **Existing synthetic minor source under Area Wide Limitation for NO_x Emissions.** If you own or operate a synthetic minor source of NO_x that was established prior to the effective date of this rule (that is, prior to the date of enactment of this section of the TIP) under Article XIII of the TIP (Area Wide Limitation for NO_x Emissions), and your source is an existing true minor source for all regulated NSR pollutants other than NO_x, you must register your source with the Administrator within 60 days after the date of enactment of this section of the TIP.

(iii) **New true minor source and modified source.** If you commence construction of a new true minor source or minor modification at an existing true minor source on or after the date of enactment of this section of the TIP, you must register your source with the Administrator as part of your permit application required in Sec. 5-306-A.

(2) Permit required for new and modified sources.

(i) **New true minor source and minor modification at existing source.** If you wish to begin construction of a new true minor source or a minor modification at an existing source on or after enactment of this section of the TIP, you must first obtain a permit pursuant to the application and permit requirements listed in Sec. 5-306-A and Sec. 5-307-A.

(ii) **New synthetic minor source.** If you wish to begin construction of a new synthetic minor source and/or a new synthetic minor HAP source or a modification at an existing synthetic minor source and/or synthetic minor HAP source on or after the date of enactment of this section of the TIP, you must obtain a permit pursuant to Sec. 5-310-A prior to beginning construction.

(3) Area-wide limit for existing sources (synthetic minor source).

(i) **Existing major source.** If you own or operate an existing major source, defined as a stationary source with potential emissions greater than or equal to the major source thresholds of 50 tons per year NO_x or VOC, and 100 tons per year of any other regulated NSR pollutant, and you wish to obtain a synthetic minor source permit pursuant to Sec. 5-310-A to establish a synthetic minor source and/or a synthetic minor HAP source, you may submit a synthetic minor source permit application on or after the date of enactment of this section of the TIP.

(ii) **Existing synthetic minor source.**

(A) If you own or operate a synthetic minor source or synthetic minor HAP source that was established prior to the effective date of this rule (that is, prior to the date of enactment of this section of the TIP) under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a

modification for this existing synthetic minor source and/or synthetic minor HAP source on or after the date of enactment of this section of the TIP. For these modifications, you need to obtain a permit pursuant to Sec. 5-310-A prior to beginning construction.

(B) If you own or operate a synthetic minor source or synthetic minor HAP source that was established prior to the effective date of this rule (that is, prior to the date of enactment of this section of the TIP) through a permit with enforceable emissions limitations issued pursuant to the operating permit program in 40 CFR Part 71, the Administrator has the discretion to require you to apply for a synthetic minor source permit under Sec. 5-310-A of this program on or after the date of enactment of the TIP, or at the time of 40 CFR Part 71 permit renewal, or allow you to maintain synthetic minor status through your 40 CFR Part 71 permit.

(C) If you own or operate a synthetic minor source of NO_x that was established prior to the effective date of this rule (that is, prior to the date of enactment of this section of the TIP) under Article XIII of the TIP (Area Wide Limitation for NO_x Emissions), and your source has potential emissions greater than or equal to the major source thresholds of 50 tons per year VOC or 100 tons per year of any other regulated NSR pollutant, you must submit an application for a synthetic minor source permit under this program for all regulated NSR pollutants other than NO_x within 90 days after the date of enactment of this section of the TIP. The synthetic minor source will continue to be regulated for NO_x under Article XIII of the TIP.

(D) For all other synthetic minor sources or synthetic minor HAP sources that obtained synthetic minor status or synthetic minor source permits through a mechanism other than those described in paragraphs (a)(3)(ii)(A) through (C) of this section, you must submit an application for a synthetic minor source permit under this program within 90 days after the date of enactment of this section of the TIP.

(b) The requirements of this program apply to you as set out in paragraph (b)(1)(i) through (iii) of this section.

(1) **New and modified sources.** The applicability of the preconstruction review requirements of this program is determined individually for each regulated NSR pollutant that would be emitted by your new or modified source. For each such pollutant, determine applicability as set out in the relevant paragraph (b)(1)(i) or (ii) of this section.

(i) **New source.** Use the following steps to determine applicability for each regulated NSR pollutant.

(A) *Step 1.* Determine whether your proposed source's potential to emit the pollutant that you are evaluating is subject to review under the applicable major NSR program (that is, under 40 CFR §52.21, under the Federal major NSR program for nonattainment areas in Indian country at 40 CFR §§49.166 through 49.175 or under a program approved by the Administrator pursuant to 40 CFR §51.165 or §51.166). If not, go to Step 2 (paragraph (b)(1)(i)(B) of this section).

(B) *Step 2.* Determine whether your proposed source's potential to emit for the pollutant that you are evaluating, (including fugitive emissions, to the extent they are quantifiable, only if the source belongs to one of the source categories listed pursuant to section 302(j)

of the Act), is equal to or greater than the corresponding minor NSR threshold in Table 1 of this section. If it is, then you are subject to the pre-construction requirements of this program for that pollutant. If it is not, then proceed to Step 3 (paragraph (b)(1)(ii)(C) of this section).

(ii) **Modification at an existing source.** Use the following steps to determine applicability for each regulated NSR pollutant.

(A) *Step 1.* For the pollutant being evaluated, determine whether your proposed modification is subject to review under the applicable major NSR program. If the modification at your existing major source does not qualify as a major modification under that program based on the actual-to-projected-actual test, it is considered a minor modification and is subject to the minor NSR program requirements, if the net 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. For a modification at your existing minor source go to Step 2 (paragraph (b)(1)(ii)(B) of this section).

(B) *Step 2.* Determine whether the increase in allowable emissions from the proposed modification (calculated using the procedures of paragraph (c) of this section) would be equal to or greater than the minor NSR threshold in Table 1 of this section for the pollutant that you are evaluating. If it is, then you are subject to the pre-construction requirements of this program for that pollutant. If it is not, then proceed to Step 3 (paragraph (b)(1)(ii)(C) of this section).

(C) *Step 3.* If any of the emissions units affected by your proposed modification result in an increase in an annual allowable emissions limit for the pollutant that you are evaluating, the proposed modification is subject to paragraph (b)(1)(ii) of this section. If not, your proposed modification is not subject to this program.

(iii) **Increase in an emissions unit's annual allowable emissions limit.** If you propose a physical or operational change at your minor or major source that would increase an emissions unit's allowable emissions of a regulated NSR pollutant above its existing annual allowable emissions limit, you must obtain a permit revision to reflect the increase in the limit prior to making the change. For a physical or operational change that is not otherwise subject to review under major NSR or under this program, such increase in the annual allowable emissions limit may be accomplished through an administrative permit revision as provided in Sec. 5-314-A(a).

(c) Determine the resulting 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. The total increase in allowable emissions resulting from your proposed change, including fugitive emissions, to the extent they are quantifiable, only if your source belongs to one of the source categories listed pursuant to section 302(j) of the Act, would be the sum of the following:

(1) For each new emissions unit that is to be added, the 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, the emissions increase would be the allowable emissions of the emissions unit after the change or replacement minus the allowable emissions prior to the change or replacement. However, this may not be a negative value. If the allowable emissions of an emissions unit would be reduced as a result of the change or replacement, use zero in the calculation.

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

(d) Emission units exempt from this program are listed in paragraphs (d)(1) through (12) of this section:

(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) Cooking of food, except for wholesale businesses that both cook and sell cooked food.

(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.

(8) Single family residences and residential buildings with four or fewer dwelling units.

(9) Emergency generators, designed solely for the purpose of providing electrical power during power outages:

(i) In nonattainment areas classified as serious or lower, the total maximum manufacturer's site-rated horsepower of all units shall be below 500;

(ii) In attainment areas, the total maximum manufacturer's site-rated horsepower of all units shall be below 1,000.

(10) Stationary internal combustion engines with a manufacturer's site-rated horsepower of less than 50.

(11) Furnaces or boilers used for space heating that use only gaseous fuel, with a total maximum heat input (i.e., from all units combined) of:

(i) In nonattainment areas classified as Serious or lower, 5 million British thermal units per hour (MMBtu/hr) or less;

(ii) In nonattainment areas classified as Severe or Extreme, 2 million British thermal units per hour (MMBtu/hr) or less;

(iii) In attainment areas, 10 MMBtu/hr or less.

(12) Air conditioning units used for human comfort that do not exhaust air pollutants in the atmosphere from any manufacturing or other industrial processes.

Table 1 to Sec. 5-303-A – Minor NSR Thresholds

Regulated NSR Pollutant	Minor NSR PTE Thresholds (tpy)
Carbon monoxide (CO)	10
Nitrogen oxides (NO _x)	5
Sulfur dioxide (SO ₂)	10
Volatile Organic Compounds (VOC)	2
PM	10
PM ₁₀	5
PM _{2.5}	3
Lead	0.1
Fluorides	1
Sulfuric acid mist	2

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-304-A. Authority to Administer Program.

(a) The United States Environmental Protection Agency has approved this Tribal Implementation Plan (TIP) that includes a minor NSR program that meets the requirements of section 110(a)(2)(C) of the Clean Air Act and 40 CFR §§51.160 through 51.164 for the construction and modification of minor sources and minor modifications at major sources. The Tribe is the administrator and it will administer the approved minor NSR program under Tribal law.

(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.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-305-A. General Provisions.

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

(1) If you begin construction of a new source or modification that is subject to this program after the applicable date specified in Sec. 5-303-A paragraph (a) without applying for and receiving a permit pursuant to this, 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 NSR permit, you will be subject to appropriate enforcement action.

(3) If you are subject to the registration requirements of Sec. 5-312-A and Appendix D of this program, you must comply with those requirements.

(b) For the Administrator to issue a final permit decision under this program (other than a synthetic minor source permit under Sec. 5-310-A), all the actions listed in paragraphs (b)(1) through (7) of this section need to be completed. The processes for issuing permit by rule and synthetic minor source permits are set out in Sec. 5-308-A and Sec. 5-310-A, respectively.

(1) You must submit a permit application that meets the requirements of Sec. 5-306-A.

(2) The Administrator determines completeness of the permit application as provided in Appendix A, paragraph (b) within 45 days of receiving the application (60 days for minor modifications at major sources).

(3) The Administrator determines the appropriate emission limitations and permit conditions for your affected emissions units under Appendix A paragraph (c).

(4) The Administrator may require you to submit an Air Quality Impact Analysis (AQIA) if it has reason to be concerned that the construction of your minor source or modification would cause or contribute to a NAAQS or PSD as defined in Appendix E increment violation.

(5) If an AQIA is submitted, the Administrator determines that the new or modified source will not cause or contribute to a NAAQS or PSD increment violation.

(6) The Administrator develops a draft permit that meets the permit content requirements of Appendix B, paragraph (a).

(7) The Administrator either issues a final permit that meets the requirements of Appendix B, paragraph (a) or denies the permit and provides reasons 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.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-306-A. Application Requirements.

This section applies to you if you are subject to this program under Sec. 5-303-A paragraph (b) for the construction of a new minor source, synthetic minor source or a modification at an existing

source. Appendix A provides the specific requirements of what information must be in a permit application package.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-307-A. Permit Requirements.

This section applies to your permit if you are subject to this program under Sec. 5-303-A paragraph (a) for construction of a new minor source, synthetic minor source or a modification at an existing source. Appendix B provides the list of information that must be included in the permit, including such items as general requirements, emission limits, monitoring, recordkeeping and reporting requirements.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-308-A. Permits by Rule.

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

(a) **Permits by rule overview.** – (1) A permit by rule is a preconstruction permit issued by the Administrator that may be applied to a number of similar emissions units or sources within a designated category. The purpose of a permit by rule is to simplify the permit issuance process for similar facilities so that the Administrator's limited resources need not be expended for case-by-case permit development for such facilities. A permit by rule may be written to address a single emissions unit, a group of the same type of emissions units or an entire minor source. A source wishing to operate pursuant to a permit by rule must submit a Notification of Coverage Form to the Administrator prior to commencing construction or modification. Once a source submits the Notification of Coverage and the Administrator posts it online, the source may commence construction or modification without further action by the Administrator.

(2) **Applicability.** The provisions of a permit by rule established under the authority of this section apply to the Tribal Reservation and according to the following implementation schedule: Sources that qualify for a permit by rule and have completed and submitted to the Administrator the required Notification of Coverage may commence construction of a new source or modification of an existing source after the Administrator has posted the Notification of Coverage Form online. If your source qualifies for a permit by rule, you may submit a Notification of Coverage Form under that permit by rule upon the effective date of the permit by rule, generally on or after the date of adoption of the permit by rule into the TIP.

(3) **Permit Issuance.** The Administrator will issue permits by rule as follows:

(i) A permit by rule 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.

(ii) A permit by rule must be issued according to the applicable requirements in Appendix A paragraphs (c) and (d) and Appendix B.

(4) Determination of Permit by Rule Source Categories.

(i) The Administrator will determine at its discretion which categories of true minor sources are appropriate for coverage under a permit by rule.

(ii) Permits by rule will be issued at the discretion of the Administrator. Issuance of a permit by rule is considered final agency action with respect to all aspects of the permit by rule except its applicability to an individual source. Permits by rule for additional source categories may be added in the future following the procedure set forth in paragraph (a)(3)(ii) of this section.

(iii) Permits by rule are currently available for the following source categories:

(A) Gasoline dispensing facilities (Appendix E).

(5) Permit by Rule Content. A source category permit by rule must include the permit elements listed in Appendix B paragraph (a).

(6) Obtaining Coverage Under Permit by Rule.

(i) You must determine whether your source is a true minor source by following the procedures outlined in Sec. 5-303-A.

(ii) If you determine your source is a true minor source, then to be eligible to be covered by the permit you must be willing to accept the terms and conditions of the permit by rule, including emissions limits that are either directly expressed as limits or specified as an operational throughput limit or threshold.

(iii) To be eligible for Notification of Coverage under a permit by rule, the screening processes specified for consideration of threatened and endangered species and historic properties must be completed. The Tribe has documented completion of the screening processes specified for consideration of threatened and endangered species and historic properties, therefore sources constructed on the Tribal Reservation are eligible for Notification of Coverage under a permit by rule.

(iv) If your source qualifies for a permit by rule and you choose to be covered under it, you may submit a Notification of Coverage to the Administrator. Submission of the completed Notification of Coverage to the Administrator satisfies the registration requirement of Appendix D paragraph (a)(1)(iii). Information and related supporting material to this program are available at online at <https://www.epa.gov/tribal-air>.

(v) Your source must comply with all terms and conditions of the relevant permit by rule. You will be subject to enforcement action for failure to obtain a preconstruction permit if the emissions unit(s) or source are constructed under coverage of a permit by rule and your source is later determined not to qualify for that permit by rule.

(vi) Coverage under a permit by rule becomes invalid if construction is not commenced within 18 months after the date of the posting of the Notification of Coverage under a source category permit by rule, if construction is discontinued for a period of 18 months or more, or

if construction is not completed within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; construction of each such phase must commence within 18 months of the projected and approved commencement date.

(vii) Any source eligible to request coverage under a permit by rule may instead choose to apply for a source specific permit under Sec. 5-306-A if they prefer not to be subject to the permit by rule's terms and conditions.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-309-A. 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.

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

(a) Public Notification and Participation.

- (1) Before issuing a permit under this program, the Administrator must prepare a draft permit and must provide adequate public notice to ensure that the affected community and the general public have reasonable access to the application and draft permit information.
- (2) Notice of tentative determination regarding permit application. The Administrator, at least thirty days before approving or denying an application under this program, shall publish or cause to be published, at the applicant's expense, notice of the Administrator's tentative determination regarding such application. The Administrator shall publish such notice either in the Tribe's newspaper or on the tribal website, and may employ other means of notification as appropriate. Such notice shall include: (a) The name and mailing address of the applicant and the address of the location of the proposed activity; (b) the application number, if applicable; (c) the tentative decision regarding the application; (d) the type of permit or other authorization sought, including a reference to the applicable statute or regulation; (e) a description of the location of the proposed activity and any natural resources affected thereby; (f) for permits issued pursuant to this minor new source review program, the Administrator's analysis of the effect of the construction of the minor source or modification on ambient air quality; (g) the name, address and telephone number of any agent of the applicant from whom interested persons may obtain copies of the application; (h) a brief description of all opportunities for public participation provided by statute or regulation, including the length of time available for submission of public comments to the Administrator on the application; and (i) such additional information as the Administrator deems necessary to comply with any provision of this Article or regulations adopted hereunder, or any applicable federal or tribal law. The Administrator shall further give notice of such determination to the Chairperson of the Tribe. Nothing in this section shall preclude the Administrator from giving such additional notice as may be required by any other provision of this Article or regulations adopted hereunder, or under any applicable federal or tribal law.

- (3) The Administrator will provide a copy of the notice to EPA Region 1 and to all other air pollution control agencies having jurisdiction in the region in which such new or modified installation will be located.
- (4) For the purposes of this section, "application" means a request for a permit or renewal thereof or for any modification of a permit or renewal thereof if the modification is sought by the permittee.
- (5) Notwithstanding any other provision of this Article or any regulation adopted pursuant to this Article, the following applications are exempt from the provisions of paragraph (a)(2) of this section: (1) An application for a minor permit modification for sources permitted under Title V of the federal Clean Air Act Amendments of 1990 in accordance with 40 CFR 70.7; or (2) an application for a minor permit modification or revision if the Administrator has adopted regulations establishing criteria to delineate applications for minor permit modifications or revisions from those applications subject to the requirements of this section.
- (6) Not later than thirty days after the date on which the Administrator publishes or causes to be published notice of the Administrator's tentative determination regarding an application under this program, a written request may be submitted to the Administrator to conduct a hearing on such application. The Administrator shall grant any such request provided such request is submitted in writing and filed in a timely manner. The Administrator shall extend the public comment period under paragraph (a)(2) of this section to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing. The Administrator shall hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a draft permit. The Administrator 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 Administrator shall provide notice of any public hearing at least 30 days prior to the date of the hearing. Public notice of the hearing may be concurrent with that of the draft permit and the two notices may be combined. Reasonable limits may be set upon the time allowed for oral statements at the hearing. The Administrator shall make a tape recording or written transcript of any hearing available to the public.
- (7) Not later than thirty days from issuance of the final permit decision, any person who filed comments on the draft permit or participated in a public hearing on the draft permit may appeal such decision to the Mohegan Tribal Court. Additionally, any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review of any permit conditions set forth in the final permit decision, but only to the extent that those final permit conditions reflect changes from the proposed draft permit.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-310-A. Area-Wide Limit (Synthetic Minor Source Permits).

You may obtain a synthetic minor source permit under this program to establish a synthetic minor source for purposes of the applicable PSD, nonattainment major NSR or Clean Air Act title V program and/or a synthetic minor HAP source for purposes of 40 CFR Part 63 or the applicable Clean Air Act title V program. Any source that becomes a synthetic minor source for NSR and title V purposes but has other applicable requirements or becomes a synthetic minor for NSR but

is major for title V purposes, remains subject to the applicable title V program. Note that if you propose to construct or modify a synthetic minor source, you are also subject to the preconstruction permitting requirements in Sec. 5-306-A and Appendix A, and Sec. 5-307-A and Appendix B, except for the permit application content and permit application completeness provisions included in Appendix A paragraphs (a)(2) and (b).

Appendix C provides the specific requirements of what information must be in a permit application package for a synthetic minor source permit.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

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

Power and duties of the Administrator are as outlined in Article XIII. Section 5-311. As well as Article XIII. Section 5-310 Penalties and Enforcement.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-312-A. Registration Program for Minor Sources.

(a) This section applies to you if you are the owner/operator of a true minor source.

(b) The exemptions in paragraphs (b)(1) and (b)(2) of this section apply to the registration program of this section.

(1) You are exempt from this registration program if any of the following paragraphs applies to your source:

(i) 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."

(ii) Your source has a 40 CFR Part 71 permit.

(iii) Your source is a synthetic minor source or a synthetic minor HAP source or a minor modification at a major source as defined in Sec. 5-302-A paragraph (d).

(2) For purposes of determining the potential to emit, allowable or actual emissions of your source, you are not required to include emissions from the exempted emissions units and activities listed in 5-303-A paragraph (d).

Appendix D provides the specific requirements for registering your minor source.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-313-A. Air Quality Permit by Rule for New Or Modified True Minor Source Gasoline Dispensing Facilities.

The permit by rule for new or modified true minor source gasoline dispensing facilities is incorporated in Appendix E.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

Sec. 5-314-A. Administrative Permit Revision.

(a) The following provisions govern administrative permit revisions.

(1) An administrative permit revision is a permit revision that makes any of the following changes:

(i) Corrects typographical errors.

(ii) Identifies a change in the name, address or phone number of any person identified in the permit or provides a similar minor administrative change at the source.

(iii) Requires more frequent monitoring or reporting by the permittee.

(iv) Allows for a change in ownership or operational control of a source where the Administrator determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittee has been submitted to the Administrator.

(v) Establishes an increase in an emissions unit's annual allowable emissions limit for a regulated NSR pollutant, when the action that necessitates such increase is not otherwise subject to review under major NSR or under this program.

(vi) Incorporates any other type of change that the Administrator has determined to be similar to those in paragraphs (a)(1)(i) through (v) 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.

(Res. No. 2022-31, 04-06-22; Res. No. TGA 2022-07, 04-06-22)

APPENDIX A – General Provisions for Permit Application

(a) **Application Content.** Paragraphs (a)(1) through (3) of this section govern the content of your application.

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

(i) The Administrator may develop permit application forms for your use.

(ii) The permit application need not contain information on the exempt emissions units and activities listed in Sec. 5-303-A paragraph (d).

(iii) The permit application for a modification need only include information on the affected emissions units as defined in Sec. 5-302-A paragraph (d).

(2) **Required permit application content.** Except as specified in paragraphs (a)(1)(ii) and (iii) of this section, you must include the information listed in paragraphs (a)(2)(i) through (ix) of this section in your application for a permit under this program. The Administrator may require additional information as needed to process the permit application.

(i) 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.

(ii) A description of your source's processes and products.

(iii) A list of all affected emissions units (with the exception of the exempt emissions units and activities listed in Sec. 5-303-A paragraph (d)).

(iv) For each new emissions unit that is listed, the potential to emit of each regulated NSR pollutant in type (including fugitive emissions, to the extent that they are quantifiable, if the emissions unit or source is in one of the source categories listed in 40 CFR Part 51, Appendix S, paragraph II.A.4(iii) or §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.

(v) For each modified emissions unit and replacement unit that is listed, the allowable emissions of each regulated NSR pollutant in type both before and after the modification (including fugitive emissions, to the extent that they are quantifiable, if the emissions unit or source belongs to one of the source categories listed in 40 CFR Part 51, Appendix S, paragraph II.A.4(iii) or §52.21(b)(1)(iii), as applicable), with supporting documentation. For emissions units that do not have an allowable emissions limit prior to the modification, report the potential to emit. In your calculation of annual allowable emissions for an emissions unit after the modification, you must account for any proposed emission limitations.

(vi) The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates and operating schedules.

(vii) Identification and description of any existing air pollution control equipment and compliance monitoring devices or activities.

(viii) Any existing limitations on source operation affecting emissions or any work practice standards, where applicable, for all NSR regulated pollutants at the source.

(ix) 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) 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 Administrator within 45 days of its receipt (60 days for minor modifications at major sources) to determine whether the application contains all the information necessary for processing the application.

(2) If the Administrator determines that the application is not complete, it will request additional information from you as necessary to process the application. If the Administrator determines that the application is complete, it will notify you in writing. The Administrator's completeness determination or request for additional information should be postmarked within 45 days of receipt of the permit application by the Administrator (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 Administrator (60 days for minor modifications at major sources), your application will be deemed complete.

(3) If, while processing an application that has been determined to be complete, the Administrator determines that additional information is necessary to evaluate or take final action on the application, it may request additional information from you and require your responses within a reasonable time period.

(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) Determination of Permitted Emission Limitations. After determining that your application is complete, the Administrator 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 Administrator will consider the following factors:

(i) Local air quality conditions.

(ii) Typical control technology or other emissions reduction measures used by similar sources in surrounding areas.

(iii) Anticipated economic growth in the area.

(iv) Cost-effective emission reduction alternatives.

(2) The Administrator 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 Administrator 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 Administrator 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 40 CFR §51.118(b). If the Administrator 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 Sec. 5-309-A for the draft permit.

(d) Air quality impacts analysis (AQIA). Paragraphs (d)(1) through (3) of this section govern AQIA requirements under this program.

(1) If the Administrator 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 of 40 CFR Part 51, Appendix W.

(3) If the AQIA reveals that construction of your source or modification would cause or contribute to a NAAQS or PSD increment violation, the Administrator must require you to reduce or mitigate such impacts before it can issue you a permit.

APPENDIX B – Permit Content

(a) **Permit Content.** Your permit must include the requirements in paragraphs (a)(1) through (7) of this section.

(1) **General requirements.** The permit must include the following elements:

(i) 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.*, 18 months after the permit effective date).

(ii) The emissions units subject to the permit and their associated emission limitations.

(iii) Monitoring, recordkeeping, reporting and testing requirements to assure compliance with the emission limitations.

(2) **Emission limitations.** The permit must include the emission limitations determined by the Administrator under Appendix A paragraph (c) for each affected emissions unit. In addition, the permit must 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 Administrator may require, as appropriate, any of the requirements in paragraphs (a)(3)(i) and (ii) of this section.

(i) 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.

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

(4) **Recordkeeping requirements.** The permit must include recordkeeping requirements sufficient to assure compliance with the emission limitations and monitoring requirements and it must require the elements in paragraphs (a)(4)(i) and (ii) of this section.

(i) Records of required monitoring information that include the information in paragraphs (a)(4)(i)(A) through (F) of this section, as appropriate.

(A) The location, date and time of sampling or measurements.

(B) The date(s) analyses were performed.

(C) The company or entity that performed the analyses.

(D) The analytical techniques or methods used.

(E) The results of such analyses.

(F) The operating conditions existing at the time of sampling or measurement.

(ii) 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.

(5) **Reporting requirements.** The permit must include the reporting requirements in paragraphs (a)(5)(i) and (ii) of this section.

(i) 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.

(ii) 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 Administrator 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 requirements in paragraphs (a)(7)(i) through (vii) of this section.

(i) You, as the permittee, 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.

(ii) Your permitted source must not cause or contribute to a NAAQS violation or in an attainment area, must not cause or contribute to a PSD increment violation.

(iii) It is not a defense for you, as the permittee, 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.

(iv) The permit may be revised, reopened, revoked and reissued or terminated for cause. The filing of a request by you, as the permittee, 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.

(v) The permit does not convey any property rights of any sort or any exclusive privilege.

(vi) You, as the permittee, shall furnish to the Administrator, within a reasonable time, any information that the Administrator 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 in accordance with 40 CFR Part 2, Subpart B.

(vii) Upon presentation of proper credentials, you, as the permittee, must allow a representative of the Administrator to:

(A) 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;

(B) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;

(C) 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;

(D) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements and

(E) Record any inspection by use of written, electronic, magnetic and photographic media.

(b) **Permit Becomes Invalid.** Your permit becomes invalid if you do not commence construction within 18 months after the effective date of your permit, if you discontinue construction for a period of 18 months or more or if you do not complete construction within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; you must commence construction of each such phase within 18 months of the projected and approved commencement date.

APPENDIX C – Area-Wide Limit (Synthetic Minor Source Permits)

(a) Permit Application Content.

(1) Your application must include the following information:

(i) 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.

(ii) For each regulated NSR pollutant and/or HAP and for all emissions units to be covered by an emissions limitation, the following information:

(A) 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.

(B) Proposed testing, monitoring, recordkeeping and reporting requirements to be used to demonstrate and assure compliance with the proposed limitation.

(C) A description of the production processes.

(D) Identification of the emissions units.

(E) Type and quantity of fuels and/or raw materials used.

(F) Description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions.

(G) Estimates of the current actual emissions and current potential to emit, including all calculations for the estimates.

(H) 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.

(iii) Any other information specifically requested by the Administrator.

(2) Estimates of actual emissions must be based upon actual test data or in the absence of such data, upon procedures acceptable to the Administrator. Any emission estimates submitted to the Administrator must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission 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 Administrator.

(b) Synthetic Minor Source Permit Application Procedures.

(1) If you wish to obtain a synthetic minor source permit under this program, you must submit a permit application to the Administrator. The application must contain the information specified in paragraph (a) of this section.

(2) Within 60 days after receipt of an application, the Administrator will determine if it contains the information specified in paragraph (a) of this section.

(3) If the Administrator determines that the application is not complete, it will request additional information from you as necessary to process the application. If the Administrator determines that the application is complete, it will notify you in writing. The Administrator's completeness determination or request for additional information should be postmarked within 60 days of receipt of the permit application by the Administrator. 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 by the Administrator, your application will be deemed complete.

(4) The Administrator 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 final synthetic minor source permit will be granted or denied no later than 135 days after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.

(6) The final synthetic minor source permit will be issued and will be subject to administrative and judicial review as set out in Sec. 5-309-A.

(c) Existing Synthetic Minor Source.

(1) If your existing synthetic minor source and/or synthetic minor HAP source was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source on or after the date of enactment of this section of the TIP. For these modifications, you need to obtain a permit pursuant to this section before you begin construction.

(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 40 CFR Part 71, the Administrator has the discretion to do any of the following:

(i) Allow you to maintain the synthetic minor status for your source through your permit under 40 CFR Part 71 of this chapter, including subsequent renewals of that permit.

(ii) Require you to submit an application for a synthetic minor source permit under this program on or after the date of enactment of this section of the TIP, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section. The Administrator also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(iii) 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 40 CFR Part 71, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section. The Administrator also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(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, you must submit an application for a synthetic minor source permit under this program on or after the date of enactment of this section of the TIP, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section.

(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:

(i) After submitting your synthetic minor source permit application, you must respond in a timely manner to any requests from the Administrator for additional information.

(ii) Provided that you submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) and any requested additional information as required in paragraph (c)(4)(i) of this section, your source will continue to be considered a synthetic minor source or synthetic minor HAP source (as applicable) until your synthetic minor source permit under this program has been issued. Issuance of your synthetic minor source permit under this program will be in accordance with the applicable requirements in Sec. 5-306-A and Appendix A, and Sec. 5-307-A and Appendix B, and all other provisions under this section.

(iii) Should you fail to submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) or any requested additional information as required in paragraph (c)(4)(i) of this section, your source will no longer be considered a synthetic minor source or synthetic minor HAP source (as applicable) and will become subject to all requirements for major sources. In the case of sources subject to section (c)(2)(iii) of this section, the renewed 40 CFR Part 71 permit will not contain enforceable emissions limitations and instead will include applicable major source requirements.

APPENDIX D – Registration Program for Minor Sources (Emissions Inventory)

(a) **Requirements for Registration.** The requirements for registrations are as follows:

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

(i) If you own or operate an existing true minor source (as defined in Sec. 5-302-A paragraph (d)), you must register your source with the Administrator after the date of enactment of this section of the TIP.

(ii) If you commence construction of your new true minor source after the date of enactment of this section of the TIP, then you must register your source with the Administrator within 90 days after the source begins operation.

(iii) If you commence construction or modification of your new true minor source on or after the date of enactment of this section of the TIP and your source is subject to this rule, then you must report your source's actual emissions (if available) as part of your permit application and your permit application information will be used to fulfill the registration requirements described in paragraph (a)(2) of this section.

(2) *Content.* You must submit all registration information on forms provided by the Administrator. Each registration must include the following information, as applicable:

(i) 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.

(ii) A description of your source's processes and products.

(iii) A list of all emissions units (with the exception of the exempt emissions units and activities listed in Sec. 5-303-A paragraph (d)).

(iv) For each emissions unit that is listed, both the allowable and estimated actual annual emissions of each regulated NSR pollutant in tpy (including fugitive emissions, to the extent that they are quantifiable, if the emissions unit or source is in one of the source categories listed in 40 CFR Part 51, Appendix S, paragraph II.A.4(iii) or §52.21(b)(1)(iii)), with supporting documentation.

(v) The following information: Fuels, fuel use, raw materials, production rates and operating schedules.

(vi) Identification and description of any existing air pollution control equipment and compliance monitoring devices or activities.

(vii) Any existing limitations on source operation affecting emissions or any work practice standards, where applicable, for all NSR regulated pollutants at the source.

(viii) Any other information specifically requested by the Administrator.

(3) *Procedure for estimating emissions.* Your registration should include 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.

(i) Estimates of allowable emissions must be consistent with the definition of that term in Sec. 5-302-A paragraph (d). 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 Administrator approves a different number of annual operating hours as the basis for the calculation.

(ii) Estimates of actual emissions must take into account equipment, operating conditions and air pollution control measures. For a source that operated during the entire calendar year preceding the initial registration submittal, the reported actual emissions typically should be the annual emissions for the preceding calendar year, calculated using the actual operating hours, production rates, in-place control equipment and types of materials processed, stored or combusted during the preceding calendar year. However, if you believe that the actual emissions in the preceding calendar year are not representative of the emissions that your source will actually emit in coming years, you may submit an estimate of projected actual emissions along with the actual emissions from the preceding calendar year and the rationale for the projected actual emissions. For a source that has not operated for an entire year, the actual emissions are the estimated annual emissions for the current calendar year.

(iii) 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 Administrator. Any emission estimates submitted to the Administrator must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission 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 Administrator.

(b) **Reporting Requirements.** 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 Administrator in writing no later than 30 days prior to the relocation of the source. Unless otherwise specified in an existing permit, a report of relocation shall be provided as specified in paragraph (b)(1)(i) or (ii) of this section, as

applicable. In either case, the permit application for the new location satisfies the report of relocation requirement.

(i) Where the relocation results in a change in the Administrator for your source, you must submit a report of relocation to the current Administrator and a permit application to the new Administrator.

(ii) Where the Administrator remains the same, a report of relocation is fulfilled through the permit application for the new location.

(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 Administrator 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 Administrator in writing within 90 days after the cessation of all operations at your source.

APPENDIX E – Air Quality Permit by Rule for New or Modified True Minor Source Gasoline Dispensing Facilities

(a) *Abbreviations and acronyms:*

AST Aboveground Storage Tank

CAA or the Act Federal Clean Air Act

CFR Code of Federal Regulations

EPA United States Environmental Protection Agency

GDF Gasoline Dispensing Facility

NAAQS National Ambient Air Quality Standards

NSR New Source Review

ppm parts per million

PSD Prevention of Significant Deterioration

PV Pressure/Vacuum

VOC Volatile Organic Compounds

(b) **Definitions for the purposes of this permit by rule.**

(1) CAUSE means with respect to the Administrator's ability to terminate a permitted source's coverage under a permit that:

(i) The permittee is not in compliance with the provisions of this permit by rule;

(ii) The Administrator determines that the emissions resulting from the construction or modification of the permitted source significantly contribute to NAAQS violations, which are not adequately addressed by the requirements in this permit by rule;

(iii) The Administrator has reasonable cause to believe that the permittee obtained coverage under the permit by rule by fraud or misrepresentation; or

(iv) The permittee failed to disclose a material fact required by the Notification of Coverage or the requirements applicable to the permitted source of which the applicant had or should have had knowledge at the time the permittee submitted the Notification of Coverage.

(2) CONSTRUCTION means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of an affected emissions unit that would result in a change of emissions.

(3) DUAL-POINT VAPOR BALANCE means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(4) EMERGENCY ENGINE means any stationary reciprocating internal combustion engine that meets all of the criteria in paragraphs (b)(4)(i) through (iii) of this section. All emergency engines must comply with the requirements specified in 40 CFR §63.6640(f) in order to be considered emergency engines. If the engine does not comply with the requirements specified, then it is not considered to be an emergency engine.

(i) The engine is operated to provide electrical power or mechanical work during an emergency situation. Examples include engines used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or an engine used to pump water in the case of fire or flood, etc.

(ii) The engine is operated under limited circumstances for situations not included in paragraph (b)(4)(i) of this section, as specified in 40 CFR §63.6640(f).

(iii) The engine operates as part of a financial arrangement with another entity in situations not included in paragraph (b)(4)(i) of this definition only as allowed in 40 CFR §63.6640(f).

(5) NOTIFICATION OF COVERAGE means the permit notification that contains all the information required in the standard notification form for this permit by rule.

(6) PERMITTEE means the owner or operator of a permitted source.

(7) PERMITTED SOURCE means each gasoline dispensing facility for which a permitted source submits a complete Notification of Coverage.

(8) RESPONSIBLE OFFICIAL means one of the following:

(i) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is directly responsible for the overall operation of the permitted source;

(ii) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

(iii) For a public agency: Either a principal executive officer or ranking elected official, such as a chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(9) SUBMERGED FILING means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than 6 inches from the bottom of the tank. Bottom filling of gasoline storage tanks is covered under this submerged filling definition.

(10) ULLAGE means the volume of a container not occupied by liquid. For example, the ullage of a tank designed primarily for containing liquid is the volume of the tank minus the volume of the liquid it contains.

(11) VAPOR BALANCE SYSTEM means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

(12) VAPOR TIGHT means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the lower explosive limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the potential leak source.

(c) **Information about this permit by rule – (1) *Applicability.*** Pursuant to the provisions of the CAA, Subchapter I, part D and 40 CFR Part 49, Subpart C, this permit authorizes the construction or modification and the operation of each stationary gasoline dispensing facility (GDF) for which the Administrator receives a completed Notification of Coverage (permitted source).

(2) *Eligibility.* To be eligible for coverage under this permit by rule, the permitted source must qualify as a true minor source as defined in Sec. 5-302-A and satisfy the requirements in Sec. 5-308-A paragraph (a)(6)(iii).

(3) *Notification of Coverage.* Requirements for submitting a Notification of Coverage are contained in paragraph (d)(1) of this permit by rule. The information contained in each permitted source's Notification of Coverage is hereby enforceable under this permit by rule.

(4) *Termination.* Paragraph (d)(6) of this permit by rule addresses the Administrator's ability to revise, revoke and reissue, or terminate coverage under this permit by rule. It also addresses the Administrator's ability to terminate an individual permitted source's coverage under this permit by rule.

(5) *Definitions.* The terms used herein shall have the meaning as defined in Sec. 5-302-A, unless otherwise defined in paragraph (b) of this permit by rule. If a term is not defined, it shall be interpreted in accordance with normal business use.

(d) **Permit by rule terms and conditions.** The following applies to each permittee and permitted source with respect to only the affected emissions units and any associated air pollution control technologies in that permitted source's Notification of Coverage.

(1) **General provisions – (i) *Obtaining coverage under this permit by rule.*** To obtain coverage under this permit by rule, an applicant must submit a completed Notification of Coverage to the appropriate Administrator for the area in which the permitted source is or will be located. (the Notification of Coverage Form can be found by contacting the Environmental Protection Administrator, Regulation and Compliance Department.

(ii) ***Construction and operation.*** The permittee shall construct or modify and shall operate the affected emissions units and any associated air pollution control technologies in compliance with this permit by rule and all other applicable federal air quality regulations;

and in a manner consistent with representations made by the permittee in the Notification of Coverage.

(iii) **Locations.** This permit by rule only authorizes the permittee to construct or modify and to operate the permitted source in the location(s) listed in the Notification of Coverage for that permitted source.

(iv) **Liability.** This permit by rule does not release the permittee from any liability for compliance with other applicable federal and tribal environmental laws and regulations, including the CAA.

(v) **Severability.** The provisions of this permit by rule are severable. If any portion of this permit by rule is held invalid, the remaining terms and conditions of this permit by rule shall remain valid and in force.

(vi) **Compliance.** The permittee must comply with all provisions of this permit by rule, including emission limitations that apply to the affected emissions units at the permitted source. Noncompliance with any permit provision is a violation of this permit by rule and may constitute a violation of CAA; is grounds for an enforcement action; and is grounds for the Administrator to revoke and terminate the permitted source's coverage under this permit by rule.

(vii) **National Ambient Air Quality Standards (NAAQS)/Prevention of Significant Deterioration (PSD) Protection.** The permitted source must not cause or contribute to a NAAQS violation or, in an attainment area, must not cause or contribute to a PSD increment violation.

(viii) **Unavailable defense.** It is not a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the provisions of this permit by rule.

(ix) **Property rights.** This permit by rule does not convey any property rights of any sort or any exclusive privilege.

(x) **Information requests.** You, as the permittee, shall furnish to the Administrator, within 30 days unless another timeframe is specified by the Administrator, any information that the Administrator may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating coverage under the permit by rule or to determine compliance with the permit by rule. For any such information claimed to be confidential, the permittee must submit a claim of confidentiality in accordance with 40 CFR Part 2, Subpart B.

(xi) **Inspection and entry.** Upon presentation of proper credentials, the permittee must allow a representative of the Administrator to:

(A) Enter upon the premises where a permitted source is located or emissions-related activity is conducted or where records are required to be kept under the conditions of the permit by rule;

(B) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit by rule;

(C) Inspect, during normal business hours or while the permitted source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices or operations regulated or required under the permit by rule;

(D) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit by rule or other applicable requirements; and

(E) Record any inspection by use of written, electronic, magnetic and photographic media.

(xii) **Posting of coverage.** The most current Notification of Coverage for the permitted source, must be posted prominently at the facility, and each affected emissions unit and any associated air pollution control technology must be labeled with the identification number listed in the Notification of Coverage for that permitted source.

(xiii) **Duty to obtain source-specific permit.** If the Administrator intends to terminate a permitted source's coverage under this permit by rule for cause as provided in paragraph (d)(6) of this section, then the permittee shall apply for and obtain a source-specific permit as required by the Administrator.

(xiv) **Credible evidence.** For the purpose of establishing whether the permittee violated or is in violation of any requirement of this permit by rule, nothing shall preclude the use, including the exclusive use, of any credible evidence or information relevant to whether a permitted source would have been in compliance with applicable requirements if the permittee had performed the appropriate performance or compliance test or procedure.

(2) **Emission limitations and standards.** (i) The permittee shall install, maintain, and operate each affected emissions unit, including any associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions of NSR regulated pollutants and considering the manufacturer's recommended operating procedures at all times, including periods of startup, shutdown, maintenance and malfunction. The Administrator will determine whether the permittee is using acceptable operating and maintenance procedures based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the permitted source.

(ii) GDFs located in an ozone attainment, unclassifiable or attainment/unclassifiable area or a marginal or moderate ozone nonattainment area shall limit throughput of gasoline to less than 25,000,000 gallons per year based on a 12-month rolling total.

(iii) GDFs located in a serious, severe or extreme ozone nonattainment area shall limit throughput of gasoline to less than 8,000,000 gallons per year based on a 12-month rolling total.

(iv) You must ensure gasoline is handled in a manner that will minimize vapor releases to the atmosphere. The measures to be taken include:

(A) Minimizing gasoline spills;

(B) Cleaning up spills as expeditiously as practicable. The spill bucket shall be free from standing liquid and debris;

(C) Covering all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use (all portable gasoline containers that meet the requirements of 40 CFR Part 59, Subpart F meet this requirement);

(D) Minimizing gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators; and

(E) To the extent practicable, any other actions necessary to minimize vapor releases to the atmosphere.

(v) Except as specified in paragraph (d)(2)(v)(B) of this section, you must only load gasoline into storage tanks at your facility by utilizing submerged filling, and as specified in this condition. The applicable distances shall be measured from the point in the opening of the submerged fill pipe that is the greatest distance from the bottom of the storage tank.

(A) Submerged fill pipes must be no more than 6 inches from the bottom of the tank.

(B) Submerged fill pipes not meeting the specifications paragraph (d)(2)(v)(A) of this section are allowed if the owner or operator can demonstrate that the liquid level in the tank is always above the entire opening of the fill pipe. Documentation providing such demonstration must be made available onsite for inspection by the Administrator.

(vi) Except as provided in paragraph (d)(2)(viii) of this section, each new or modified gasoline storage tank constructed must be equipped with a Stage I dual-point vapor balance system.

(vii) Except as provided in paragraph (d)(2)(viii) of this section, each Stage I dual-point vapor balance system on your gasoline storage tank must meet the design criteria and management practices in paragraph (e) of this section, as applicable.

(viii) The affected emissions units listed below are not required to comply with the control requirements in paragraphs (d)(2)(vi) and (vii) of this section, but must comply with the requirements in paragraph (d)(2)(v) of this section.

(A) Gasoline storage tanks with a capacity of less than 250 gallons.

(B) Gasoline storage tanks with a capacity of less than 2,000 gallons.

(C) Gasoline storage tanks equipped with floating roofs, or the equivalent.

(ix) Cargo tanks unloading at GDFs must not unload gasoline into a storage tank at a GDF unless the following management practices are met:

(A) All hoses in the vapor balance system are properly connected;

(B) The adapters or couplers that attach to the vapor line on the storage tank have closures that seal upon disconnect;

(C) All vapor return hoses, couplers, and adapters used in gasoline delivery are vapor-tight;

(D) All tank truck vapor return equipment is compatible in size and forms a vapor-tight connection with the vapor balance equipment on the GDF storage tank;

(E) All hatches on the tank truck are closed and securely fastened; and

(F) The filling of storage tanks at GDF shall be limited to unloading from vapor-tight gasoline cargo tanks.

(x) Each emergency engine shall:

(A) Be equipped with a non-resettable hour meter;

(B) If using fuel oil, use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur;

(C) Meet the following certification requirement for compression ignition emergency engines: for model year 2006 and later engines, the engine shall be certified to the standards in 40 CFR Part 89.

(D) Meet the following certification requirements for spark ignition emergency engines manufactured on or after January 1, 2009:

(1) Engines greater than 50 hp and less than 130 hp shall be certified to the Phase I standards in 40 CFR §90.103; and

(2) Engines greater than or equal to 130 hp shall be certified to the standards in 40 CFR §1048.

(E) If not required to be certified to the standards in paragraph (d)(2)(x)(C) or (D) of this section:

(1) Follow the manufacturer's emission-related operation and maintenance instructions or develop your own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions;

(2) Change oil and filter and inspect every hose and belt every 500 hours of operation or annually, whichever comes first; and

(3) Inspect air cleaner or spark plugs, as applicable, every 1,000 hours of operation, or annually, whichever comes first.

(3) Monitoring and testing requirements. (i) For each vapor balance system, the permittee shall perform an initial performance test as prescribed in paragraph (e) of this section and every 3 years thereafter. The performance test shall be conducted within 60 days after achieving the maximum production rate at which the permitted source will operate the affected vapor balance system, but not later than 180 days after the first day of operation after the Administrator receives the completed Notification of Coverage.

(ii) The permittee shall monitor monthly gasoline throughput in gallons.

(iii) The permittee shall perform weekly inspections of the vapor control recovery system(s), all pumps, compressors, pipes, hoses, mechanical seals, or other equipment storing, handling, conveying, or controlling VOCs. For sources located in extreme ozone nonattainment areas, these equipment inspections shall be performed daily. The inspections shall be used to determine whether all equipment is in good working order according to any available manufacturer's recommendations and good engineering practices.

(4) Recordkeeping requirements. (i) The permittee shall maintain all records required to be kept onsite by this permit by rule for at least 5 years from the date of origin, unless otherwise stated.

(ii) The Notification of Coverage and all documentation supporting that application shall be maintained by the permittee for the duration of time the affected emissions unit(s) is covered under this permit by rule.

(iii) The permittee shall maintain records of each inspection required by paragraph (d)(3)(iii) of this section. The records shall include a log of:

(A) Identification of the devices inspected;

(B) The date of the inspection;

(C) The results of each inspection;

(D) Any corrective actions taken as a result of the inspection; and

(E) The results of any corrective actions taken.

(iv) For each emergency engine, the permittee shall maintain a log of all maintenance activities conducted and a log of the hours of operation including the date, time, duration, and reason for use.

(v) The permittee shall maintain records on a monthly basis of the fuel throughput and the 12-month rolling total. The 12-month rolling total is defined as the sum of the fuel throughput during the current month and the fuel throughput for the previous 11 months.

(vi) The results of each performance test conducted pursuant to paragraph (d)(3)(i) of this section shall be recorded. At a minimum, the permittee shall maintain records of:

(A) The date of each test;

- (B) Each test plan;
- (C) Any documentation required to approve an alternate test method;
- (D) Test conditions;
- (E) The results of each test; and
- (F) The name of the company or entity conducting the analysis.

(5) **Notification and reporting requirements** – (i) *Notification of construction or modification, and operations.* The permittee shall submit a written or electronic notice to the Administrator within 30 days from when the permittee begins actual construction, and within 30 days from when the permittee begins initial operations or resumes operation after a modification.

(ii) **Notification of change in ownership or operator.** If the permitted source changes ownership or operator, then the new owner must submit a written or electronic notice to the Administrator within 90 days before or after the change in ownership is effective. In the notice, the new permittee must provide the Administrator a written agreement containing a specific date for transfer of ownership, and an effective date on which the new owner assumes partial and/or full coverage and liability under this permit by rule. The submittal must identify the previous owner, and update the name, street address, mailing address, contact information, and any other information about the permitted source if it would change as a result of the change of ownership. The current owner shall ensure that the permitted source remains in compliance with the permit by rule until any such transfer of ownership is effective.

(iii) **Notification of closure.** The permittee must submit a report of any permanent or indefinite closure to the Administrator in writing within 90 days after the cessation of all operations at the permitted source. The notification must identify the owner, the current location, and the last operating location of the permitted source. It is not necessary to submit a report of closure for regular, seasonal closures.

(iv) **Annual reports.** The permittee shall submit an annual report on or before March 15 of each calendar year to the Administrator. The annual report shall cover the period from January 1 to December 31 of the previous calendar year and shall include:

- (A) An evaluation of the permitted source's compliance status with the emission limitations and standards in paragraph (d)(2) of this section;
- (B) Summaries of the required monitoring and recordkeeping in paragraphs (d)(3) and (4) of this section; and
- (C) Summaries of deviation reports submitted pursuant to paragraph (d)(5)(v) of this section.

(v) **Deviation reports.** The permittee shall promptly report to the Administrator any deviations as defined at 40 CFR §71.6(a)(3)(iii)(C) from the permit by rule requirements

including deviations attributable to upset conditions. (For the purposes of this permit by rule, promptly shall be defined to mean: at the time the annual report in paragraph (d)(5)(iv) of this section is submitted.) Deviation reports shall include:

(A) The identity of affected emissions unit where the deviation occurred;

(B) The nature of the deviation;

(C) The length of time of the deviation;

(D) The probable cause of the deviation; and

(E) Any corrective actions or preventive measures taken as a result of the deviation to minimize emissions from the deviation and to prevent future deviations.

(vi) **Performance test reports.** The permittee shall submit a test report to the Administrator within 45 days after the completion of any required performance test. At a minimum, the test report shall include:

(A) A description of the affected emissions unit and sampling location(s);

(B) The time and date of each test;

(C) A summary of test results, reported in units consistent with the applicable standard;

(D) A description of the test methods and quality assurance procedures used;

(E) A summary of any deviations from the proposed test plan and justification for why the deviation(s) was necessary;

(F) Operating parameters of the affected emissions unit and control equipment during each test run;

(G) Sample calculations of equations used to determine test results in the appropriate units; and

(H) The name of the company or entity performing the analysis.

(vii) **Reporting and notification address.** The permittee shall send all required reports to the Administrator at the mailing address specified in paragraph (f) of this section.

(viii) **Signature verifying truth, accuracy and completeness.** All reports required by this permit by rule shall be signed by a responsible official as to the truth, accuracy and completeness of the information. The report must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete. If the permittee discovers that any reports or notification submitted to the Administrator contain false, inaccurate, or incomplete information, the permittee shall notify the Administrator immediately and correct or amend the report as soon as practicable.

(6) **Changes to this permit by rule** – (i) *Revising, reopening, revoking and reissuing, or terminating for cause.* The permit by rule may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee 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 by rule condition. This provision also applies to the documents incorporated by reference.

(ii) **Terminating coverage under this permit by rule.** The Administrator may terminate coverage under this permit by rule, and thereby terminate that permittee's authorization to construct or modify, and that permitted source's authorization to operate under this permit by rule for cause as defined in paragraph (b) of this section. The Administrator may provide the permittee with notice of the intent to terminate, and delay the effective date of the termination to allow the permittee to obtain a source specific permit as required by the Administrator.

(iii) **Permit becomes invalid.** Authority to construct and operate under this permit by rule becomes invalid if the permittee does not commence construction within 18 months after the Notification of Coverage is received by the Administrator, if the permittee discontinues construction for a period of 18 months or more, or if the permittee does not complete construction within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified according to 40 CFR §49.156(e)(8).

(e) Vapor balance system design criteria, management practices, and performance testing. (1) Design criteria and management practices for each vapor balance system:

(i) All vapor connections and lines on the storage tank(s) shall be equipped with closures that seal upon disconnect.

(ii) The vapor line from the gasoline storage tank to the gasoline cargo tank shall be vapor-tight.

(iii) The vapor balance system shall be designed such that the pressure in the tank truck does not exceed 18 inches water pressure or 5.9 inches water vacuum during product transfer.

(iv) The vapor recovery and product adaptors, and the method of connection with the delivery elbow, shall be designed so as to prevent the over-tightening or loosening of fittings during normal delivery operations.

(v) If a gauge well separate from the fill tube is used, it shall be provided with a submerged drop tube that extends no more than 6 inches from the bottom of the storage tank.

(vi) Liquid fill connections for all systems shall be equipped with vapor-tight caps.

(vii) Pressure/vacuum (PV) vent valves shall be installed on the storage tank vent pipes. The pressure specifications for PV vent valves shall be: a positive pressure setting of 2.5 to 6.0 inches of water and a negative pressure setting of 6.0 to 10.0 inches of water. The total leak rate of all PV vent valves at an affected facility, including connections, shall not exceed 0.17 cubic foot per hour at a pressure of 2.0 inches of water and 0.63 cubic foot per hour at a vacuum of 4 inches of water.

(viii) The vapor balance system shall be capable of meeting the static pressure performance requirement of the following equation: $P_f = 2e^{-500.887/v}$, where: P_f = minimum allowable final pressure, inches of water, v = total ullage affected by the test, gallons, e = dimensionless constant equal to approximately 2.718, 2 = the initial pressure, inches water.

(ix) For aboveground storage tanks (ASTs) with a capacity greater than 250 gallons and located at a GDF in a serious, severe, or extreme ozone nonattainment area the permittee shall also:

(A) Limit standing loss emissions to less than or equal to 0.57 lbs VOC per 1,000 gallons ullage per day (lbs/1,000 gallons/day), for newly installed tanks.

(B) Limit standing loss emissions to less than or equal to 2.26 lbs VOC per 1,000 gallons ullage per day (lbs/1,000 gallons/day), for modified or reconstructed tanks.

(2) Vapor balance system performance testing:

(i) The permittee shall conduct performance testing to demonstrate compliance with the leak rate and cracking pressure requirements, specified in paragraph (e)(1)(vii) of this section, for pressure-vacuum vent valves installed on your gasoline storage tanks as follows:

(A) According to a test plan submitted at least 30 days in advance of the test date to the Administrator; and

(B) Using California Air Resources Board Vapor Recovery Test Procedure TP-201.1E,—Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003 (see 40 CFR §63.14).

(ii) The permittee shall conduct performance testing to demonstrate compliance with the static pressure performance requirement, specified in paragraph (e)(1)(viii) of this section, for each vapor balance system by conducting a static pressure test on each gasoline storage tank as follows:

(A) According to a test plan submitted at least 30 days in advance of the test date to the Administrator;

(B) Using California Air Resources Board Vapor Recovery Test Procedure TP-201.3,—Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (see 40 CFR 63.14) or Bay Area Air Quality Management District Source Test Procedure ST-30—Static Pressure Integrity Test—Underground Storage Tanks, adopted November 30, 1983, and amended December 21, 1994 (see 40 CFR 63.14); and

(C) For ASTs subject to §49.164(e)(1)(ix), the ASTs shall be California Air Resources Board certified AST for Standing Loss Control per Vapor Recovery Test Procedures TP-206.1 or TP-206.2.