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40 CFR Part 49

General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country; Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 49**

[EPA-HQ-OAR-2011-0151; FRL-9913-50-OAR]

RIN 2060-AR98

**General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency is proposing general permits for use in Indian country pursuant to the Indian Country Minor New Source Review (NSR) rule for new or modified true minor sources in the following six source categories: Concrete batch plants, boilers, stationary spark ignition engines, stationary compression ignition engines, graphic arts and printing operations, and sawmills. In the alternative, the EPA is also proposing a permit by rule for use in Indian country for new or modified true minor sources in one of the six source categories: Graphic arts and printing operations.

**DATES:** Comments must be received on or before August 18, 2014.

*Public Hearing.* We will hold a public hearing on August 7, 2014.

Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2011-0151, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- Email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2011-0151 in the subject line of the message.

- Fax: (202) 566-9744, attention Docket ID No. EPA-HQ-OAR-2011-0151.

- Mail: Attention Docket ID No. EPA-HQ-OAR-2011-0151, EPA, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies.

- Hand Delivery: The EPA Docket Center, Public Reading Room, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-OAR-2011-0151. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2011-0151. The EPA's policy is that all comments received will be included in

the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I.B. of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* The EPA has established a docket for this rulemaking under Docket ID Number EPA-HQ-OAR-2011-0151. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or under Docket ID Number EPA-HQ-OAR-2011-0151, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 564-1742.

**ADDRESSES:** The public hearing will be held on August 7, 2014, at the U.S.

Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, NC. The hearing will convene at 9:00 a.m. and end at 5:00 p.m. or after the last registered speaker has spoken, whichever is earlier. A lunch break is scheduled from 12:00 p.m. until 1:00 p.m. The EPA's Web site for the rulemaking, which includes the proposal and information about the hearing, can be found at: <http://www.epa.gov/air/tribal/tribalnsr.html>.

The hearing will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing is being held at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements will take effect July 21, 2014. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma, or the state of Washington, you must present an additional form of identification to enter the federal buildings where the public hearings will be held. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. We will list any additional acceptable forms of identification at: <http://www.epa.gov/air/tribal/tribalnsr.html>. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Stoneman, Outreach and Information Division, Office of Air Quality Planning and Standards (C-304-01), Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone number (919) 541-0823, facsimile number (919) 541-0072, email address: [stoneman.chris@epa.gov](mailto:stoneman.chris@epa.gov).

If you would like to present oral testimony at the public hearing, please register no later than June 27, 2014, by contacting: Ms. Carolyn Childers,

Outreach and Information Division, Office of Air Quality Planning and Standards (C304-01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541-5604; fax number (919) 541-0072; email address: *childers.carolyn@epa.gov*. If using email, please provide the following information: Name, affiliation, address, email address and telephone and fax numbers. All speakers are encouraged to pre-register in order to speak at the public hearing. Registration is not required to attend and listen to the testimony at the public hearing.

**SUPPLEMENTARY INFORMATION:**

Throughout this document, “reviewing authority,” “we,” “us” and “our” refer to the EPA. The information in this preamble is organized as follows:

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**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this proposed action include the EPA, tribal governments that are delegated administrative authority to assist the EPA with the implementation of the tribal minor source air permitting program and owners, and operators of facilities located in Indian country as defined in 18 U.S.C. 1151 and as provided in the NSR rule from the following source categories:

TABLE 1—SOURCE CATEGORIES

Category	NAICS	Examples of Regulated Entities
Boilers .....	11 **** .....	Agriculture, Forestry, Fishing and Hunting.
	2211 ** .....	Electric Power Generation.
	311 *** .....	Food Manufacturing.
	321 *** .....	Wood Product Manufacturing (except sawmills).
	327 *** .....	Nonmetallic Mineral Product Manufacturing (except ready-mix concrete).
	424 *** .....	Wholesale Trade, Nondurable Goods.
	611110 .....	Elementary and Secondary Schools.
	611210 .....	Junior Colleges.
	611310 .....	Colleges, Universities, and Professional Schools.
	62 **** .....	Health Care and Social Assistance.

TABLE 1—SOURCE CATEGORIES—Continued

Category	NAICS	Examples of Regulated Entities
Concrete Batch Plants .....	721120 .....	Casino Hotels.
	813110 .....	Religious Organizations.
	92 **** .....	Public Administration.
	327320 .....	Central Mixed Concrete Manufacturing.
	327320 .....	Concrete Batch Plants (including temporary).
	327320 .....	Ready Mix Concrete Manufacturing and Distributing.
	327320 .....	Transit Mixed Concrete Manufacturing.
	327320 .....	Truck Mixed Concrete Manufacturing.
	327331 .....	Concrete Manufacturing: All Types of Blocks and Bricks.
	327332 .....	Concrete Manufacturing: All Types of Pipe and Conduit.
Engines (Spark Ignition and Compression Ignition).	327390 .....	Concrete Manufacturing: All Structural Forms.
	2211** .....	Electric Power Generation.
Graphic Arts and Printing Operations .....	622110 .....	Medical and Surgical Hospitals.
	323111 .....	Printing: Flexographic, Rotogravure, Gravure, Letterpress, Lithographic, Digital.
	323113 .....	Commercial Printing, Newspapers, Print Shops.
Sawmills .....	323117 .....	Printing Books.
	321113 .....	Sawmills.

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be potentially affected by this action. To determine whether your facility could be affected by this action, you should examine the applicability criteria in the final minor NSR program for Indian country (40 Code of Federal Regulations (CFR) 49.153). If you have any questions regarding the applicability of this action to a particular entity, contact the appropriate person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. What should I consider as I prepare my comments to the EPA?*

1. Submitting CBI

Do not submit this information to the EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), Office of Air Quality Planning and Standards, EPA, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2011-0151.

2. Tips for Preparing Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

*C. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this proposal will also be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this notice will be posted on the regulations and standards section of the NSR home page located at <http://www.epa.gov/nsr> and on the tribal NSR page at <http://www.epa.gov/air/tribal/tribalnsr.html>.

*D. What acronyms, abbreviations and units are used in this preamble?*

- CAA Clean Air Act
- CO<sub>2</sub> Carbon dioxide
- CO Carbon monoxide
- EPA Environmental Protection Agency
- ESA Endangered Species Act
- FIP Federal Implementation Plan
- GDFs Gasoline dispensing facilities
- HAPs Hazardous air pollutants
- hp Horsepower
- ICE Internal combustion engine
- NAAQS National Ambient Air Quality Standards
- NO<sub>2</sub> Nitrogen dioxide
- NO<sub>x</sub> Nitrogen oxides
- NSR New Source Review
- NHPA National Historic Preservation Act
- NTTAA National Technology Transfer and Advancement Act
- PM Particulate matter
- PSD Prevention of Significant Deterioration
- PTE Potential to emit
- SIP State Implementation Plan
- SO<sub>2</sub> Sulfur dioxide
- tpy Tons per year
- UMRA Unfunded Mandates Reform Act
- VOC Volatile organic compounds

**II. Purpose**

*A. Proposed Action*

In July 2011, the EPA issued the Indian Country Minor NSR rule that established, among other things, the requirements and process for the preconstruction permitting of minor sources in Indian country. Under the rule, on or after September 2, 2014, an owner or operator must obtain a preconstruction permit from the reviewing authority<sup>1</sup> if the source will

<sup>1</sup> In this document, reviewing authority refers to an EPA regional office. However, tribes can become

construct a new true minor source,<sup>2</sup> or will modify an existing true minor source in Indian country. The rule also specified the process and requirements for using general permits as a streamlined permitting approach to authorize construction and modifications at true minor sources. General permits streamline the preconstruction permitting of new or modified true minor sources because they involve the issuance of one permit that can apply to multiple stationary sources that have similar emissions units.

On January 14, 2014, the EPA proposed general permits<sup>3</sup> for use in Indian country pursuant to the Indian Country Minor NSR rule for new or modified true minor sources in the following five source categories: Hot mix asphalt plants; stone quarrying, crushing, and screening facilities; auto body repair and miscellaneous surface coating operations; gasoline dispensing facilities (GDFs); and petroleum dry cleaning facilities. In the alternative, the EPA also proposed permits by rule for use in Indian country for new or modified minor sources in three of the source categories: Auto body repair and miscellaneous surface coating operations; GDFs; and petroleum dry cleaning facilities. The EPA also proposed certain changes to the Indian Country Minor NSR rule. The proposed changes include: Extending the deadline by when true minor sources in the oil and gas sector must receive minor source NSR permits; and allowing general permits and permits by rule for specific categories to be used to create synthetic minor sources. In the prior action, we also sought comment on a number of issues, some of which relate

reviewing authorities if they decide to assume responsibility for implementing the minor NSR program in their area and are either delegated authority to implement the Indian Country Minor NSR rule or establish and obtain the EPA's approval of their own minor source program.

<sup>2</sup> True minor source means a source that emits, or has the potential to emit, regulated NSR pollutants in amounts that are less than the major source thresholds under either the Prevention of Significant Deterioration program at 40 CFR 52.21, or the Major NSR Program for Nonattainment Areas in Indian Country at 40 CFR 49.166 through 49.173, but equal to or greater than the minor NSR thresholds in 40 CFR 49.153, without the need to take an enforceable restriction to reduce its potential to emit (PTE) to such levels. The PTE includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the 28 source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or 40 CFR 52.21(b)(1)(iii), as applicable.

<sup>3</sup> "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), <http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf>.

to the source categories contained in this proposal.

Today's proposal addresses a second group of activities; the EPA is proposing the use of two types of minor NSR preconstruction permits to help streamline permitting of true minor sources that construct or modify in Indian country and that belong to one of six additional source categories. The first type of permit is a general permit. A general permit is a document that the EPA will make available online that will contain all of the emissions limitations, monitoring, recordkeeping and reporting requirements to which a source in a given source category would be subject. Sources seeking coverage under a tribal general permit will need to submit a request for coverage or application to the EPA. The second type is a permit by rule, which uses a regulatory-type structure to permit sources by pre-authorizing construction and modification activities carried out in accordance with the permit's requirements. Sources seeking coverage under a tribal permit by rule must notify the EPA that it meets the terms of coverage and is complying with the permit's conditions, but does not need to await approval of a request for coverage.

As our preferred approach, we are proposing general permits for the six source categories: Concrete batch plants; boilers; stationary spark ignition engines; stationary compression ignition engines; graphic arts and printing operations; and sawmills. Specifically, we are proposing general permits for these source categories for permitting affected emissions units and emissions-generating activities in these source categories. As an alternative, for graphic arts and printing operations, the EPA is also requesting comment on whether, in lieu of establishing a general permit, we should instead adopt a permit by rule.

We are making available various permit implementation documents and tools on which we request public comment. In a prior action<sup>4</sup> in which we also proposed general permits and permits by rule for certain source categories of minor sources in Indian country, we proposed the regulatory framework that the EPA will use to establish permits by rule. That proposed regulatory framework is also relevant here.

<sup>4</sup> "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), <http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf>.

## *B. Areas Where the EPA Is Seeking Comment*

In this proposal, we are seeking comment on the following areas:

(1) All aspects of the permit documents and implementation tools of the following six source categories (Sections VI. and IX.):

- a. Concrete batch plants;
- b. Boilers;
- c. Stationary compression ignition engines;
- d. Stationary spark ignition engines;
- e. Graphic arts and printing operations; and
- f. Sawmills.

(2) The appropriateness of using a streamlined general permit/permit by rule application for one source category (Section IX.):

- a. Graphic arts and printing operations.

(3) Different aspects of the EPA's conclusion on its control technology review that, because the control measures in this proposal are currently used by other similar sources in other areas of the country, the measures in the proposed permits are technically and economically feasible, and cost effective (Section V.);

(4) The process for sources to address the requirements of the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA) with respect to the six categories in today's proposal (Sections V. and VII.);

(5) Use of throughput limits and capacity limits as surrogate for tons per year (tpy) allowable emission limitations, or, alternatively, establishment of annual allowable emission limitations for each pollutant, and the use of throughput limits as surrogate monitoring measures to demonstrate compliance with tpy annual allowable emission limitations (Sections V. and VI.);

(6) Finalizing both permitting mechanisms for graphic arts and printing operations by providing authorization to construct or modify true minor sources in this category via permits by rule and by providing enforceable limitations to create synthetic minor sources in this category via general permits (Section X.); and

(7) Proposed rule changes to the Indian Country Minor NSR rule in one area (Section XI.):

- a. Shortening the general permit application review process from 90 to 45 days for one source category out of the six in this proposal for which the EPA believes it is appropriate:
  - i. Graphic arts and printing operations.

In this proposal, we are not seeking comment on several issues already

proposed in the January 14, 2014, action that more broadly cover policy and other issues related generally to the functioning and use of general permits and permits by rule in Indian country. The Agency's final decision on those issues, though, has the potential to impact sources in the source categories proposed in this action. Those issues include the following:

(1) Several administrative aspects of general permits, including:

a. Whether the EPA's proposed approach of incorporating by reference each reviewing authority's approval of a request for coverage into the general permit is necessary and appropriate; and

b. The appropriateness of proposed permit terms related to the reviewing authority's ability to reopen, revise, or terminate an individual approval of coverage under the general permit;

(2) The regulatory framework that the EPA is proposing as an alternative to use to establish permits by rule and the streamlined review and issuance process that the EPA is proposing whereby a source can become covered by a permit by rule by notifying the EPA that it qualifies for the permit, meets the terms of coverage and is complying with the permit's conditions (but not having to wait for the reviewing authority's approval);

(3) Proposal to change the policy in the Indian Country Minor NSR rule to allow the use of both general permits and permits by rule to create synthetic minor sources;

(4) Use of more than one general permit and/or permit by rule for a source at a single location;

(5) Additional source categories for which the EPA is planning to propose general permits and/or permits by rule; and

(6) Proposed rule changes to the Indian Country Minor NSR rule in four areas in three provisions:

a. Adjusting the deadline by which minor sources covered by a general permit need to obtain a preconstruction permit;

b. Extending the permitting deadline for true minor sources within the oil and gas source category;

c. Removing a provision to make clear that sources may seek coverage under a general permit as soon as it is effective and need not wait an additional 4 months; and

d. Adjusting the deadline for oil and gas sources for certain registration-related requirements to be consistent with the proposed permitting deadline extension.

### III. Background

#### A. Tribal Air Rule

On February 12, 1998,<sup>5</sup> the EPA used its authority under section 301(d) of the Clean Air Act (CAA) to find that we would not treat tribal governments the same as states with respect to specific plan submittal and implementation deadlines under the CAA for National Ambient Air Quality Standards (NAAQS)-related requirements. This finding applied to many section 110 requirements, including requirements under section 110(a)(2)(c) to submit a program to regulate the modification and construction of any stationary source as necessary to ensure that the NAAQS are achieved. Although we determined that Indian tribes were not obligated to implement a permitting program, the EPA also made clear that we continue to have a general obligation under the CAA to ensure the protection of air quality throughout Indian country. To that end, we also used our authority under sections 301(a) and 301(d)(4) to establish a requirement to promulgate such federal implementation plan (FIP) provisions as are necessary or appropriate to protect air quality in Indian country (40 CFR 49.11(a)). For a number of years, the only federal CAA NSR permitting program that applied in Indian country was the major NSR program for areas meeting the NAAQS ("attainment" areas) or areas for which there is insufficient information to determine whether they meet the NAAQS ("unclassifiable" areas). We call this program the Prevention of Significant Deterioration (PSD) program (40 CFR 52.21). No federal NSR permitting program has covered minor sources or major sources in nonattainment areas. Nor was there a readily available way for major sources to take enforceable limits and become synthetic minor sources.

On August 21, 2006, the EPA proposed the regulation: "Review of New Sources and Modifications in Indian Country" (i.e., the Indian Country NSR rule).<sup>6</sup> Within this regulation, the EPA proposed to protect air quality in Indian country by establishing a FIP program to regulate the modification and construction of minor stationary sources consistent with the requirements of section 110(a)(2)(c)

<sup>5</sup> "Indian Tribes: Air Quality Planning and Management," U.S. Environmental Protection Agency, February 12, 1998 (63 FR 7254), <http://www.gpo.gov/fdsys/pkg/FR-1998-02-12/pdf/98-3451.pdf>.

<sup>6</sup> "Review of New Sources and Modifications in Indian Country," U.S. Environmental Protection Agency, August 21, 2006 (71 FR 48696), <http://www.gpo.gov/fdsys/pkg/FR-2006-08-21/html/06-6926.htm>.

of the CAA. We call this part of the Indian Country NSR rule the Indian Country Minor NSR rule. Under the Indian Country Minor NSR rule, we proposed to fill a regulatory gap and provide a mechanism for issuing preconstruction permits for the construction of new minor sources and certain modifications of major and minor sources in Indian country. In developing the rule, the EPA conducted extensive outreach and consultation and provided an extensive public comment period that ended on March 20, 2007. The comments we received provided detailed information specific to Indian country and the final Indian Country Minor NSR rule incorporated many of the suggestions we received. We promulgated final rules on July 1, 2011,<sup>7</sup> and the FIP became effective on August 30, 2011.<sup>8</sup>

#### B. Indian Country Minor NSR Rule

1. What is the Indian Country Minor NSR rule?

The Indian Country Minor NSR rule applies to new and modified minor stationary sources and to minor modifications at existing major stationary sources located in Indian country where there is no EPA-approved program in place. The rule also includes a pre-construction permits program for major sources proposing to construct in areas of Indian country that have not attained one or more NAAQS, i.e., nonattainment areas. After September 2, 2014, any new stationary sources that will emit, or will have the PTE, a regulated NSR pollutant in amounts that will be: (1) Equal to or greater than the minor NSR thresholds, established in the Indian Country Minor NSR rule; and (2) less than the amount that would qualify the source as a major source for purposes of the PSD or nonattainment major NSR programs,

<sup>7</sup> "Review of New Sources and Modifications in Indian Country," U.S. Environmental Protection Agency, July 1, 2011 (76 FR 38748), <https://www.federalregister.gov/articles/2011/07/01/2011-14981/review-of-new-sources-and-modifications-in-indian-country>.

<sup>8</sup> On January 17, 2014, the United States Court of Appeals for the District of Columbia Circuit issued an opinion and judgment vacating the Indian Country NSR rule with respect to non-reservation areas of Indian country. As a result, EPA does not currently have minor source NSR permitting authority in non-reservation areas of Indian country and any general permits and permits by rule issued under the Indian Country Minor NSR rule will not be immediately available in such areas of Indian country. Importantly, the court's decision does not affect the Indian Country Minor NSR rule with respect to reservations, whether formal or informal, and any final general permits and permits by rule issued under the Indian Country Minor NSR rule will be available in those areas. The EPA is currently considering, but has not yet determined, how best to implement the court's decision.

must apply for and obtain a minor NSR permit before commencing construction of the new source. Likewise, any existing stationary source (minor or major) must apply for and obtain a minor NSR permit before commencing construction of a physical or operational change that will increase the allowable emissions of the stationary source by more than the specified minor NSR threshold amounts, if the change does not otherwise trigger the permitting requirements of the PSD or nonattainment major NSR program(s).<sup>9</sup>

Among other things, the Indian Country Minor NSR rule created a framework for the EPA to streamline the issuance of preconstruction permits to true minor sources by using general permits. We explain this framework further in the sections below.

2. What is a true minor source and how does it differ from a synthetic minor source?

“True minor source” means a source that emits, or has the potential to emit, regulated NSR pollutants in amounts that are less than the major source thresholds under either the PSD program at 40 CFR 52.21, or the Major NSR program for Nonattainment Areas

in Indian Country at 40 CFR 49.166 through 49.173, but equal to or greater than the minor NSR thresholds in 40 CFR 49.153, without the need to take an enforceable restriction to reduce its PTE to such levels. The PTE includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the 28 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. For example, a hot mix asphalt facility, located in a sulfur dioxide (SO<sub>2</sub>) attainment area, that has a maximum potential to emit of 135 tpy of SO<sub>2</sub> without the need to take an enforceable restriction to reduce its PTE to such levels, would qualify as a true minor source. By contrast, “synthetic minor source” means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources, but that has taken a restriction so that its PTE is less than such amounts. Such restrictions must be enforceable as a legal and practical matter. For example, a hot mix asphalt facility, located in an SO<sub>2</sub> attainment area, that has an unrestricted PTE of 270 tpy, but that is

legally constrained to emit only 135 tpy of SO<sub>2</sub> because the source has taken a throughput limit made enforceable through a permit (i.e., a limit on how much hot mix product it can produce), would qualify as a synthetic minor source. In the preamble to both the proposed and final Indian Country Minor NSR rule, the EPA indicated that it would not use general permits to allow otherwise major sources to create synthetic minor sources.<sup>10</sup>

3. What are the minor NSR thresholds?

The “minor NSR thresholds” establish cutoff levels for each regulated NSR pollutant. If a source naturally has a PTE in amounts lower than the thresholds, then it is exempt from the Indian Country Minor NSR rule (see Table 2 and 40 CFR 49.153) for that pollutant. New or modified sources which naturally have a PTE in amounts that are: (1) Equal to or greater than the minor NSR thresholds; and (2) less than the major NSR thresholds (generally 100 to 250 tpy) are “minor sources” of emissions and subject to the Indian Country Minor NSR rule requirements at 40 CFR 49.151 through 161.

TABLE 2—MINOR NSR THRESHOLDS FOR SOURCES IN INDIAN COUNTRY<sup>11</sup>

Regulated NSR pollutant	Minor NSR thresholds for nonattainment areas (tpy)	Minor NSR thresholds for attainment areas (tpy)
Carbon monoxide (CO) .....	5	10
Nitrogen oxides (NO <sub>x</sub> ) .....	<sup>12</sup> 5	10
SO <sub>2</sub> .....	5	10
Volatile Organic Compounds (VOC) .....	<sup>13</sup> 2	5
PM (particulate matter) .....	5	10
PM <sub>10</sub> .....	1	5
PM <sub>2.5</sub> .....	0.6	3
Lead .....	0.1	0.1
Fluorides .....	NA	1
Sulfuric acid mist .....	NA	2
Hydrogen sulfide (H <sub>2</sub> S) .....	NA	2
Total reduced sulfur (including H <sub>2</sub> S) .....	NA	2
Reduced sulfur compounds (including H <sub>2</sub> S) .....	NA	2
Municipal waste combustor emissions .....	NA	2
Municipal solid waste landfill emissions (measured as nonmethane organic compounds) .....	NA	10

4. What is a general permit?

The Indian Country Minor NSR rule specified the process and requirements

for using general permits to authorize construction of and modifications at true minor sources as a streamlined permitting approach. A general permit,

for purposes of this action, is a permit document that contains standardized requirements that multiple stationary sources can use. The EPA may issue a

<sup>9</sup> A source may, however, be subject to certain monitoring, recordkeeping and reporting (MRR) requirements under the major NSR programs, if the change has a reasonable possibility of resulting in a major modification. A source may be subject to both the Indian Country Minor NSR program and the reasonable possibility of being subject to the MRR requirements of the major NSR program(s).

<sup>10</sup> Note that the current regulatory language in the Tribal Minor NSR rule does not address the use of general permits in this manner.

<sup>11</sup> If part of a tribe's area of Indian country is designated as attainment and another part as nonattainment, the applicable threshold for a proposed source or modification is determined based on the designation where the source would be located. If the source straddles the two areas, the more stringent thresholds apply.

<sup>12</sup> In extreme ozone nonattainment areas, section 182(e)(2) of the CAA requires any change at a major source that results in any increase in emissions to be subject to major NSR permitting. In other words, any changes to existing major sources in extreme ozone nonattainment areas are subject to a “0” tpy threshold, but that threshold does not apply to minor sources.

<sup>13</sup> Id.

general permit for categories of emissions units or stationary sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar permit requirements.<sup>14</sup> “Similar in nature” refers to size, processes, and operating conditions. The purpose of a general permit is to provide for protection of air quality while simplifying the permit process for similar minor sources. General permits offer a cost-effective means of issuing permits and provide a quicker and simpler mechanism for permitting minor sources than the site-specific permitting process.

While the final Indian Country Minor NSR rule contemplated issuance of general permits by the EPA regions, we have determined (for the permits on which we are taking comment here) that a nationwide action is appropriate. Through this action, we are proposing to issue general permits to serve as preconstruction permit authorizations that contain emission limitations and other restrictions to govern how a source may construct, modify and operate. National general permits streamline the permit issuance process by establishing universal requirements through one notice for specific types of emissions activities at multiple sources across the country. The EPA believes that the general permit approach is appropriate for the source categories in today’s proposal where the control equipment or techniques are generally similar from region to region.

A general permit also allows a reviewing authority to notify the public through one notice that it intends to apply these requirements to any eligible source that seeks coverage under the permit in the future. This minimizes the burden on reviewing authorities’ resources by eliminating the need to issue separate permits for each individual minor source within the source type or category covered by the general permit. Use of a general permit also decreases the time required for an individual minor source to obtain a preconstruction permit because the application process is standardized.

The Indian Country Minor NSR rule describes the process the EPA will use to issue general permits for the minor NSR program. A general permit must be issued in accordance with the requirements in 40 CFR 49.156. Briefly, these requirements address public

availability of information, public notification and participation, and public comments. In addition, as discussed in Section IX., we are providing implementation tools to guide sources through a series of questions to determine whether they meet the criteria to be eligible for coverage under a general permit.

### C. What is a permit by rule?

Like a general permit, a permit by rule is a standard set of requirements that can apply to multiple stationary sources with similar emissions characteristics. For purposes of this action, a permit by rule would differ from a general permit in that the agency would codify a permit by rule directly into the Indian Country Minor NSR rule. The process for a source to apply for coverage under a permit by rule, and the process for the reviewing authority to grant coverage under a permit by rule, is more streamlined compared to a standard general permit, or a site-specific permit. In particular, a proposed project need not wait for a response from the permitting authority before starting construction under a permit by rule. Section VII. provides a description of the source application process for permits by rule.

## IV. Description of General Permit Program in Indian Country and the EPA’s Use of This Package To Satisfy the General Permit Issuance Process

### A. General Permit Program

The EPA codified the framework it would follow to issue general permits for minor sources in the Indian Country Minor NSR rule in 40 CFR 49.156. While it was not necessary for the EPA to codify this framework to issue general permits, the EPA nonetheless created the regulatory framework to better inform the public of the process the EPA will use to issue general permits. Per the framework, to issue a general permit, the reviewing authority must follow the requirements for public participation contained in 40 CFR 49.157. These provisions require the reviewing authority then to provide a notice that a draft permit is available for comment. The regulations list a number of ways in which a reviewing authority can provide notice to the public, and also allow the reviewing authority to use other means of notification as appropriate (40 CFR 49.157(b)(1)(ii)(E)). We have opted to provide notice to the public regarding the present proposal of general permits for six source categories through use of the **Federal Register**. We believe this approach is appropriate in this case because we intend to apply

these general permits in all areas of Indian country subject to the Indian Country Minor NSR Program and the **Federal Register** provides a nationwide circulation of the notice. We will also mail a copy of each permit for which the reviewing authority has approved coverage for a source to the appropriate Indian governing bodies and the tribal, state and local air pollution agencies in adjacent air jurisdictions that may be impacted by the air pollution sources that use the general permit in accordance with 40 CFR 49.157(b)(1)(i).

The existing regulations also identify the type of information that a reviewing authority must make available to the public, and list a number of elements to be included in the public notice (40 CFR 49.157(a) and (b)(2)). We are satisfying these requirements in this proposal in a wide-ranging manner by providing the public access to the application forms we will require an applicant to complete, and the other implementation tools for each general permit. (We discuss these tools in greater detail in Section IX. of this preamble.) Many of these requirements relate to information that is best made available when an individual applicant applies for coverage under a specific general permit. We will make information specific to an individual source’s request for coverage under a general permit available at the time we provide notice of the source’s request for coverage.

After providing adequate public notice of the availability of the draft permit, the reviewing authority must allow a period of at least 30 days for the public to comment on the permit, and to request a public hearing (40 CFR 49.157). We are satisfying these requirements by using this proposed rule to propose, take comments and hold a public hearing on the general permits. Once we finalize a general permit, it will be used by the EPA’s regional office reviewing authorities<sup>15</sup> for sources requesting coverage under the permit.

The regulations set forth the provisions for a final permit to undergo administrative and judicial review in accordance with 40 CFR 49.159. The procedures governing appeals of NSR permits to the Environmental Appeals Board will govern administrative review of these general permits. Issuance of a general permit is a final agency action with respect to all aspects of the general

<sup>14</sup> “Review of New Sources and Modifications in Indian Country,” U.S. Environmental Protection Agency, July 1, 2011 (76 FR 38770), <https://www.federalregister.gov/articles/2011/07/01/2011-14981/review-of-new-sources-and-modifications-in-indian-country>.

<sup>15</sup> The Administrator delegated the authority to each of the EPA Regional Administrators to carry out all aspects of the Indian Country Minor NSR program, including issuing general permits and approving individual coverage under a general permit.



permit except its applicability to an individual source. The provisions of 40 CFR 49.159 will continue to govern administrative and judicial review of the EPA's approval of an individual source's request for coverage. After the reviewing authority approves a request for coverage by an individual source, a party may appeal only the applicability of the general permit to that particular source.

Although we are using a **Federal Register** notice to initially establish the general permits, we intend to use other methods also consistent with procedures in 40 CFR 49.159 to reopen or administratively amend the final permits if we determine it is necessary and appropriate. A reviewing authority may reopen and revise a final general permit for cause after providing the opportunity for notice and comment under 40 CFR 49.157. Revisions to a final general permit may be appropriate, for example, when the reviewing authority decides to issue a new general permit for the same category to account for advances in control technology or for other pertinent reasons. However, when a reviewing authority issues a new general permit, sources operating under the existing general permit will be able to continue to operate under the existing permit unless and until the source subsequently proposes to modify.<sup>16</sup>

#### *B. How do sources apply for general permits?*

40 CFR 49.156(e) describes the procedure for sources to obtain coverage under a general permit. At the time a source submits a request for coverage under a general permit, it must submit a copy of such request to the appropriate Indian governing body for the area of Indian country where the source is locating. The reviewing authority must act on the source's request for coverage under the general permit as expeditiously as possible, but it must notify the source of the final decision within 90 days of its receipt of the coverage request. The source's reviewing authority must comply with a 45-day completeness review period to determine if the request for coverage under a general permit is complete. Therefore, within 30 days after the receipt of the source's coverage request, the reviewing authority must make an initial request for any additional information necessary to process the

<sup>16</sup> If the EPA revises an existing general permit, then the original permit can no longer be used for new and modified minor sources. The new general permit will be used for new and modified minor sources in the relevant source category. The existing general permit remains in place for existing facilities unless and until they choose to modify.

coverage request and the source must submit such information within 15 days. If the source does not submit the requested information within 15 days from the request for additional information and this results in a delay that is beyond the 45-day completeness review period, the 90-day permit issuance period for the general permit will be extended by the additional days the source takes to submit the requested information beyond the 45-day period. If the reviewing authority fails to notify the source within a 30-day period of any additional information necessary to process the source's coverage request, the source will still have 15 days to submit such information and the reviewing authority must still grant or deny the request for coverage under a general permit within the 90-day general permit issuance period and without any time extension.

If the reviewing authority determines that the source's request for coverage under a general permit has all the relevant information and is complete, it will notify the source in writing as soon as that determination is made. If the source does not receive from the reviewing authority a request for additional information or a notice that the request for coverage under a general permit is complete within the 45-day completeness review period, the request will be deemed complete.

After permit coverage is granted, under 40 CFR 49.156(e), coverage under a general permit becomes invalid if a source does not commence construction within 18 months after the effective date of coverage under a general permit, if the source discontinues construction for a period of 18 months or more, or if the source does not complete construction within a reasonable time. The reviewing authority may extend the 18-month period upon a satisfactory showing that an extension is justified, and the 18-month limit does not apply to the time period between construction of the approved phases of a phased construction project. In those cases, construction of each such phase must commence within 18 months of the projected and approved commencement date.

In Section XI., the EPA proposes to amend 40 CFR 49.156(e) to shorten the permit application procedure to 45 from 90 days for one source category in today's proposal: Graphic arts and printing operations.

In Section IX., we describe the implementation documents and tools that we are making available for comment to assist sources with applying for general permits.

#### *C. What are the required permitting elements?*

For general permits, these elements are discussed in the Indian Country Minor NSR rule promulgated at 40 CFR 49.155(a) and include:

- The effective date of the permit and the date by which a source must commence construction in order for the permit's coverage to remain valid (i.e., 18 months after the source obtains coverage under the general permit);
- The emissions units subject to the permit and their associated emission limitations (and other permit conditions);
- Monitoring, recordkeeping, reporting and testing requirements to ensure compliance with the emission limitations; and
- 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.

#### **V. Source Categories for Which Proposed General Permits in Indian Country Are Available for Public Review**

##### *A. Notice of Proposed General Permits*

In accordance with 40 CFR 49.171(b)(1)(1)(E), we are providing the public with a copy of six proposed general permits covering six source categories: (1) Concrete batch plants, (2) boilers, (3) stationary spark ignition engines, (4) stationary compression ignition engines, (5) graphic arts and printing operations and (6) sawmills. Copies of each of these proposed permits and the following four associated permitting documents are available in the docket for this notice (EPA-HQ-OAR-2011-0151) and at <http://www.epa.gov/air/tribal/tribalnsr.html>:

- (1) Request for Coverage (Application);
- (2) Questionnaire;
- (3) Instructions; and
- (4) PTE calculator.

The application for one of the six source categories in today's proposal (i.e., graphic arts and printing operations) is streamlined and asks for contact and location information and basic solvent usage information (more detailed source-specific information would be required from sources seeking coverage under the other five general permits). This is discussed further in Section IX.

The general permits will authorize<sup>17</sup> construction of, or any modifications of,

<sup>17</sup> To be eligible for a proposed general permit in today's action, the PTE of your facility, including

any of the affected emission units, or pollutant emitting activities named in the permit, at any proposed true minor source that meets the permit's applicability requirements and eligibility statements, and for which the reviewing authority approves coverage under the permit.

We request comment on all aspects of the general permits and the associated forms and documentation provided to assist the stationary sources specified in the permits in complying with the Indian country minor NSR preconstruction permitting and post-construction operating requirements. In Section VIII., we propose, in the alternative, a permit by rule for graphic arts and printing operations. Should we decide to finalize a permit by rule for this category, then we may not finalize the draft general permit for that category. Alternatively, we may opt to finalize both permitting mechanisms for this source category, and may tailor one of the permitting mechanisms to provide authorization to construct or modify true minor sources (i.e., permit by rule) and another to provide enforceable limitations to create synthetic minor sources (i.e., general permit). We specifically request comment on this "hybrid" approach (see Section XI. of the January 14, 2014 proposal<sup>18</sup> for further discussion on the hybrid approach).

For the six source categories in today's action, we are proposing general permits as our preferred approach. We have crafted our proposal to ensure air quality is protected and to provide more detailed or streamlined approaches, as appropriate. For concrete batch plants, boilers, stationary spark ignition engines, stationary compression ignition engines and sawmills, the EPA is proposing (1) that we retain the 90-day application review process provided in the Indian Country NSR Rule; and (2) that we provide more detailed applications that are appropriate for sources in these categories that involve multiple pollutants where the reviewing authority needs to conduct a review to evaluate whether an individual source meets the requirements in the permit. However, we also recognize that a more streamlined approach may be appropriate for other source categories with few pollutants of concern and in

which the operations are less complex. For graphic arts and printing operations, the EPA is proposing to change the underlying rule to provide a shorter application review period (see Section XI.) and a shorter application (see Section IX.). The permit by rule proposed as an alternative for this source category would take that streamlining a step further (see Section VII.).

The remainder of this section outlines the general structure of each of the proposed general permits, and requests comment on issues that are common among the proposed general permits. Specifically, we are requesting comment on:

(1) Whether the EPA's proposed approach of incorporating by reference each reviewing authority's approval of a request for coverage into the general permit is necessary and appropriate; and

(2) The appropriateness of proposed permit terms related to the reviewing authority's ability to reopen, revise, or terminate an individual approval of coverage under the general permit.

This section also describes the general process we undertook for each of the control technology reviews required to establish the terms and conditions of each proposed general permit, and requests comment on our conclusions on several aspects of the control technology reviews.

Additional information and supporting analyses on each of these proposed permits are located in the background documents. These documents are available at Docket ID No. EPA-HQ-OAR-2011-0151 and online at <http://www.epa.gov/air/tribal/tribalnsr.html>.

#### B. Structure of General Permits

Each proposed general permit contains a similar overall structure. The cover page of each proposed permit contains general information on the proposed permit. First, it briefly describes the applicability of the permit to a particular source category or emissions activity the general permit regulates in accordance with 40 CFR 49.156(d)(1). This description varies for each of the proposed permits, depending on the emissions activity covered by the proposed permit.

Second, the cover page limits eligibility for coverage under the permit to true minor sources. We included this limitation to allow permitting authorities the ability to process a permit application for inherently larger sources using the more extended time periods the Indian Country Minor NSR rule provides for case by case, site

specific review. We also include this limitation in the proposed permits to remain consistent with our current policy that we will not allow sources to use general permits to create synthetic minor sources.

We recognize, however, that limiting eligibility of these proposed permits to only true minor sources could limit the number and types of sources that could take advantage of the streamlined, general permitting process. In our prior proposal of January 14, 2014, we proposed to change the current policy in the Indian Country Minor NSR rule to allow general permits and permits by rule to create synthetic minor sources. Depending on the outcome of that proposal, we may amend one or more of the final permits in this proposal to allow any minor source to apply for coverage under that permit.

Third, following the eligibility statement, the proposed permit directs applicants to the specific information that an applicant must include in a request for coverage under the permit in accordance with 40 CFR 49.156(d)(2)(ii) and (iii). The request for coverage serves as the permit application and some of the information in the application will differ for each proposed permit. We discuss the application and implementation tools to assist true minor sources in determining whether a source is eligible for coverage under a general permit in Section IX.

Fourth, the proposed permit contains a statement that incorporates each reviewing authority's approval of a request for coverage into the general permit. Sections 1 through 6 of the general permit, and the most current approval of the request for coverage, 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 Approval of the Request for Coverage for that permitted source. We request comment on the inclusion of this condition in the permits given that the Indian Country Minor NSR rule only requires posting of the approval of coverage.

As we developed the proposed permits, we envisioned situations in which the reviewing authority may need to revise information contained in the approval notice sometime after issuance. For example, a source covered by a general permit may subsequently change ownership. A reviewing authority may delegate responsibilities for the general permit to a tribal air pollution control agency. A source may subsequently need to revise something in its request for coverage that would

all existing, new, and modified emission units present at the facility, must be below the major source thresholds for NSR.

<sup>18</sup> "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), <http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf>.

alter elements of the approval. For example, a source may misidentify an equipment identification number in its request for coverage, or decide to expand or limit the scope of the modification. A reviewing authority may need to alter its approval of the request for coverage for these situations. The general permit provisions at 40 CFR 51.156(b)(2) broadly reference 40 CFR 49.159, which specifically addresses the reviewing authority's ability to reopen or administratively amend permits. The provisions, however, do not specifically delineate how they apply to an approval of a request for coverage under a general permit. By incorporating the approval into the general permit, we ensure that the revision procedures contained in 40 CFR 49.159 apply to revisions a reviewing authority may make to the approval of the request for coverage. We request comment on this approach for incorporating the approval of the request for coverage into the general permit. Alternatively, we request comment on whether such incorporation is unnecessary and on whether to apply the procedures in 40 CFR 49.159 to the approval of the request for coverage, or whether the EPA should amend the existing regulations at 40 CFR 49.156 to address amendments to the request for coverage.

Fifth, the proposed permit contains information on the reviewing authority's right to terminate or revise the general permit. The general permit provisions in the Indian Country Minor NSR rule provide the reviewing authority the ability to revise, revoke and reissue, or terminate a general permit. In harmony with those provisions, the proposed permits include authority for a reviewing authority to revise or terminate an approval of a request for coverage. We are adding these provisions to the general permit, under the authority of 40 CFR 49.156(d), to clarify how the Indian Country Minor NSR rule intended these provisions to apply to an individual request for coverage. We request comment on inclusion of these provisions in the general permit, or, alternatively, whether the EPA should amend the Indian Country Minor NSR rule to expressly delineate the reviewing authority's right to revise or terminate an individual source's coverage under a general permit.

Finally, the proposed permit contains a statement indicating that the definitions contained in the Indian Country Minor NSR rule govern use of those terms within the general permit. The statement also refers permittees to a section of the permit that contains definitions that may be specific to the

source categories or emissions activities covered by the general permit; and indicates that when a term is not otherwise defined we will interpret that term consistent with normal business use. We, nonetheless, request comment on whether we should include any additional definitions to improve the clarity of the general permits.

Following the general information section, each proposed permit contains the enforceable terms and conditions of the general permit. Section 1 of the Terms and Conditions provisions contains general provisions that, with only a few exceptions, are similar for all the general permits. These provisions contain statements that the Indian Country Minor NSR rule requires in each permit pursuant to 40 CFR 49.155.

In each permit, the general provisions are followed by emission limitations and other operational restrictions or specifications, and monitoring, recordkeeping, and reporting requirements that are unique to each of the permits. The notice and reporting requirements are followed by a section outlining the reviewing authority's ability to change the general permit, including the approval of the request for coverage, a section on requesting coverage under the permit, and attachments with abbreviations and acronyms, a list of definitions, and a list of reviewing authorities and areas of coverage. Attachments to the concrete batch plant and sawmill permits also contain requirements to minimize fugitive dust emissions. An attachment to the sawmill permit contains sample VOC calculations. Attachments to the graphic arts and printing operations general permit contain requirements for serious, severe or extreme ozone nonattainment areas and sample calculations for monthly VOC emissions.

### *C. The EPA's Control Technology Review*

Each permit establishes specific numerical limitations on the quantity, rate or concentration of emissions for each regulated NSR pollutant emitted by each affected emissions unit. For each general permit, in a manner similar to what a permitting authority would be expected to do for an individual source, we established these control technology-based requirements by researching both state and local air quality programs to identify control technologies or other emissions reduction measures used by similar sources in surrounding areas, and by reviewing requirements contained in existing 40 CFR parts 60 and 63 emissions standards that apply to these source categories. Some of the

proposed permits build upon the requirements in the 40 CFR parts 60 and 63 emissions standards by including some control technology measures found in state and local agencies' general permits for these source categories. The proposed permit for graphic arts and printing operations draws control information from control technique guidelines for flexible package printing and offset lithographic printing developed by the EPA covering activities in the printing industry.<sup>19</sup>

The background documents for each proposed permit explain the state and local programs we reviewed to identify control technology options in each source category. We believe that, because these control measures are currently used by other similar sources in other areas of the country, they are technically and economically feasible, and cost effective. We request comment on this conclusion, and invite commenters to submit specific information that would indicate that either: (1) The measures in the proposed permits are not economically feasible and/or cost effective; or (2) additional economically feasible and cost effective measures are available and appropriate to include in the final general permits.

In determining specific emission limitations and control measures for each permit, we considered air quality conditions in Indian country. Notably, Indian country contains both attainment and nonattainment areas for different regulated NSR pollutants.<sup>20</sup> In some cases, for areas designated as nonattainment for a given pollutant, the proposed permits contain more stringent emission limitations for that pollutant (or precursors of that pollutant). These control requirements will help mitigate any further degradation of air quality in those areas. In other cases, however, the proposed permits do not include different emission limitations based on the attainment status of the area. In these situations, we determined that the emission limitations are sufficient to protect air quality in both attainment and nonattainment areas.

For concrete batch plants, boilers, stationary spark ignition engines, stationary compression ignition engines,

<sup>19</sup> For more information, go to: <http://www.epa.gov/glo/SIPToolkit/ctgs.html>.

<sup>20</sup> Maps for those NAAQS for which the EPA has designated nonattainment areas in Indian Country are available online at <http://www.epa.gov/air/tribal/tribalnsr.html> and Docket ID No. EPA-HQ-OAR-2011-0151. NAAQS for which the EPA has designated nonattainment areas are: Ozone (2008 NAAQS), PM<sub>10</sub> (1987 NAAQS), PM<sub>2.5</sub> 24-Hour (2006 NAAQS), and PM<sub>2.5</sub> Annual (1997 NAAQS). There are no tribal lands in nonattainment for SO<sub>2</sub> (2010 NAAQS), NO<sub>2</sub>, lead (2008 NAAQS), and CO.

and sawmills, we also added additional provisions related to the location of the emitting activities and the source property boundary. We call these provisions, which are designed to minimize the impacts of emissions on air quality in the immediate vicinity of the source, setback requirements. Under the setback requirement, sources may not locate within a specific distance from the property boundary and nearest residences. In reviewing state and local air agency general permits, we found that permitting authorities in Alaska, Texas and Washington include setback requirements to protect local ambient air quality from potential source impacts. We find that these requirements are both reasonable and prudent measures to protect local air quality, and are economically feasible and cost effective. We, therefore, included similar measures in the proposed permits. We discuss the specific setback requirements for each category in Section VI.

We welcome comments on the use of these setback requirements. We also welcome comments on the types of buildings from which we should establish setback requirements (e.g., schools, nursing homes). We further request comment on whether the setback requirement conflicts with tribal authority over zoning-related matters, and, if so, then on how we should resolve that conflict.

To further protect against adverse local air quality impacts, the proposed permits ensure that no source will cause or contribute to NAAQS or PSD increment violations by prohibiting emissions that would result in such impacts. Thus, reviewing authorities will consider any air quality concerns unique to specific areas that arise after issuance of the general permits in this proposal when determining whether an individual permit applicant is eligible for coverage under the general permit. For example, if a source wants to locate in an area with air quality levels approaching or violating the NAAQS, the reviewing authority may need to request that a source apply for a site-specific permit so that the potential for greater control than that afforded by the general permit can be evaluated.

In conducting the control technology review, we also considered the anticipated growth rate of the source categories. In general, we do not anticipate significant increases in growth for these six source categories for the foreseeable future, as we identified no information indicating that

to be the case.<sup>21</sup> Thus, we do not believe that emissions increases from these categories will pose unique or additional impacts on air quality in the foreseeable future that might warrant a more stringent approach to controlling emissions than contained in the proposed permits. We request comment on our conclusion about anticipated growth in these source categories and regions, and the reasonableness of the emission limitations and control measures specified in the proposed permits.

#### *D. Scope of Coverage Under Each General Permit*

In the Indian Country Minor NSR rule, the EPA stated that it may use the general permit mechanism to issue permits to “similar” types of emissions units or minor sources. This limitation on the ability to issue general permits is consistent with the EPA’s longstanding interpretation of the CAA as it relates to the ability of a permitting agency and source to use standardized protocols to meet CAA minor source permitting requirements. The proposed general permits meet the limitation that general permits apply only to similar sources, because each of the permits covers only affected emission units or emissions generating activities that are: (1) Specifically identified by name in the permit; (2) generate the same regulated NSR pollutants in the same manner and magnitude; and (3) are associated only with operations within a defined source category.<sup>22</sup> We discuss the specific scope of each proposed general permit in more detail in Section VI. below and in the background document for each proposed general permit.

#### *E. Surrogate Annual Allowable Emission Limitations*

The Indian Country Minor NSR rule requires the reviewing authority to establish annual allowable emission limitations for each affected emissions unit and for each NSR regulated pollutant emitted by the unit, if the unit is issued an enforceable limitation lower than the PTE of that unit (40 CFR 49.155(a)(2)). For the six source categories in this proposal, the proposed general permits provide emissions limitations as annual tpy allowable

emission limitations, throughput limits or input-based emissions limits, or some combination thereof, depending on the particular source category. In the case of concrete batch plants, we believe that a production limit serves as a reasonable surrogate for a tpy emission limitation, since there is a direct correlation between the amount of material processed and the amount of pollution emitted. We also believe that monitoring throughput rather than actual emissions may provide a more cost-effective method of demonstrating compliance. For example, concrete batch facilities regularly track a facility’s throughput, but do not necessarily analyze specific emissions discharges. Thus, reliance on throughput limits provides a more cost-effective approach to regulating emissions and we believe this will enhance the potential for compliance with the proposed permit for this category.

The approach for engines (spark ignition and compression ignition) and boilers also relies on a concept of “surrogate” emissions limitations, but instead of using throughput limits, these permits rely on “surrogate” capacity limits. The capacity limits are set at levels to ensure that the sources remain below certain tpy emissions rates. We also believe that setting capacity limits rather than limitations on actual emissions may provide a more cost-effective and practical method of demonstrating compliance, which will enhance the potential for compliance with the proposed permit for this category.

For sawmills and graphic arts and printing operations, we provide tpy emissions limitations in the permit. We require sources in these two categories to track throughput and to calculate annual emissions based on their throughput using the calculator we have provided. The reason for providing this additional flexibility for the source is due to the uncertainty they face as to the exact nature of their production at the start of a reporting period. For example, a sawmill will not necessarily know what species of wood (each with different VOC content) it will process in a given year. The source, therefore, would need to track its board-foot throughput of each wood species and calculate the emissions associated with the wood species to ensure it stays within the permitted emissions limitations. The same approach is applicable to graphic arts and printing operations that may be engaged in several different types of printing operations that involve different solvents with different VOC contents. Those sources need similar flexibility

<sup>21</sup> See the following memo online at <http://www.epa.gov/air/tribal/tribalnsr.html> and in the docket (ID No. EPA-HQ-OAR-2011-0151): “Projected New Minor Sources in Indian Country,” from Lillian Grace Bradley, Environmental Economist, EPA/OAQPS to Chris Stoneman, Policy Advisor, EPA/OAQPS, March 13, 2014.

<sup>22</sup> These criteria are not the sole manner for demonstrating that a general permit applies only to similar sources, but they serve as examples of the types of characteristics that may be relevant.

and would also need to track solvent usage and VOC content to ensure they stay within the permitted emissions limitations.

In Section VI. below, we request comment on these approaches for the six source categories.

In a related matter, in the January 14, 2014, proposal, we indicated that we granted reconsideration on the issue of allowing reviewing authorities to use general permits to create synthetic minor sources and proposed to change the current policy of not allowing their use for this purpose. If the EPA allows otherwise major sources to qualify as synthetic minor sources through use of general permits, we request comment on specific changes that we would need to include in the limits of each permit to properly regulate synthetic minor sources for the six categories in this proposal. For example, should the EPA establish higher annual tpy allowable emission limitations or surrogate production limits that are just below the major source thresholds for each regulated NSR pollutant, or should the EPA maintain the limitations in the current proposed permits to maintain an adequate compliance margin?

#### *F. Requirements of the Endangered Species Act and the National Historic Preservation Act*<sup>23</sup>

The ESA requires federal agencies to ensure, in consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service (the Services), that any action they authorize, fund, or carry out will not likely jeopardize the continued existence of any listed threatened or endangered species, or destroy or adversely modify the designated critical habitat of such species. Under relevant ESA implementing regulations, federal agencies consult with the Service(s) on actions that may affect listed species or designated critical habitat.

The NHPA requires federal agencies to take into account the effects of their undertakings on historic properties (i.e., properties that are either listed on, or eligible for listing on, the National Register of Historic Places) and to provide the Advisory Council on Historic Preservation (the Council) a reasonable opportunity to comment on such undertakings. Under relevant NHPA implementing regulations, NHPA consultations are generally conducted with the appropriate Tribal and/or State

Historic Preservation Officers in the first instance, with opportunities for direct Council involvement in appropriate circumstances, including, for example, consultations in connection with undertakings affecting multiple tribes or states.

The Indian country minor NSR program has increased the number of activities for which the EPA is the permitting authority. To meet ESA and NHPA requirements, we have developed a process for compliance with these laws when issuing the general permits. The EPA intends to consult with the Services and the Council on our general permits and the proposed procedures to address potential effects on relevant protected resources.

For purposes of general permits, the EPA intends to adopt a framework that provides appropriate protection for listed species and critical habitat and historic properties. The EPA believes, based on the evaluation of available information, that the sources that are the subject of this proposal are unlikely to present a significant risk to listed species and critical habitat and to historic properties because they are by their nature small, low emitting sources. However, to ensure listed species and critical habitats and historic properties are protected, the EPA has developed a framework in the general permits that requires the applicant to identify and assess effects before a request for coverage under the general permit is submitted to the EPA. (As noted below, the applicant must submit the assessment to the EPA as part of the request for coverage.) Requiring this assessment should help identify any concerns related to potential impacts on listed species/critical habitat or historic properties early in the process when the greatest opportunities to mitigate or avoid any impacts—including changes to the facility's location or footprint—are available. This framework is similar to procedures established by the Office of Water for the National Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activities.<sup>24</sup> The EPA believes that requiring a process in the general air quality permits that is similar to the already-established process for the general stormwater permits will be beneficial for all

concerned: The applicants, the EPA, the tribes, and the Services.

The screening processes developed in the permits for both the ESA and NHPA require the applicant to develop information about the possible effects of the proposed new or modified facility, which includes appropriate outreach to relevant expert resource agencies. Such information and a certification regarding the outcome of the applicant's screening procedures are submitted to the EPA as part of the request for coverage under the general permit. This information is included as an appendix to the applications for requests for coverage under the general permits. The EPA will review this information as part of determining whether a source is eligible for coverage under the general permit. Because we have limited the applicability of the general permits to categories of sources that have low emissions, we do not expect they are likely to adversely affect listed species/critical habitats, nor should they have potential effects on historic properties. However, if, through the procedures required in the permit, a source is determined to have an adverse effect on listed species/critical habitats or potential effects on historic properties, the EPA retains the authority to deny coverage under the general permit and to proceed with source-specific permitting and consultation with the appropriate resource agency(ies).

#### **VI. Summary of Specific Terms and Conditions of the General Permits and Request for Comment**

In the following sections, we provide a brief summary of the source category regulated by each general permit and the areas of each proposed general permit on which we specifically seek public comment. In this preamble, we are not delineating every aspect of the requirements of the general permits. Instead, we refer readers to the proposed permits and associated background information to review all of the detailed requirements we include in each general permit. Although we are soliciting comments on specific aspects of the proposed permits, we, nonetheless, invite the public to comment on all relevant aspects of the proposed permits.

Generally, we have designed the proposed permits to be as comprehensive as possible and, thus, they contain emission limitations requirements for several, potentially affected emission units that could be found at a source. If a source determines that it does not have all of the emission units that the general permit covers, it can still seek coverage for those units

<sup>23</sup> These requirements apply to both general permits and permits by rule. Only general permits are mentioned here but the requirements apply identically to both permit types. Section VII.C. is specific to permits by rule and notes that these requirements also apply to permits by rule.

<sup>24</sup> "Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Construction Activities," U.S. Environmental Protection Agency, February 29, 2012 (77 FR 12286), <http://www.gpo.gov/fdsys/granule/FR-2012-02-29/2012-4822/content-detail.html>.

the permit covers. The intent of the comprehensive permit is to help avoid sources with multiple emission units having to apply for multiple general permits. In any case, if a source determines that it does not meet the qualifications of the general permit for a given category, then it can apply for a site-specific permit.

We are proposing the general permits for true minor sources in Indian country. To be eligible for a general permit as proposed in this action, a source would need to calculate the PTE for all of its NSR-regulated pollutants for all existing, new, and modified emission units. If the total PTE is less than the NSR major source thresholds, then the source is eligible for the permit, provided all other qualifying conditions are satisfied.

#### A. Concrete Batch Plants

##### 1. What is a concrete batch plant?

A concrete batch plant is an operation that combines various ingredients to form concrete. Some of these inputs include sand, water, aggregate (rocks, gravel, etc.), fly ash, potash, and cement. There are two types of concrete batch plants: Ready mix plants and central mix plants. A concrete plant can have a variety of parts and equipment, including but not limited to: Mixers (either tilt-up or horizontal or in some cases both), cement batchers, aggregate batchers, conveyors, radial stackers, aggregate bins, cement bins, heaters, chillers, cement silos, batch plant controls, and dust collectors (to minimize environmental pollution).

Concrete is composed essentially of water, cement, sand (fine aggregate) and coarse aggregate. Approximately 75 percent of the U.S. concrete manufactured is produced at plants that store, convey, measure and discharge these constituents into trucks for transport to a job site. At most of these plants, sand, aggregate, cement and water are all gravity fed from the weight hopper into the mixer trucks. The concrete is mixed on the way to the site where the concrete is to be poured. At some of these plants, the concrete may also be manufactured in a central mix drum and transferred to a transport truck. Most of the remaining concrete manufactured is cast as products in a factory setting. Precast products range from concrete bricks and paving stones to bridge girders, structural components, and panels for cladding. Concrete masonry, another type of manufactured concrete, may be best known for its conventional 8 x 8 x 16-inch block. In a few cases concrete is dry batched or prepared at a building construction site.

Raw materials for concrete batch operations can be delivered to a plant by rail, truck or barge. The cement is transferred to elevated storage silos pneumatically or by bucket elevator. The sand and coarse aggregate are transferred to elevated bins by front end loader, clamshell crane, belt conveyor, or bucket elevator. From these elevated bins, the constituents are fed by gravity or screw conveyor to weigh hoppers, which combine the proper amounts of each material.

PM, consisting primarily of cement and pozzolan dust, but including some aggregate and sand dust emissions, is the primary pollutant of concern. In addition, there are emissions of metals that are associated with this PM. All but one of the emission points is fugitive in nature. The only point sources are the transfer of cement and pozzolan material to silos, and these are usually vented to a fabric filter or "sock." Fugitive sources include the transfer of sand and aggregate, truck loading, mixer loading, vehicle traffic, and wind erosion from sand and aggregate storage piles. The amount of fugitive emissions generated during the transfer of sand and aggregate depends primarily on the surface moisture content of these materials.

The extent of fugitive emissions control varies widely from plant to plant. Types of controls used may include water sprays, enclosures, hoods, curtains, shrouds, movable and telescoping chutes, central duct collection systems, and the like. A major source of potential emissions, the movement of heavy trucks over unpaved or dusty surfaces in and around the plant, can be controlled by good maintenance and wetting of road surfaces.<sup>25</sup>

##### 2. What is in the proposed general air quality permit for new or modified true minor source concrete batch plants?

This proposed general permit would apply to the construction of new true minor source concrete batch plants or the modification of existing true minor concrete batch plants located in Indian country. The proposed permit is designed to be as comprehensive as possible and, thus, contains emission limitations requirements for:

- Storage silos;
- Batch drop points;
- Loading transfer areas;
- Weigh hoppers;
- Auxiliary storage bins;
- Non-emergency stationary engines;

- Emergency stationary engines; and
- Setbacks.

The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer's recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

The proposed permit requires each storage silo to be equipped with an audible alarm or an automatic shutoff system that warns when the silo is full. Loading operations cannot be conducted without a warning or shutoff device. Storage silos, weigh hoppers and auxiliary storage bins must be vented to a fabric or cartridge filter. The filter systems can be a centralized system. A suction shroud or other pickup device should be installed at each batch drop point (drum, truck loading etc.) and vented to a fabric or cartridge filter system. Loading and unloading areas must be well lit during non-daylight hours when the permitted source is in operation and visible emissions from each storage silo, weigh hopper and auxiliary storage bin must not exceed 10 percent opacity based on a six-minute average (according to EPA Method 9<sup>26</sup>). For portable and permanent concrete batch plants, the limit on production is a maximum annual production rate of 2,000,000 cubic yards. The proposed permit also requires a fugitive dust control plan.

The proposed permit contains requirements for non-emergency and emergency engines, in the event such engines are present at the concrete batch plant. Non-emergency compression ignition engines present at the site, excluding nonroad mobile engines, must comply with the following:

- Use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur;
- Each compression ignition engine that commenced construction on or after June 12, 2006 must be certified to the applicable Tier standards in 40 CFR 89.112 and 40 CFR 1039.101 through 1039.104, for all pollutants, for the same

<sup>25</sup> AP-42, Chapters 11.19.12, Concrete Batching, <http://www.epa.gov/ttn/chieff/ap42/ch11/index.html>.

<sup>26</sup> Method 9—Visual Determination of the Opacity of Emissions From Stationary Sources, <http://www.epa.gov/ttn/emc/promgate/m-09.pdf>.

model year and maximum engine power; and

- Each compression ignition engine that commenced construction before June 12, 2006 shall meet certain standards as laid out in the permit based on the engine's maximum rated power.

If the source includes one or more emergency engines, each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are contained in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90, 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Other, older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop a 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.

The proposed general permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source, including ensuring the fabric/cartridge filters are operating properly, taking weekly opacity observations and fugitive emissions surveys and meeting certain other requirements. The permit also requires performance testing for emergency engines present at the plant that must meet certain emissions standards, but are not certified by the manufacturer to those standards and are not required to be certified by the manufacturer. This requirement is needed since the EPA certification program for certain engines is voluntary. The proposed general permit includes recordkeeping and reporting sufficient to ensure compliance with the monitoring requirements.

### 3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Concrete Batch Plants

We request comment on all aspects of the general permit for concrete batch plants. We specifically request comment in the following three areas:

#### a. Throughput Production Limit as a Surrogate for Annual Tons Per Year Allowable Emission Limitations

The proposed concrete batch plant general permit contains a throughput-based production limit that serves as a surrogate for annual tpy allowable emission limitations. We discuss the use of surrogate limits in Section V.E. above. For portable and permanent concrete batch plants, as stated above, the limit on production is a maximum annual production rate of 2,000,000 cubic yards.

The background information document for the proposed permit contains the approximate tpy emission thresholds for which the throughput limits act as surrogates. The proposed permit does not establish different throughput limits based on the attainment status of the area. We request comment on our use of throughput limits as a surrogate for tpy emission limitations for this source category, and on whether there should be different production throughput limits in attainment and nonattainment areas.

In establishing specific limits for concrete batch facilities, we considered whether we should compute the production throughput limits on a tpy basis, or over a shorter period of time to ensure continuous compliance. For concrete batch plants, where  $PM_{10}$  is the limiting pollutant for non-fugitive emissions, we elected an annual production limit to ensure annual compliance. We request comment on whether we should instead establish a monthly total emission limitation based on a 30-day rolling total or on any other appropriate averaging period.

#### b. Setback Requirement

The proposed general permit requires concrete batch plants to locate at least 150 feet from the nearest property boundary and 1,000 feet from the nearest residence. A number of states include setback requirements in their general permits for this source category.<sup>27</sup> We believe that this requirement will minimize the impact of emissions from these sources on localized air quality. We request comment on whether we should include the setback requirement in the final permit to provide additional protection against adverse impacts to localized air quality. In addition, we request comment on whether there are other

neighboring types of buildings for which a setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of concrete batch plants subject to the permit to use physical markers on their property to show compliance with the setback requirement.

#### c. Authorizing Multiple Locations

Concrete batch plants can operate as portable stationary sources. A plant will locate in a single area for a specified period of time and then disassemble and relocate to another area. We structured the proposed general permit to accommodate relocation of a plant. A source may identify multiple sites of operation in its request for coverage. The reviewing authority will consider the request for each location, and will specify approval of one or more of these locations in the approval of the request for coverage. If the reviewing authority does not approve a specific location, then the source will need to reapply for coverage under the general permit or for a site specific permit before relocating to this site. The general permit also requires a source to submit a notification to the reviewing authority each time it relocates to a pre-approved site. We request comment on the use of the general permit to authorize relocation of a plant to pre-approved site locations.

### B. Boilers

#### 1. What is a boiler?

A boiler is a device in which water typically is heated to provide steam to drive turbines or engines, supply heat, or process materials. This proposed permit covers steam generating units located at institutional, commercial, and industrial facilities which combust non-solid fossil fuels such as natural gas and fuel oil. This permit does not cover boilers located at electric utilities or boilers used for the burning of other fuels such as coal and wood. This source category does not cover the manufacturers of boilers. The proposed General Air Quality Permit for New or Modified True Minor Source Boilers only covers new, true minor source boilers and modifications of existing true minor source boilers.

Boilers designed to burn fuel oil primarily combust distillate oils and residual oils.<sup>28</sup> These boilers can be of water tube, fire tube, cast iron, or tubeless design. Water tube boilers are used in a variety of applications ranging from supplying large amounts of process steam to providing space heat for

<sup>27</sup> Information on state setback provisions is available at: Background Document: General Air Quality Permit for New or Modified True Minor Source Concrete Batch Plants, Docket ID No. EPA-HQ-OAR-2011-0151, <http://www.epa.gov/air/tribal/tribalnsr.html>.

<sup>28</sup> AP-42, Chapter 1.3—Fuel Oil Combustion, <http://www.epa.gov/ttnchie1/ap42/ch01/>.



industrial facilities. In a water tube boiler, combustion heat is transferred to water flowing through tubes which line the furnace walls and boiler passes. The tube surfaces in the furnace (which houses the burner flame) absorb heat primarily by radiation from the flames. The tube surfaces in the boiler (adjacent to the primary furnace) absorb heat primarily by convective heat transfer. Fire tube boilers are used primarily for heating systems, industrial process steam generators, and portable power boilers. In fire tube boilers, the hot combustion gases flow through the tubes while the water being heated circulates outside of the tubes. A cast iron boiler is one in which combustion gases rise through a vertical heat exchanger and out through an exhaust duct. Water in the heat exchanger tubes is heated as it moves upward through the tubes. Cast iron boilers produce low pressure steam or hot water, and generally burn oil or natural gas. They are used primarily in the residential and commercial sectors. (Note that residential boilers are not covered by the proposal.) Tubeless boilers incorporate nested pressure vessels with water in between the shells. Combustion gases are fired into the inner pressure vessel and are then sometimes recirculated outside the second vessel.

Natural gas combustion boilers are used to generate industrial electric power, produce industrial process steam and heat, and heat residential and commercial space.<sup>29</sup> (Note that residential boilers are not covered by the proposal.) Natural gas is generally more than 85 percent methane with varying amounts of ethane, propane, butane, and inert gases (typically nitrogen, carbon dioxide (CO<sub>2</sub>), and helium). Natural gas combustion boilers may be of water tube, fire tube, or cast iron design. Water tube boilers can be distinguished either as field erected units or packaged units; the former are built onsite in either wall-fired or tangential-fired configurations and generally have heat input levels exceeding 100 million British thermal units (MMBtu)/hour, while the latter are shipped where needed, are always wall-fired, and generally have heat input levels of less than 100 MMBtu/hour.

The emissions from fuel oil-fired boilers include PM, SO<sub>2</sub>, NO<sub>x</sub>, CO, small amounts of VOCs, and trace elements. The emissions from natural gas-fired boilers include NO<sub>x</sub>, CO, CO<sub>2</sub>, nitrous oxide, VOCs, trace amounts of SO<sub>2</sub>, and PM.

## 2. What is in the proposed General Air Quality Permit for New or Modified True Minor Source Boilers?

This proposed general permit would apply in Indian country to the construction of new, true minor source boilers and modifications of existing true minor source boilers. The proposed permit is designed to be as comprehensive as possible and, thus, contains requirements for:

- Boiler capacity limits;
- Emissions and opacity limitations;
- Boiler stacks;
- Fuel usage;
- Setbacks; and
- Emergency engines.

The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer's recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

The proposed permit uses boiler capacity limits as emissions limitations. The permit provides a capacity limit for an individual boiler located in an attainment or nonattainment area of less than 100 MMBtu/hour. Further, the proposed permit restricts capacity by laying out a matrix of combined maximum rating capacity limits for different fuel types (i.e., liquid, gaseous) by boiler size or type. The combined capacity limits vary by area designation/classification. The combined capacity limits are set at levels intended to ensure the covered sources remain below major source levels.

The proposed permit also provides output-based and input-based emission limitations for boilers rated at 10 MMBtu/hour or greater. The proposed permit restricts fuel use to natural gas or fuel oil (i.e., diesel or biodiesel) with a sulfur content of 0.0015 percent or less by weight. In addition, a natural gas unit may use fuel oil as a backup emergency fuel for up to 500 hours per calendar year.

The proposed permit requires that the boiler(s) must not discharge into the atmosphere any gases that exhibit 5 percent opacity or greater averaged over any six-consecutive-minute period. The boiler stack(s) must be above the

buildings in the vicinity, discharge vertically, and have no obstructions to gas flow such as rain caps, except for hinged rain caps. Each boiler must undergo biennial tune-ups.

If the permittee is operating the boiler(s) in a severe or extreme ozone nonattainment area, then the permittee must comply with additional requirements. Boilers located in severe or extreme ozone nonattainment areas must meet tighter emissions limitations for NO<sub>x</sub>.

The proposed permit contains requirements for emergency engines located at the same facility as a boiler. Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are specified in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop a 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.

The proposed permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source, including visible emissions surveys and an initial and additional periodic performance testing. The proposed permit also requires performance testing for emergency engines located at the same source that must meet certain emissions standards, but are neither required to be certified by the manufacturer nor are certified by the manufacturer as meeting those standards. The basis for this requirement is the fact that the EPA certification program for certain engines is voluntary. The proposed permit includes recordkeeping and reporting sufficient to ensure compliance with the monitoring requirements.

<sup>29</sup> AP-42, Chapter 1.4—Natural Gas Combustion, <http://www.epa.gov/ttnchie1/ap42/ch01/>.



### 3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Boilers

We request comment on all aspects of the general permit for boilers. We specifically request comment in the following three areas:

#### a. Surrogate Annual Allowable Emission Limitations

The boilers general permit contains capacity limits that serve as surrogate annual tpy allowable emission limitations. We discuss the use of surrogate limits in detail in Section V.E. above. In addition, we request comment on the use of these surrogate capacity limits. In lieu of establishing surrogate limits, we request comment on whether, instead of containing surrogate limits, the final permits should contain tpy emission limitations and require the use of monitoring of material use to demonstrate compliance. We also request comment on finalizing two boiler general permits—one intended for smaller, simpler sources that uses capacity limits and one for larger, more complex sources that uses tpy emission limitations together with additional monitoring and recordkeeping requirements. Other requirements in the permits would be essentially the same. Finally, we request comment on the appropriateness of establishing different capacity limits based on the attainment status of the area and whether the specified capacity limits should be lower in nonattainment areas than attainment areas.

#### b. Should we establish different requirements for severe or extreme ozone nonattainment areas?

The proposed general permit contains emissions limits for sources that locate in severe or extreme ozone nonattainment areas. We request comment on the need for these limits.

#### c. Setback Requirement

The proposed general permit requires the exhaust from each boiler or heater to be located a minimum of 50 feet from the nearest property line and 150 feet from any adjacent residential or commercial establishment or place of public assembly. The EPA's 40 CFR parts 60, 61, and 63 regulations do not contain setback requirements affecting boilers or heaters. However, certain states include setback requirements in their general permits for certain source categories, although not necessarily for boilers. We believe that these requirements will minimize the impact of emissions from these sources on localized air quality. These setbacks are

less stringent than the proposed setback permit provisions in the proposed concrete batch plant, engine and sawmill permits. We believe a different (lesser) setback requirement is warranted for the boilers general permit compared to the other general permits because of the different type of equipment associated with the stationary sources covered by this proposed permit. This proposed permit would generally be used for institutional, commercial, and small industrial operations which tend to have less air impact. In addition, the boilers general permit contains specific numerical limits on NO<sub>x</sub> and CO emissions that will further limit air impacts.

We request comment on whether we should include these setback requirements in the final permit to provide additional protection against adverse impacts to local air quality. In addition, we request comment on whether there are other neighboring types of buildings from which the setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of the boilers subject to the permit to use physical markers on their property to show compliance with the setback requirements.

#### C. Stationary Compression Ignition and Spark Ignition Engines

##### 1. What are compression ignition and spark ignition engines?

Engines covered by these proposed general permits<sup>30</sup> are stationary internal combustion engines (ICE or engine) that convert heat energy into mechanical work and are not mobile. This source category does not include combustion turbines or nonroad<sup>31</sup> engines (mobile ICE) such as those on forklifts, off-highway mobile cranes, bulldozers, and lawnmowers. Stationary ICE include reciprocating ICE, rotary ICE, and other ICE, except combustion turbines as noted above. Engine manufacturers are not included in this source category. In addition, these general permits only apply to engines located at true minor sources.

The proposed general permits cover both stationary non-emergency and emergency stationary ICE. Emergency stationary ICE include any stationary internal combustion engine whose operation is limited to emergency

situations and for which testing and maintenance are required. Examples include stationary ICE 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 stationary ICE used to pump water in the case of fire, flood, or other adverse event. Stationary ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.<sup>32</sup>

There are two types of ICE: Spark ignition and compression ignition. A spark ignition engine is a gasoline, natural gas, or any other type of engine with a spark plug (or other sparking device) and with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark ignition engines usually use a throttle to regulate intake air flow to control power during normal operation. Dual-fuel engines in which a liquid fuel (typically diesel fuel) is used for compression ignition ICE and a gaseous fuel (typically natural gas) is used as the primary fuel at an annual average ratio of less than 2 parts diesel fuel to 100 parts total fuel on an energy equivalent basis are spark ignition engines. A compression ignition ICE is defined as an engine that is not a spark ignition engine. These engines are typically diesel engines where the heat generated from compression is enough to initiate the combustion process, without needing an external spark.<sup>33</sup>

Gasoline, diesel (No. 2 fuel oil), and natural gas are the three primary fuels used for ICE. Most natural gas-fired reciprocating engines are used in the natural gas industry at pipeline compressor and storage stations and at gas processing plants.<sup>34</sup> Gasoline and small diesel ICE (with capacities equal to or less than 600 horsepower (hp)) are used in a wide variety of industrial applications such as generators, pumps, and material handling equipment (such as conveyors). Gasoline is used primarily for mobile and portable engines. Diesel fuel oil is the most versatile fuel and is used in compression ignition engines of all

<sup>32</sup> The definitions for emergency and stationary engines are adopted from the definitions in 40 CFR 60.4219.

<sup>33</sup> The definitions for spark ignition and compression ignition engines are adopted from the definitions in 40 CFR 60.4219.

<sup>34</sup> AP-42, Chapter 3.2—Natural Gas-fired Reciprocating Engines, <http://www.epa.gov/ttnchie1/ap42/ch03/>.

<sup>30</sup> The EPA is making available for comment two proposed general permits: One for spark ignition internal combustion engines and one for compression ignition internal combustion engines.

<sup>31</sup> As defined in 40 CFR 1068.30, a nonroad engine is used to propel a motor vehicle, aircraft, or a vehicle used solely for competition.

sizes. Substantial differences in engine duty cycles exist.<sup>35</sup>

Large stationary diesel ICE (with capacities greater than 600 hp) are often used in oil and gas exploration and production. These engines, in groups of 3 to 5, supply mechanical power to operate drilling (rotary table), mud pumping, and hoisting equipment, and may also operate pumps or auxiliary power generators. Another frequent application of large stationary diesel ICE is electricity generation for both base and standby service. Smaller uses include irrigation, hoisting, and nuclear power plant emergency cooling water pump operation.<sup>36</sup>

The primary criteria pollutants emitted by engines are NO<sub>x</sub>, CO, and VOC. The formation of NO<sub>x</sub> is exponentially related to combustion temperature in the engine cylinder. The other pollutants, CO and VOC, are primarily the result of incomplete combustion. PM emissions include trace amounts of metals, non-combustible inorganic material, and condensable, semi-volatile organics which result from volatilized lubricating oil, engine wear, or from products of incomplete combustion. Emissions of sulfur compounds, mainly SO<sub>2</sub>, are directly related to the sulfur content of the fuel.

Three generic control techniques have been developed for reciprocating engines: Parametric controls (timing and operating at a leaner air-to-fuel ratio); combustion modifications such as advanced engine design for new sources or major modification to existing sources (clean-burn cylinder head designs and pre-stratified charge combustion for rich-burn engines); and post-combustion catalytic controls installed on the engine exhaust system. Post-combustion catalytic technologies include selective catalytic reduction, nonselective catalytic reduction, and CO oxidation catalysts.<sup>37</sup>

## 2. What is in the proposed General Air Quality Permits for New or Modified True Minor Source Spark Ignition and Compression Ignition Engines?

These two proposed general permits would apply to the construction of new, true minor source stationary compression ignition and spark ignition engines or the modification of existing, true minor source engines located in

Indian country. We created separate proposed general permits, one for compression ignition engines and one for spark ignition engines, because there are different requirements for each type of engine. Both engine general permits cover emergency and non-emergency engines. (Sources that only have emergency engines and also intend to construct a boiler may want to consider the boiler general permit, which allows for greater boiler and emergency engine capacity.) However, we have written both proposed general permits to accommodate emergency engines of both engine types because the emissions from emergency engines are relatively small and we did not want a particular source to not be able to qualify for the general permit if, for example, they happen to have a small compression ignition emergency engine at a source of non-emergency spark ignition engines. As a result, the spark ignition engine general permit covers non-emergency spark ignition engines, emergency spark ignition engines, and emergency compression ignition engines. The compression ignition general permit covers non-emergency compression ignition engines, emergency compression ignition engines, and emergency spark ignition engines.

The proposed general permits for compression ignition and spark ignition engines require that the permittee, considering the manufacturer's recommended operating procedures, maintain and operate each affected emission unit and any associated air pollution control equipment so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

The proposed compression ignition general permit imposes different requirements depending upon where the source chooses to locate or modify and whether the engine is for emergency or non-emergency purposes. The proposed permit contains a setback requirement. Each non-emergency compression ignition engine must not be located less than 150 feet from the nearest property boundary and 1,000 feet from the nearest residence.

The proposed compression ignition general permit contains two options for meeting capacity limits for engines locating in ozone attainment, unclassifiable or attainment/

unclassifiable areas or ozone marginal and moderate nonattainment areas.

Option 1 allows for a source to have greater non-emergency engine capacity (up to 3800 hp) if the non-emergency engines are within a set of certain parameters, mainly related to whether the engines are part of a generator set. These types of engines must meet much more stringent emission limits, resulting in fewer emissions, and, thus, the permit provides the ability to increase the capacity limit. Option 2 allows for less capacity for non-emergency engines (1900 hp) but does not require non-emergency engines to be within the specific parameters in Option 1. The proposed permit also contains an additional overall capacity limit for engines locating or modifying in serious ozone nonattainment areas (1100 hp for non-emergency engines and 750 hp for emergency engines) and does not allow permit coverage for engines locating or modifying in severe or extreme ozone nonattainment areas.

The capacity limits restrict the size of engines that would be covered by the proposed general permit. The proposed capacity limits serve as surrogate emissions limitations and are set at levels that correspond to emission rates intended to ensure emissions from sources covered by the general permit are below major source levels.

The proposed compression ignition permit also includes requirements for auxiliary heaters present at the new or modified facility so that the permittee would not need to seek a separate permit for that emissions unit. For the auxiliary heaters, the permit provides capacity limits which require that the combined maximum heat input of all auxiliary heaters not be greater than 10 MMBtu/hour and they can only burn natural gas. Non-emergency compression ignition engines can only use distillate fuel (i.e., diesel or biodiesel) containing no more than 15 ppm (0.0015 percent) sulfur by weight. Each of the engines must be model year 2014 or later and certified by the manufacturer to the applicable standards in 40 CFR part 89 and the Tier 4 standards in 40 CFR 1039.101 through 1039.104, for all pollutants, for the same model year and maximum engine power.

Under the proposed spark ignition general permit, spark ignition engines must meet certain capacity limits intended to ensure the sources operate as minor sources. The combined maximum engine power of all non-emergency spark ignition engines at a single permitted source location shall be no greater than 1750 hp. The combined maximum engine power of all

<sup>35</sup> AP-42, Chapter 3.3—Gasoline and Diesel Industrial Engines, <http://www.epa.gov/ttnchie1/ap42/ch03/>.

<sup>36</sup> AP-42, Chapter 3.4—Large Stationary Diesel and All Stationary Dual-fuel Engines, <http://www.epa.gov/ttnchie1/ap42/ch03/>.

<sup>37</sup> AP-42, Chapter 3.2—Natural Gas-fired Reciprocating Engines, <http://www.epa.gov/ttnchie1/ap42/ch03/>.

emergency engines at a single permitted source location must be no greater than 800 hp. Non-emergency spark ignition engines must comply with the limitations and standards in 40 CFR part 1054, 40 CFR part 1048, or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. The Permittee must operate and maintain each engine certified by the manufacturer, and any associated control device, according to the manufacturer's emission-related written instructions. Each natural gas-fired engine may be operated using propane for a maximum of 100 hours per year as an alternative fuel solely during emergency operations, provided such records are kept.

The proposed spark ignition general permit also contains a setback requirement. Each non-emergency spark ignition engine must not be located less than 150 feet from the nearest property boundary and 1,000 feet from the nearest residence.

The proposed compression ignition and spark ignition permits contain requirements for emergency engines located at the same source as the boiler(s), in the event such engines are present at the same facility as the boiler(s). Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are specified in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop a 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.

The proposed compression ignition and spark ignition permits include monitoring that is sufficient to ensure compliance with the emission limitations that apply to the covered ICE, including requirements to monitor fuel use on a monthly basis for each engine and to conduct performance tests for engines not certified by the manufacturer. The proposed permits also require performance testing for

spark ignition emergency engines that must meet certain emissions standards, but are neither required to be certified by the manufacturer nor certified by the manufacturer to those standards and are not required to be certified by the manufacturer. This requirement is necessary because the EPA certification program for certain engines is voluntary. The proposed spark ignition general permit also includes, for each engine equipped with an air-to-fuel ratio controller, a requirement for proper maintenance and operation of the engine and emissions control device to ensure its smooth operation. The proposed permits include recordkeeping and reporting requirements.

### 3. Request for Comment on the Proposed General Air Quality Permits for New or Modified True Minor Source Spark Ignition and Compression Ignition Engines

We request comment on all aspects of the proposed general permits for engines. We specifically request comment in the following four areas:

#### (a) The Use of Capacity Limits as Surrogate Annual Allowable Emission Limitations

In addition to fuel sulfur content limits and output-based limitations for auxiliary heaters, the EPA is proposing to use capacity limits as surrogate annual allowable emission limitations for the engines source category. The capacity limits are set at levels intended to ensure that the engines operate as minor sources.<sup>38</sup> We request comment on the appropriateness of these capacity limits. We also request comment on whether the required emissions limitations should be expressed as capacity limits or in another form.

#### (b) Setback Requirement

The proposed general permits require stationary spark ignition and compression ignition engines to locate at least 150 feet from the nearest property boundary and 1,000 feet from the nearest residence. The EPA's 40 CFR parts 60, 61, and 63 regulations do not contain setback requirements affecting these engines. However, certain states include setback requirements in their general permits for certain source categories, but not necessarily for engines alone. We believe that it is prudent to propose a setback for engines

due to the potential for local scale air quality impacts due to NO<sub>x</sub> emissions from compression ignition engines that can transform in the atmosphere to nitrogen dioxide (NO<sub>2</sub>) and have local NO<sub>2</sub> impacts, as well as CO emissions from spark ignition engines that can have local CO impacts. We believe that these requirements will minimize the impact of emissions from these sources on localized air quality. We request comment on whether we should include these setback requirements in the final permits to provide additional protection against adverse impacts to local air quality. In addition, we request comment on whether there are other neighboring types of buildings from which the setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of the engines subject to the permit to use physical markers on their property to show compliance with the setback requirements.

(c) Should we establish different requirements for compression ignition engines locating or modifying in serious ozone nonattainment areas?

The proposed general permit for compression ignition engines contains additional requirements for sources that locate or modify in serious ozone nonattainment areas. These requirements consist of overall capacity limits for non-emergency and emergency engines. We added this requirement to provide extra air quality protection for areas with poorer ozone air quality. We request comment on the need for these enhanced requirements in serious ozone nonattainment areas.

(d) Should owners and operators seeking to locate compression ignition engines in severe, and/or extreme ozone nonattainment areas (or to modify engines already located in those areas) be allowed to use the proposed general permit?

The proposed compression ignition general permit contains requirements for engines locating or modifying in marginal, moderate and serious ozone nonattainment areas. Engines locating or modifying in severe or extreme ozone nonattainment areas are not eligible for coverage under the proposed general permit. This is because the appropriate capacity limits that EPA would set in order to keep an engine from being a major NO<sub>x</sub> source in a severe or extreme nonattainment would be too low to be viable. We request comment on whether our reasoning here is sound and whether we should restrict applicability of the proposed compression ignition engine general permit to marginal,

<sup>38</sup> Information on the source of these capacity limits is available at: Background Document: General Air Quality Permits for New or Modified True Minor Source Compression Ignition and Spark Ignition Engines, Docket ID No. EPA-HQ-OAR-2011-0151, <http://www.epa.gov/air/tribal/tribalnsr.html>.

moderate, and serious ozone nonattainment areas.

#### D. Graphic Arts and Printing Operations

##### 1. What is a graphic arts and printing operation?

The term “graphic arts” as used here means four basic processes of the printing industry: Web offset lithography, web letterpress, rotogravure, and flexography.<sup>39</sup> (Screen printing and manual sheet-fed techniques are not included in this source category description.) Printing may be performed on coated or uncoated paper and on other surfaces, as in metal decorating and some fabric coating. The material to receive the printing is called the substrate. The distinction between printing and paper coating, both of which may employ rotogravure or lithographic methods, is that printing invariably involves the application of ink by a printing press, whereas paper coating does not involve that process. Printing and paper coating do, however, have these elements in common: Application of a relatively high-solvent-content material to the surface of a moving web or film; rapid solvent evaporation by movement of heated air across the wet surface; and solvent-laden air exhausted from the system. Printing inks vary widely in composition, but all consist of three major components: Pigments, which produce the desired colors and are composed of finely divided organic and inorganic materials; binders, the solid components that lock the pigments to the substrate and are composed of organic resins and polymers or, in some inks, oils and rosins; and solvents, which dissolve or disperse the pigments and binders and are usually composed of organic compounds. The binder and solvent make up the “vehicle” part of the ink. The solvent evaporates from the ink into the atmosphere during the drying process.

VOCs are the primary pollutant of concern from printing operations. Such emissions vary with the printing process, ink formulation and coverage, press size and speed, and operating time. The type of paper (coated or uncoated) has little effect on the quantity of emissions, although low levels of VOC emissions are derived from the paper stock during drying. Most of the solvent contained in the ink and used for dampening and cleanup is eventually emitted into the atmosphere; however, some solvent does remain with the printed product leaving the

plant and is released to the atmosphere later. Overall, VOC emissions can be computed using a material balance concept, except in cases where a direct flame dryer is used and some of the solvent is thermally degraded.

##### 2. What is in the proposed General Air Quality Permit for New or Modified True Minor Source Graphic Arts and Printing Operations?

This proposed general permit would apply to the construction of new, true minor source graphic arts and printing facilities or the modification of existing, true minor source facilities, located in Indian country.

The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer’s recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

This proposed general permit is not available to sources that are major sources of hazardous air pollutants (HAPs). Under section 112 of the CAA, a source is considered major for HAPs if it emits 25 tpy or more of any combination of HAPs or 10 tpy of any single HAP. We are proposing that the general permit for this source category not be applicable to a major source of HAPs because additional requirements apply to these types of source and we believe the general permits should be reserved for sources with straightforward permitting requirements. We believe that permit applications for such major sources should receive greater scrutiny than a general permit would provide. We welcome comment on this issue.

The proposed permit requires that VOC emissions from an individual printing press (i.e., printing line) not exceed 25 tpy. We included this requirement to avoid the need for add-on control requirements. We believe smaller printing presses (i.e., those that emit less than 25 tpy of VOC) do not warrant the need for add-on controls. Sources applying for this permit that nevertheless intend to install add-on controls would not be prohibited from obtaining this general permit, but they would need to be able to demonstrate compliance with the permit without the

consideration of controls. Thus, this general permit is only intended for smaller graphic arts and printing operations, as larger operations would likely require more site-specific review and add-on controls.

The proposed permit also requires that VOC emissions from the combination of all graphic arts and printing operations (all printing lines at the facility) not exceed certain tpy limitations that vary by ozone area designation and classification. For nonattainment areas, the numerical limitations become more stringent as the classification increases from marginal to extreme.

For flexible packaging printing operations, the permit contains VOC content limitations for each coating, ink or adhesive used. However, the permit provides an exemption that allows up to 110 gallons per calendar year of VOC-containing material to not meet the VOC content limitations standards for graphic arts and printing operations located in areas designated as ozone attainment, unclassifiable, attainment/unclassifiable, marginal nonattainment, or moderate nonattainment. This is to allow the use of a small amount of specialty coating, inks, or adhesives.

For offset lithographic and letterpress printing operations, the permit contains VOC limitations that vary depending upon the type of printing operation. The permit provides limitations for heatset web offset lithographic printing, sheet-fed offset lithographic printing and coldset web offset lithographic printing. The permit provides an exemption from VOC limitations for sheet-fed offset lithographic printing operations that use sheet-fed presses with sheet sizes of 11 inches by 17 inches or smaller OR any press with a total fountain solution reservoir of less than 1 gallon.

The permit provides additional VOC limits for permitted sources that locate or modify in a serious, severe or extreme ozone nonattainment area for the following materials:

- Lithographic ink;
- Letterpress ink;
- Rotogravure ink;
- Flexographic ink non-porous substrate;
- Flexographic ink porous substrate;
- Flexographic fluorescent ink;
- Coating;
- Adhesive; and
- Fountain solution.

The permit requires that: (1) The VOC content of cleaning materials used for cleaning operations not exceed 70 percent by weight; (2) all VOC-containing material (e.g., inks, adhesives, coatings, thinners, and clean-

<sup>39</sup> AP-42, Chapter 4.9—AP-42, <http://www.epa.gov/ttn/chief/ap42/ch04/index.html>.

up solvents) be stored in closed containers with labels that clearly identify the contents of the container; and (3) all waste materials containing VOC (e.g., soiled rags) be stored in sealed containers until properly disposed.

The permittee must implement procedures to minimize spills of any VOC-containing material during handling and transfer to and from containers, enclosed systems, waste receptacles and other equipment.

The proposed permit contains requirements for new or modified emergency engines, in the event such engines are present at the new or modified graphic arts and printing facility. Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are contained in the EPA emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Other, older emergency engines at the new or modified facility are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the permittee must develop and implement a 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.

The proposed permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source. Compliance would include requiring monitoring the usage of VOC-containing materials on a weekly basis and conducting performance testing for emergency engines that are not required to be certified by the manufacturer as meeting those standards and are not in fact so certified. (This requirement is needed since the EPA certification program for certain engines is voluntary.) The proposed permit includes recordkeeping and reporting sufficient to ensure compliance with the monitoring requirements.

### 3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Graphics Arts and Printing Operations

We request comment on all aspects of the proposed general permit for graphic arts and printing operations. We specifically request comment in the following two areas:

#### (a) Use of Tons Per Year Numbers as Emission Limitations

In addition to proposing limits on the VOC content of specified materials, the EPA is also proposing to include annual allowable VOC emission limitations for the graphic arts and printing operations source category. The proposed general permit includes an upper emission limitation of 25 tpy of VOC from an individual printing press (printing line). The proposed permit also provides overall total tpy emissions limitations for all printing lines at the facility, which become more stringent as the classification of the relevant ozone nonattainment area increases.<sup>40</sup> Sources will need to monitor their material usage and perform material balance calculations using the calculator we are providing to ensure they are staying within these tpy limitations.

We opted to not propose surrogate throughput limits for graphic arts and printing operations, as we have for one other source category, because of the diversity of printing lines and materials that a facility may employ. It would be very difficult to set a material usage throughput limit that would have broad applicability. In addition, providing actual emissions limitations directly in the permit ensures the protection of air quality, while at the same time providing the source with flexibility regarding the types of printing lines and materials they use. We request comment both on the appropriateness of establishing annual VOC emissions limitations in the permit (versus throughput limits) and on whether the proposed limitations are set at the correct levels.

(b) Should we establish requirements that differ from those for attainment, unclassifiable and attainment/unclassifiable areas for marginal, moderate, serious, severe and extreme ozone nonattainment areas?

The proposed permits contain additional requirements for sources that locate in ozone nonattainment areas.

<sup>40</sup> Information on these limitations is available at: Background Document: General Air Quality Permit for True Minor Source Graphics Arts and Printing Operations, Docket ID No. EPA-HQ-OAR-2011-0151, <http://www.epa.gov/air/tribal/tribalnsr.html>.

First, the annual tpy emissions limitations for VOC decline as the classification of ozone nonattainment increases from marginal to extreme. The numbers are set at levels intended to ensure that the sources are not major for HAPs or for NSR purposes. Second, the proposed permit requires lower VOC content levels for materials used at graphic arts and printing operations located in severe or extreme ozone nonattainment areas. Both of these features are meant to ensure that there is extra air quality protection in ozone nonattainment areas with higher classifications. We request comment on whether these additional limitations are needed and, if so, whether they are set at the correct levels.

#### E. Sawmills

##### 1. What is a sawmill facility?

A sawmill facility is an operation that processes raw timber into dimensional lumber for shipping and eventual sale. A modern sawmill's basic operation is much like those of hundreds of years ago; a log enters at one end and dimensional lumber exits at the other end. Sawmill activities include sawing, planing, sanding, chipping and drying wood. Sawmill facilities are common in areas with ample supplies of timber, including the southeast and northwest.

A sawmill's basic operation involves several steps to turn logs into dimensional lumber:

- Logs are brought in by logging truck, rail or a log drive to the sawmill;
- Logs are scaled either on the way to the mill or upon arrival at the mill;
- Debarking removes bark from the logs;
- Decking is the process for sorting the logs by species, size and end use (lumber, plywood, chips);
- The head saw, head rig or primary saw, breaks the log into cants (unfinished logs to be further processed) and flitches (unfinished planks) with a smooth edge;
- Depending upon the species and quality of the log, the cants will be further broken down by either a resaw or a gang edger into multiple flitches and/or boards;
- Edging trims all irregular edges off of the flitch, leaving four-sided lumber;
- Trimming squares the ends at typical lumber lengths;
- Drying removes naturally occurring moisture from the lumber (this can be done with kilns or the lumber can be air-dried);
- Planing smooths the surface of the lumber leaving a uniform width and thickness; and
- Shipping transports the finished lumber to market.

Sawmills typically derive their power from the electric grid. Dryers may be either direct-fired or indirect-heated. Boilers are typically used to provide the heat for dryers. In direct-fired dryers, hot combustion gases from an onsite boiler are blended with recirculated exhaust from the dryer to lower the gas temperature to a level that will not scorch the lumber. In indirect-heated dryers, air is warmed over steam coils and then circulated over the lumber. Dryers typically have one to three heated zones followed by a cooling zone or section. Each heated zone has a hot air source, fans to move the warm air, and an exhaust vent or stack. The cooling section circulates ambient air over the wood to reduce the temperature just before it exits the dryer. The lumber must be cooled before proceeding to the next step in the process.

Criteria pollutant emissions of concern are primarily PM from sawing and planing, but also include PM from re-entrained road dust or sawdust particles; VOCs from drying; and NO<sub>x</sub> from boilers and emergency diesel generators. PM control methods include water sprays and dry control methods (baghouses, fabric filters and cyclones).

## 2. What is in the proposed General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities?

This proposed general permit would apply to the construction of new true minor source sawmills or the modification of existing true minor source sawmills, located in Indian country. The proposed permit requires that the permittee maintain and operate each affected emission unit and any associated air pollution control equipment, considering the manufacturer's recommended operating procedures, so as to minimize emissions of NSR regulated pollutants. The reviewing authority will determine whether the permittee is using acceptable operating and maintenance procedures based on monitoring results, review of operating and maintenance procedures, and inspection of the permitted source. (Failure to meet these requirements would constitute a violation of the permit.)

In creating the proposed sawmill general permit, the EPA considered VOC emissions from kiln drying, surface coating operations, boilers, and emergency engines. We are requesting comment on whether there are other sources of VOC emissions at sawmills that should be included in our analysis.

The proposed permit is designed to be as comprehensive as possible and, thus, contains emission limitations

requirements for the following affected emission units or activities:

- Planar mill operations (baghouse/fabric filter);
- Sawmill operations (baghouse/fabric filter or cyclone);
- Open burning (restrictions on);
- Boilers;
- Emergency engine use;
- Fugitive dust control; and
- Setbacks.

The proposed permit prohibits open burning and restricts the burning and combustion of wood or lumber products to wood-fired boilers. Each identified emissions unit must not result in the discharge of any gases that exhibit 20 percent opacity or greater averaged over any six-consecutive-minute period. Any liquid fuels used at the facility shall contain no more than 0.0015 percent sulfur by weight. The production of finished lumber is limited to 25 million board feet per year based on a 12-month rolling total. The 12-month rolling total is determined by the sum of the current monthly production and the total of the previous 11 months' production. The purpose of the board feet restriction is to further limit PM emissions from sawmill operations. The limit is in addition to the requirement that sawmills covered by the proposed general permit install cyclones and/or baghouses/fabric filters. The requirement is consistent with the general permits for sawmills in the states of Texas and Oregon.<sup>41</sup>

In addition to requiring the installation and operation of air pollution controls as described below, the proposed permit limits tpy VOC emissions from all lumber drying kilns and surface coating operations regardless of where the sawmill is planning to locate or modify. The limitations for facilities planning to locate or modify in ozone nonattainment areas are progressively more restrictive as the classification of the ozone nonattainment area increases from marginal to extreme. Planar mill operations must be conducted within enclosed structures and a baghouse or fabric filter must be used to control emissions to the atmosphere. Sawmill operations conducted outdoors (i.e., operations other than planar mill operations) must, at a minimum, be covered and all material handling operations must be controlled using a cyclone or baghouse/fabric filter during all times that the affected emission units

operate. Emissions to the atmosphere from sawmill operations conducted indoors must be controlled using a baghouse or fabric filter. The permittee must develop and implement a fugitive dust control plan. All VOC-containing material (e.g., coatings, thinners, and clean-up solvents) must be stored in closed containers. All waste materials containing VOC (e.g., soiled rags) must be stored in sealed containers until properly disposed.

The proposed permit also contains requirements for emergency engines, in the event such engines are present at the new or proposed sawmill facility. Each emergency engine must be equipped with a non-resettable hour meter and, if using fuel oil, then it must use diesel or biodiesel containing no more than 15 ppm (0.0015 percent) sulfur by weight. Newer emergency engines—model year 2006 or later for compression ignition engines and 2009 or later for spark ignition engines—must meet certain certification or emission requirements that are contained in the EPA's emissions standards at 40 CFR part 89, 40 CFR part 90 and 40 CFR part 1048 or Table 1 to 40 CFR part 60, subpart JJJJ, as applicable. Other, older emergency engines are required to meet certain routine maintenance requirements, and must follow the manufacturer's emission-related operation and maintenance instructions or the owner/operator must develop and implement their 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.

The proposed general permit includes monitoring that is sufficient to ensure compliance with the emission limitations that apply to the source, including ensuring that the baghouses/fabric filters and cyclones are operating properly, conducting weekly opacity observations and fugitive emissions surveys and meeting certain other requirements. The permit also requires performance testing for emergency engines that must meet certain emissions standards, but are neither required to be certified by the manufacturer as meeting those standards, nor are in fact so certified. This requirement is needed since the EPA certification program for certain engines is voluntary. The proposed general permit includes recordkeeping and reporting requirements sufficient to ensure compliance with the monitoring requirements.

<sup>41</sup> Information on board feet limitations is available at: Background Document: General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities, Docket ID No. EPA-HQ-OAR-2011-0151, <http://www.epa.gov/air/tribal/tribalnsr.html>.

### 3. Request for Comment on the Proposed General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities

We request comment on all aspects of the general permit for sawmill facilities. We specifically request comment in the following two areas:

#### (a) Use of Tons Per Year Numbers as Emission Limitations

The EPA is proposing to include annual allowable emission limitations for the sawmills source category. The proposed general permit includes both a limitation of 25 million board feet on a 12-month rolling total and total tpy VOC emissions limitations for the facility regardless of its location. The tpy limitations become more stringent in ozone nonattainment areas as the classification increases from marginal to extreme.<sup>42</sup> We set the proposed VOC emissions limitations at levels that we believe are sufficiently below the NSR major source levels to accommodate any additional VOC emissions from any boilers or emergency engines also present at the facility beyond VOC emissions from lumber drying kilns. Sources will need to monitor their board-foot production and perform emission factor calculations using the calculator and emissions factors that we are providing to ensure they are staying within the permitted tpy limitations.

Aside from the maximum 25 million board-feet limit, we opted to not propose surrogate throughput limits for VOC emissions for sawmills, as we did for one other source category, because of the diversity of wood species (and associated emissions) that a sawmill facility may use. It would be very difficult to set a board foot throughput limit that could have broad applicability. Instead, by putting emissions limitations directly in the permit, it provides the source with flexibility on what wood species it uses, while ensuring that air quality is protected. We request comment on the appropriateness of establishing emissions limitations in the permit (versus a limit on throughput) and whether the specified limitations are established at the correct levels.

#### b. Setback Requirement

The proposed general permit requires sawmill facilities to locate at least 150 feet from the nearest property boundary and 1,000 feet from the nearest

residence. This is consistent with the setback requirement in the state of Texas'<sup>43</sup> general permit that includes a setback requirement for this source category. We believe that this requirement will minimize the impact of emissions from these sources on localized air quality. We request comment on whether we should include this setback requirement in the final permit to provide additional protection against adverse impacts to local air quality. In addition, we request comment on whether there are other neighboring types of buildings from which the setback should apply (e.g., schools, nursing homes) and whether to require owners/operators of the sawmills subject to the permit to use physical markers on their property to show compliance with the setback requirements.

### VII. Description of the EPA's Proposed Permit by Rule Program in Indian Country

#### A. What is a permit by rule?

For purposes of this proposal, a permit by rule is a standard set of requirements (i.e., emissions limitations, monitoring, recordkeeping and reporting requirements) that can apply to multiple sources with similar emissions and other characteristics. This is similar to a general permit; however, unlike a general permit, we codify the permit by rule requirements into regulation using a formal rulemaking process. (While a proposed general permit is subject to notice and comment in accordance with 40 CFR 49.156 and 40 CFR 49.157, neither the final general permit itself, nor the requirements therein, are added to the Code of Federal Regulations.)

For purposes of this proposal, the permit by rule mechanism is a permit streamlining approach that reduces the time permitting authorities must devote to reviewing permit applications and issuing permits for source categories or emissions generating activities that pose a lower environmental concern. We believe that permits by rule offer another cost-effective means of issuing permits, and provide a quicker and simpler alternative mechanism for permitting true minor sources than the site-specific permit or standard general permit process.

State and local reviewing authorities use the permit by rule mechanism to

authorize construction of less complex sources, and sources that emit at specified levels below the major stationary source thresholds. The EPA has approved several state or local permits by rule programs into State Implementation Plans (SIPs).<sup>44</sup> By this proposal, we would provide similar opportunities for permitting efficiency in Indian country for a specified source category, while also providing a level of protection of air quality comparable to that provided by a general permit.

<sup>44</sup> The EPA has approved the following permits by rule: (1) Connecticut for automotive refinishing ("Approval and Promulgation of Air Quality Implementation Plans; Connecticut; VOC Regulations and One-Hour Ozone Attainment Demonstration Shortfall;" U.S. Environmental Protection Agency; August 31, 2006 (71 FR 51761); <http://www.gpo.gov/fdsys/granule/FR-2006-08-31/06-7314/content-detail.html>); (2) Iowa for spray booths ("Approval and Promulgation of Implementation Plans; State of Iowa;" U.S. Environmental Protection Agency; March 5, 2010 (75 FR 10182); <https://www.federalregister.gov/articles/2013/08/27/2013-20750/approval-and-promulgation-of-implementation-plans-state-of-iowa>); (3) Operating PBR for small sources ("Approval and Promulgation of State Implementation Plans and Operating Permits Program; State of Iowa;" U.S. Environmental Protection Agency; March 5, 2010 (72 FR 58535)); (4) Kansas Class II operating permits for reciprocating engines, evaporative sources, and hot mix asphalt facilities ("Approval and Promulgation of Implementation Plans and Section 112(l) Program for the Issuance of Federally Enforceable State Operating Permits; State of Kansas;" U.S. Environmental Protection Agency; July 17, 1995 (60 FR 36361); <http://www.gpo.gov/fdsys/pkg/FR-1995-07-17/html/95-17214.htm>); (5) Massachusetts for paint spray booths ("Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Regulations;" U.S. Environmental Protection Agency; September 3, 1999 (64 FR 48297)); (6) Missouri for construction ("Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri;" U.S. Environmental Protection Agency; July 11, 2006 (71 FR 38997); <http://www.gpo.gov/fdsys/pkg/FR-2006-07-11/html/06-6092.html>); (7) Nebraska for hot mix asphalt facilities and small animal incinerators ("Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska;" U.S. Environmental Protection Agency; July 10, 2006 (71 FR 38776); <http://www.gpo.gov/fdsys/granule/FR-2006-07-10/E6-10730/content-detail.html>); (8) Auto body refinishing facilities; GDFs; boilers and heaters; small printing facilities; and mid-size printing facilities ("Approval and Promulgation of Air Quality Implementation Plans; Ohio; PBR and PTIO;" U.S. Environmental Protection Agency; February 20, 2013 (78 FR 11748); <http://www.gpo.gov/fdsys/pkg/FR-2013-02-20/html/2013-03761.htm>); and (9) multiple source categories, such as: Batch mixers; comfort heating; rock crushers; saw mills; vacuum cleaning systems (August 13, 1982 (47 FR 35194) and ("Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Permits by Rule, Control of Air Pollution by Permits for New Construction or Modification, and Federal Operating Permits;" U.S. Environmental Protection Agency; November 14, 2003 (68 FR 64543); <http://www.gpo.gov/fdsys/pkg/FR-2003-11-14/pdf/03-28416.pdf>).

<sup>42</sup> Information on these limitations is available at: Background Document: General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities, Docket ID No. EPA-HQ-OAR-2011-0151, <http://www.epa.gov/air/tribal/tribalnsr.html>.

<sup>43</sup> The setback requirement in Texas's general permit is described at: Background Document: General Air Quality Permit for New or Modified True Minor Source Sawmill Facilities, Docket ID No. EPA-HQ-OAR-2011-0151, <http://www.epa.gov/air/tribal/tribalnsr.html>.



### *B. How would a permit by rule program operate in Indian Country?*

As discussed in a prior proposed rule (79 FR 2546, January 14, 2014), once the EPA identifies a source category or emissions generating activity for which the permit by rule mechanism would offer permit streamlining benefits, while at the same time protecting air quality, we will codify a nationally applicable permit by rule for those similar sources into a new section of the Indian Country Minor NSR FIP following notice and comment rulemaking procedures. If the permit by rule will apply only at a regional level, then the EPA regional reviewing authority will conduct the rulemaking process, and appropriately limit the applicability of the permit by rule to a specified geographic area.

As proposed, permits by rule would be used to address source categories of true minor sources, where the reviewing authority does not need to conduct an in-depth review to evaluate whether an individual source qualifies for the permit (i.e., meets the applicability requirements) and can meet the requirements in the permit. A source category would be covered by a permit by rule if the reviewing authority needs to do nothing more than receive confirmation from an individual source that it meets all appropriate criteria to be eligible for coverage under the permit by rule and that it intends to comply with the operational, monitoring and recordkeeping requirements specified in this rule. (By contrast, under a general permit the source would need to submit a request for coverage to the reviewing authority and receive an approval from that authority before starting source construction.)

In our January 14, 2014 proposed rule, we proposed to amend the Indian Country Minor NSR rule general permit provisions at 40 CFR 49.156 to set forth the unique elements of the permits by rule process.<sup>45</sup> We intend to take final action on the proposed approach as part of taking final action on the overall January 14, 2014 proposal and are not re-proposing those elements here. In today's action, in the alternative, we are proposing a permit by rule for the graphic arts and printing source category, as described above. If we finalize the procedure for establishing permits by rule set forth in our January 14, 2014, proposed rule, we will follow the procedure as finalized in

<sup>45</sup> "General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country," U.S. Environmental Protection Agency, January 14, 2014 (79 FR 2546), pp. 2566–2567, <http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2013-30345.pdf>.

promulgating a final permit by rule for the graphic arts and printing source category. We will only promulgate a permit by rule for the graphic arts and printing source category if, after considering any comments we receive in response to today's proposal, we conclude that establishing such a permit is appropriate. We seek comment on whether graphic arts and printing operations is an appropriate source category for a permit by rule.

### *C. Requirements of the ESA and NHPA*

Similar to general permits, prior to seeking coverage under a permit by rule, a source must satisfactorily address the permit requirements related to the ESA and the NHPA. Attached to the request for coverage,<sup>46</sup> the EPA provides guidance to assist sources in complying with these requirements. Section V.F. above describes the process for complying with the ESA and NHPA in more detail. We seek comment on the use of this process for the proposed graphic arts and printing operations permit by rule.

### **VIII. Proposed Permits by Rule**

As an alternative to a general permit, we are proposing to establish a permit by rule, for one source category: Graphic arts and printing operations. We are proposing this source category for a permit by rule based on our determination that this source category emits primarily one pollutant (i.e., VOCs), that there is little variation in the equipment used, and that the compliance requirements are straightforward and readily verifiable. By contrast, the other five source categories in today's proposal, to varying degrees, involve more complex operations, more than one pollutant and more complex compliance requirements. The source categories are:

- Concrete batch plants;
- Boilers;
- Stationary compression ignition engines;
- Stationary spark ignition engines; and
- Sawmills.

In Section VI. we describe these source categories and the requirements in the proposed permits that warrant a general permit proposal for them, including the multiple emissions units covered.

<sup>46</sup> For general permits, we refer to applications submitted to reviewing authorities for approval as requests for coverage. For permits by rule, we are proposing to not require that these requests for coverage be submitted for approval. Instead, sources would be required to notify the EPA by letter that the request for coverage has been completed and that the source qualifies for the permit and will comply with all of its terms and conditions.

We are not providing specific regulatory language for the proposed permit by rule but rather are proposing to codify the requirements of the proposed general permit for this source category described in Section VI.D. If, after considering relevant comments received in response to today's proposed action, we decide to finalize a permit by rule for the source category, we will codify the requirements as contained in the proposed general permit for the source category, including any changes that we deem appropriate based on our review of public comments on the proposed general permit and other relevant information. In other words, whether we use the permit by rule or the standard general permit mechanism, we propose to apply identical requirements to regulate construction and modification activities of affected emission units in the graphic arts and printing operations source category. We believe that the proposed general permit provides the public with a sufficient understanding of the contents of any final rule, and, therefore, satisfies our obligations under section 301(a) of the CAA and the Administrative Procedures Act.

The EPA welcomes comments on all aspects of the proposed general permit and proposed permit by rule for the graphic arts and printing operations source category discussed in this notice. In particular, we request comments on whether the permit by rule terms and conditions for graphic arts and printing operations should be identical to the general permit terms and conditions, or whether they should differ.

### **IX. Implementation Documents and Tools**

We are providing several tools and documents to assist sources with obtaining coverage under the general permits and permit by rule for the six source categories that are the subject of today's proposal. The tools are drafted based on our preferred approach of general permits. If we decide to issue a permit by rule for the graphic arts and printing operations source category as we are proposing in the alternative today, then we will need to adjust the wording in the documents to reflect that tools being made available are for a permit by rule and not a general permit. The background document for graphic arts and printing operations supports both our general permit proposal and permit by rule proposal, in the alternative; therefore, the document cites both general permits and permits by rule as the permit types it supports.

The tools consist of the following six types of documents:



*Request for Coverage:* This form is for sources seeking to use general permits and is essentially an application to request coverage under a general permit. The application asks for contact and location information, as well as more in-depth operational and source-specific information. The application will also guide sources through processes to comply with permit requirements related to the ESA and the NHPA.

The general permit application for graphic arts and printing operations is more streamlined because sources in the category represent more straightforward operations, largely involve one air pollutant (i.e., VOCs) and, therefore, necessitate less intensive review for approval. The general permit application form for the category asks for basic solvent usage information and whether the source has complied or will comply with relevant requirements. By contrast, the general permit applications for concrete batch plants, engines, boilers and sawmills request more detailed technical information about the proposed facility in question because these facilities are more complex and can involve multiple operations and pollutants.

For graphic arts and printing operations, this form also serves as an application for sources seeking coverage under a permit by rule should the EPA decide to issue one for this category. In such circumstances, the source would need to complete the shortened application and keep a record on file. Successfully completing the application will enable the source to determine if it can certify to the reviewing authority that it meets the permit's eligibility terms and conditions, which the source would need to do via a letter in order to begin its construction or modification.

*Questionnaire:* This tool is tailored to each source category and guides sources through a series of questions to determine whether it is eligible for coverage under a general permit. It is not required to be completed or submitted. First, the source needs to determine whether it is a true minor source and, therefore, subject to the requirements of the minor NSR rule for Indian country. To do this, a source needs to perform a PTE analysis of all of its new, modified and existing emissions units (see PTE calculator below). If the source determines that it is a true minor, the questionnaire asks the source to consider a series of questions to determine if it qualifies for the specific general permit or permit by rule. If the source does not qualify for coverage, then it must seek a site-specific permit under the minor source

program (or a major source permit, if appropriate).

*Instructions:* The document assists sources with information that may be useful in completing the request for coverage application.

*Permit Terms and Conditions:* The permit is a specific document for each source category that lays out the general and specific terms and conditions of the permit, including the specific emission limitations and standards and monitoring, recordkeeping, reporting and notification requirements.

*PTE Calculator:* This spreadsheet-based tool helps sources in specific source categories calculate the PTE of their affected emissions units, using data the source is expected to have on hand, such as equipment specifications.

*Background Documents:* These documents are provided as a reference and contain important information:

- Source category definition and characterization;
- State minor source permit programs for that category used for comparison;
- Requirements for general permits and permits by rule for that category; and
- Threshold (emission limitations) development and rationale for that category.

All of these documents are available online at <http://www.epa.gov/air/tribal/tribalnsr.html> and Docket ID No. EPA-HQ-OAR-2011-0151.

## X. Additional Area Where Comment is Being Sought

*A. Should general permits and permits by rule be made available for sources in the same source category?*

In our January 14, 2014 proposed rule, the EPA requested comments on whether, for certain source categories, the EPA should structure the permits so that eligible true minor sources can receive coverage under permits by rule and synthetic minor sources receive coverage under general permits. In addition, just as we proposed that general permits are more appropriate for more complex source categories, we requested comment on whether general permits (and not permits by rule) are more appropriate for major sources that seek to become "synthetic" minor sources. And, as we proposed that permits by rule are more appropriate for less complex source categories, we requested comments on whether permits by rule (and not general permits) are more appropriate for true minor sources. In this action, we request comment only on whether this concept should be applied to the graphic arts and printing operations source category.

In the docket, a background document is provided for this source category, which includes a summary of National Emissions Inventory data for the category.

## XI. Proposed Rule Change to the Indian Country Minor NSR Rule

We are proposing one change to one provision in the existing Indian country minor NSR rule addressing the time period within which the reviewing authority must make a determination on whether a request for coverage under a general permit is complete and to complete its review of the request for coverage. We are proposing this change only for the general permit for the graphic arts and printing operations source category. The Indian Country Minor NSR rule currently requires the reviewing authority to determine whether a request for coverage under a general permit is complete within 45 days of receiving the request (40 CFR 49.156(e)(4)) and to take final action on the request within 90 days of receiving a complete request (40 CFR 49.156(e)(3)). For the proposed general permit for the graphic arts and printing operations source category, we are proposing to shorten the time for determining whether a request for coverage is complete to 15 days (by that date the reviewing authority must either determine that the request for coverage is complete or request any additional information) and to shorten the time within which the reviewing authority must take final action on the request to 45 days. We explained our general rationale for taking this approach for some, but not all, general permits in our January 14, 2014, proposed rule.

We are proposing the shortened time frames for the graphic arts and printing operations source category only. We also propose to provide the reviewing authority the option of automatically denying a source's request for coverage if the source fails to submit any additional requested information within 15 days of receiving the request from the reviewing authority to remain consistent with our intent to provide a streamlined notification and review process. If a reviewing authority denies a request for coverage because a source fails to submit requested information by the deadline, the source may re-apply at a later date to re-initiate the request for coverage.

We believe that a shortened application review process for the graphic arts and printing operations general permit is justified because the streamlined nature of the general permit for the graphic arts and printing operations source category is

inconsistent with lengthy and potentially open-ended ongoing exchanges with applicants to obtain necessary information and is not the best use of limited resources. The applications are lengthier for the other four source categories in today's proposal and, therefore, a lengthier 90 day review process is appropriate for those categories. In Section IX., we explain our reasoning for why the application is shorter for graphic arts and printing operations and longer for the other four categories. Allowing this streamlining (combined with a shorter application for this same category) will allow for reduced processing time for a general permit coverage request for this category and a reduction in information required to be included in requests for coverage.

## **XII. Statutory and Executive Order Reviews**

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a "significant regulatory action" under the terms of EO 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under EOs 12866 and 13563 (76 FR 3821, January 21, 2011).

### *B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action merely proposes to establish general permits and/or permits by rule to satisfy the requirements of the Indian Country Minor NSR rule. Any burden associated with information required to be collected pursuant to the proposed general permits and/or permit by rule has already been accounted for in the approved information collection request for the Indian Country Minor NSR rule. Further, any use of the general permits and/or permit by rule is strictly voluntary. Therefore, this action does not impose an information collection burden.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities

include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The EPA analyzed the impact of streamlined permitting on small entities in the Review of New Sources and Modifications in Indian Country (76 FR 38748, July 1, 2011). Today's action will not impose any requirements on small entities, as it merely implements a particular aspect of the Review of New Sources and Modifications in Indian Country.

### *D. Unfunded Mandates Reform Act*

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. This action imposes no enforceable duty on any state, local or tribal government or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule has no requirements applicable to small governments and, as such, does not impose obligations upon them.

### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132. This action merely proposes to provide sources in Indian country with streamlined permitting opportunities that are generally available in states outside of Indian country. It does not impose any new obligations or

enforceable duties on any state, local or tribal government or the private sector. Thus, EO 13132 does not apply to this rule.

In the spirit of EO 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed action from state and local officials.

### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Pursuant to the EO 13175 (65 FR 67249, November 9, 2000), the EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or the EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

The EPA has concluded that this action will not impose duties or responsibilities on tribes, although it will have tribal implications. The EPA has conducted outreach via on-going monthly meetings with tribal environmental professionals in the development of this proposed action. This proposal reflects priorities for developing permits, comments on the general permits and suggestions for developing permits by rules developed as a result of that outreach. The EPA will offer consultation to elected tribal officials immediately after proposal to provide an opportunity for meaningful and timely input into the development of this regulation.

The EPA specifically solicits additional comment on this proposed action from tribal officials.

### *G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to EO 13211 (66 FR 28355 (May 22, 2001)) because

it is not a significant regulatory action under EO 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through the Office of Management and Budget, explanations when the agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards. In the proposed permits the EPA proposes the use of EPA Methods 5, 7, 9, 10, 18, 22 and 25A of 40 CFR part 60, Appendix A.<sup>47</sup> Three voluntary consensus standards were identified as applicable for purposes of this proposal:

<sup>47</sup> Information on any available voluntary consensus standards that can be used as alternatives to the emissions measurement standards in the General Air Quality Permit for New or Modified True Minor Source Spark Ignition Engines can be found in: “Voluntary Consensus Standard Results for General Permits and Permits by Rule for the Indian Country Minor New Source Review Program; 40 CFR part 49, subparts 156(c) and 162,” from Robin Segall, Acting Group Leader, Measurement Technology Group, to Laura McKelvey, Community and Tribal Programs Group, February 7, 2014, Docket ID No. EPA–HQ–OAR–2011–0151, <http://www.epa.gov/air/tribal/tribalnsr.html>.

1. ANSI/ASME PTC 19.10–1981 part 10 “Flue and Exhaust Gas Analyses” (alternative to EPA Method 7);
2. ASTM D7520–09 “Standard Test Method for Determining Opacity of a Plume in the Outdoor Ambient Atmosphere” (alternative to EPA Method 9); and
3. ASTM D6420–99 (2010) “Test method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography/Mass Spectrometry” (alternative to EPA Method 18).

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

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

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations

because it does not affect the level of protection provided to human health or the environment. This proposed rule merely implements certain aspects of the Review of New Sources and Modifications in Indian Country. As such, this proposed action will not have a disproportionately high and adverse human health or environmental effects on minorities and low-income populations in the United States.

Our primary goal in developing the general permits and permits by rule is to ensure that air resources in Indian country will be protected in the manner intended by the CAA. In particular, this rule will help minimize air quality impacts from new or modified true minor sources in Indian country. In addition, we seek to establish a flexible preconstruction permitting program for minor sources in Indian country that is comparable to similar programs in neighboring states to create a more level regulatory playing field for owners and operators within and outside of Indian country. This rule will reduce an existing disparity by filling the regulatory gap.

**List of Subjects in 40 CFR Part 49**

Environmental protection, Administrative practices and procedures, Air pollution control, Indians, Indians-law, Indians-tribal government, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 11, 2014.

**Gina McCarthy,**  
*Administrator.*

[FR Doc. 2014–16814 Filed 7–16–14; 8:45 am]

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