

IMPLEMENTING THE INDIAN COUNTRY MINOR NEW SOURCE REVIEW PROGRAM FOR THE OIL AND NATURAL GAS PRODUCTION INDUSTRY: ADVANCE NOTICE OF PROPOSED RULEMAKING

FACT SHEET

SUMMARY OF ACTION

- On May 22, 2014, the U.S. Environmental Protection Agency (EPA) issued an advance notice of proposed rulemaking (ANPR) seeking broad feedback on options for implementing EPA's Indian Country Minor New Source Review (NSR) program for oil and gas production in Indian country.
- The oil and gas industry is growing rapidly in many areas of Indian country, prompting air quality concerns in some regions, along with concerns about potential permitting delays for minor sources that will have to get permits under EPA's 2011 Indian Country Minor NSR Rule.
- In a separate action, EPA is [extending the minor NSR permitting deadline](#) from September 2, 2014, to a new deadline of March 2, 2016, for true minor sources in the oil and natural gas industry that are located, or planning to locate, in Indian country. The additional time allows EPA to determine the best option for permitting sources in this complex industry sector.
- The ANPR focuses on the production segment of the oil and natural gas industry, because EPA anticipates the majority of sources that would need minor source NSR permits in Indian country would be in that segment.
 - For crude oil, production operations include equipment and activities generally found prior to the point where crude oil enters storage and transmissions terminals where the oil is loaded for transport to refineries.
 - For natural gas, production operations include equipment and activities that occur prior to natural gas plants or prior to the point where natural gas enters the transmission and storage segment for distribution.
- In the ANPR, EPA requests comments on three options for streamlining permitting to minimize delays, while ensuring that air quality in Indian country is protected. These options include issuing a:
 - *General permit.* A general permit is a permit that applies to similar types of equipment or facilities. General permits contain a standard set of requirements that can be applied to multiple sources with similar emissions characteristics. Owners/operators would have to submit permit applications for review and approval; however, this process is simpler than a site-specific permit application.

- *Permit by rule.* Like a general permit, a permit by rule contains a standard set of requirements that can be applied to multiple sources with similar emissions characteristics. It differs from a general permit in that the requirements are established in a codified rule instead of a general permit document. The permitting process is more streamlined under a permit by rule, allowing an owner/operator to notify the permitting authority that an emissions source meets the eligibility criteria for the permit and the permit conditions, without having to submit a permit application for review and approval before beginning construction.
- *Federal Implementation Plan (FIP).* A FIP would establish regulatory requirements that apply directly to covered sources. The FIP would not require owners/operators to submit permit applications for review and approval before beginning construction.
- EPA also is requesting comment on several other issues, including what control requirements would be appropriate for new and modified oil and natural gas production sources, and which specific oil and gas production activities should be controlled. In addition, the agency is seeking comment on pollutants that might warrant regulation. Pollutants emitted during oil and natural gas production that are regulated under the Indian Country Minor NSR Rule are: volatile organic compounds, nitrogen oxides, sulfur dioxide, particulate matter, hydrogen sulfide, carbon monoxide and certain sulfur compounds.
- As a separate issue, the agency is seeking comment on whether a FIP should be used to establish requirements for existing oil and gas production sources in Indian country, if the agency determines a FIP is the best approach for permitting new and modified emission sources.
- EPA will take comment on the ANPR for 45 days after it is published in the Federal Register. Instructions for submitting comments are at the end of this fact sheet.

BACKGROUND

- New Source Review is a Clean Air Act program that requires industrial facilities to install modern pollution control equipment when they are built or when they make a change that has the potential to significantly increase emissions. The program accomplishes this by requiring owners or operators to obtain permits that limit air emissions before they begin construction. For that reason, NSR is commonly referred to as the “preconstruction permitting program.”
- The purpose of the NSR program is to protect public health and the environment, even as new industrial facilities are built and existing facilities expand. Specifically, its purpose is to ensure that air quality:

- Does not worsen where the air is currently unhealthy to breathe (nonattainment areas), or
 - Is not significantly degraded where the air is currently clean (attainment areas).
- EPA issued the Indian Country Minor NSR Rule in 2011, as part of a FIP that put in place the two remaining pieces of the NSR program in Indian country. The FIP includes requirements for EPA to issue air permits to sources in Indian country but allows tribes to take responsibility for issuing air permits according to EPA's requirements.
 - The Minor NSR Rule sets permitting requirements for certain smaller sources of air pollution commonly found in Indian country, including the oil and natural gas industry. The rule covers new and modified "minor" sources of air pollution, and minor modifications to "major" sources.
 - Together with existing rules for permitting major sources in areas of Indian country that currently meet clean air health standards, the FIP establishes the federal program for issuing all pre-construction air permits in Indian country. These permit programs are similar to those being implemented by states and will provide industries the same permitting opportunities as they currently have in states.
 - The Minor NSR Rule currently applies to all of Indian country except non-reservation areas. New or modified industrial facilities with a potential to emit equal to or more than the minor NSR thresholds but less than the major NSR thresholds, generally 100 to 250 tons per year, are "minor sources" of emissions and are subject to the rule requirements.
 - The minor NSR program currently provides three options for obtaining permits. These options are:
 - Site-specific permits: A site-specific permit includes case-by-case determinations of a source's emissions limits along with any control technology requirements;
 - General permits: A "general permit" is a permit that has been developed for a number of similar equipment types or facilities to simplify the permit issuance process for facilities; or
 - Synthetic minor permits: A synthetic minor permit applies to a source that has the potential to emit pollutants in amounts that are at or above the thresholds for major sources, but has voluntarily accepted emissions limits so that its potential to emit is less than these thresholds. Under this rule, synthetic minor permits can be issued for both regulated NSR pollutants and toxic air pollutants.
 - In December 2013, EPA proposed draft general permits for five industry categories: hot mix asphalt plants; stone quarrying, crushing and screening facilities; gasoline dispensing

facilities; petroleum dry cleaners; and auto body repair and miscellaneous surface coating operations.

HOW TO COMMENT

- EPA will accept comments on the APNR for 45 days after it is published in the Federal Register. Please identify comments by Docket ID No. EPA-HQ-OAR-2011-0151, and submit them by one of the following methods:
 - www.regulations.gov: follow the on-line instructions for submitting comments.
 - Email: Comments may be sent by e-mail to a-and-r-Docket@epa.gov, Attention Docket ID No. [FILL IN]
 - Fax: Fax your comments to 202-566-9744, Attention Docket ID No. [FILL IN]
 - Mail: Mail your comments to Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail code 6102T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Attention Docket No. EPA-HQ-OAR-2011-0151.
 - Hand Delivery or Courier: Deliver comments to EPA Docket Center, 1301 Constitution Ave. NW, Room 3334, Washington, D.C. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

FOR MORE INFORMATION

- To read today's notice, go to <http://www.epa.gov/air/tribal/tribalnsr.html> or <http://www.epa.gov/airquality/oilandgas>. The notice also is available at EPA's electronic public docket and comment system (<http://www.regulations.gov>), using Docket ID Number EPA-HQ-OAR-2011-0151.
- The notice is available in hard copy at the EPA Docket Center's Public Reading Room, room 3334 in the EPA West Building located at 1301 Constitution Ave. NW, Washington, D.C. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern time, Monday through Friday, excluding federal holidays. Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine. Visitors will be provided a badge that must be visible at all times.