

Proposed Federal Plan for Implementing the Indian Country Minor New Source Review Program for the Oil and Natural Gas Production Industry: Fact Sheet

SUMMARY OF ACTION

- On August 18, 2015, the U.S. Environmental Protection Agency (EPA) proposed a federal plan to implement the Federal Minor New Source Review Program in Indian Country for oil and natural gas production. The proposed plan would limit emissions of harmful air pollution while making the preconstruction permitting process for this rapidly growing industry more efficient. EPA also is proposing to extend the deadline by which oil and natural gas sources must obtain minor NSR permits.
- The federal implementation plan (FIP) is part of a package of proposed rules that together will act on climate, reduce air pollution that harms public health, and clarify permitting requirements to allow safe, responsible oil and natural gas development to continue. EPA is proposing the FIP after considering comments on an advance notice of proposed rulemaking the agency issued in 2014.
- The proposed FIP would be used instead of site-specific minor New Source Review (NSR) preconstruction permits in Indian country and would incorporate emissions limits and other requirements from six standards, including the 2015 proposed updates to the New Source Performance Standards for the oil and natural gas industry.
- The FIP would apply throughout reservation areas in Indian country and any other areas of Indian country for which a tribe or EPA has demonstrated that the tribe has jurisdiction. It would not apply in areas designated as nonattainment for a National Ambient Air Quality Standard. Requirements in the FIP would apply to all new and modified true minor sources in the production segment of the oil and natural gas industry.
- A true minor source emits, or has the potential to emit, regulated NSR pollutants in amounts that are generally above 10 tons per year but less than 250 tons per year in attainment areas. The permitting thresholds vary by pollutant. "True minor" sources have not taken enforceable restrictions to reduce their potential emissions.
- EPA anticipates the majority of sources needing preconstruction permits in Indian country would be in the production segment.
 - For crude oil, production operations include equipment and activities generally found prior to the point where crude oil enters storage and transmission 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 addition to including requirements of the New Source Performance Standards for the oil and natural gas industry, including the updates proposed August 18, 2015, the FIP would incorporate requirements from:
 - Performance standards for VOC liquid storage tanks,
 - Performance standards for stationary compression ignition internal combustion engines,
 - Performance standards for stationary spark ignition internal combustion engines,
 - Air toxics standards for Industrial, Commercial, and Institutional Boilers and Process Heaters; and
 - Air toxics standards for oil and natural gas production facilities.
- By incorporating these requirements, the FIP would apply emissions limits for a range of equipment and processes used in oil and natural gas production, including:
 - Completions of oil and gas wells that are hydraulically fractured;
 - Storage tanks;
 - Pneumatic controllers used in production;
 - Compressors (reciprocating and centrifugal);
 - Leaks (also called fugitive emissions), from oil and natural gas well sites and natural gas compressor stations;
 - Pneumatic pumps;
 - Glycol dehydrators
 - Stationary compression ignition and spark ignition engines;
 - Fuel storage tanks; and
 - Process heaters
- Under the proposal, true minor sources would be required to register, using a specific form tailored to the oil and natural gas industry, rather than submitting a permit application. This form would be due to EPA 30 days prior to the start of construction. Prior to construction, owners/operators must also provide EPA documentation that addresses threatened and endangered species and historic properties. No further action is required prior to starting construction (or beginning operation).
- Owners/operators could choose to seek a site-specific minor source NSR permit instead of complying with the FIP. EPA also may determine that a site-specific permit is required in some instances.
- Owners/operators planning to use the FIP also would be required to address procedures for assessing threatened and endangered species, and historic properties. They could meet these requirements by either:
 - 1)) submitting documentation to the appropriate EPA regional office and tribe that another federal agency has completed the necessary reviews of the activity under the Endangered Species Act and the National Historic Preservation Act , and that the

owner/operator is in compliance with all measures required by that process; or

2) submitting documentation to the appropriate EPA regional office and tribe demonstrating that the owner/operator has completed screening procedures for considering threatened and endangered species and/or historic properties specified in the FIP and receiving written confirmation from EPA that the owner/operator has satisfactorily completed the procedures.

- Sources locating in areas designated as nonattainment for any National Ambient Air Quality Standard would not be able to use the proposed FIP, but instead would need to seek a site-specific minor NSR permit.
- As part of the proposal, EPA also would extend the deadline for oil and natural gas sources to obtain minor NSR permits in Indian country from March 2, 2016 to October 3, 2016. This deadline would apply to new or modifying true minor sources in the oil and natural gas industry. The additional time would allow EPA to complete the rulemaking process so that sources could comply with the FIP in lieu of obtaining a minor NSR permit. In addition, EPA is proposing that the deadline to register under the FIP would be the same as the permitting deadline.
- EPA will take comment on the proposed rule for 60 days after it is published in the Federal Register and will hold public hearings. Details will be announced in a separate notice.

BACKGROUND

- The oil and natural gas industry is growing rapidly in many areas of Indian country, prompting air quality concerns in some areas, along with concerns about potential permitting delays for minor sources required to get permits under EPA's July 2011 federal Minor New Source Review Program in Indian Country (Tribal Minor NSR rule).
- NSR is a Clean Air Act program that requires industrial facilities to install modern pollution control equipment when they are built or when they are making 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. NSR is designed to ensure that emissions from new and expanding industrial facilities do not worsen air quality in areas with unhealthy air (nonattainment areas), or that they do not significantly degrade air quality in areas where the air is currently clean (attainment areas).
- On May 22, 2014, EPA issued an Advance Notice of Proposed Rulemaking (ANPR) to solicit broad public feedback on the most effective and efficient means of meeting the permitting requirements under the Tribal NSR rule for oil and natural gas production facilities. The ANPR requested comment on different approaches for streamlining permitting for new

minor sources and minor source modifications while ensuring protection of air quality in Indian country: a general permit; a permit by rule; or a FIP.

- EPA issued the Tribal NSR rule in 2011, as part of a FIP that put in place the two remaining pieces of the NSR program in Indian country: a minor source program, and a major source program for nonattainment areas. The 2011 rule 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.
- Together with existing rules for permitting major sources in areas of Indian country that currently meet clean air health standards (the Prevention of Significant Deterioration program), the 2011 Tribal NSR rule established the federal programs for issuing all pre-construction air permits in Indian country. These permit programs are similar to those being implemented by states.
- The 2011 minor source rule requires preconstruction permits 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.
 - Minor sources have the potential to emit a number of pollutants in amounts above the minor NSR thresholds established in the 2011 rule, but below major NSR thresholds. These thresholds vary by pollutant, and by whether the area where the source is located is designated as attainment or nonattainment for a National Ambient Air Quality Standard.

HOW TO COMMENT

- For additional information, instructions on submitting comments, and to read the other proposed oil and gas rules, visit www.epa.gov/airquality/oilandgas.

FOR MORE INFORMATION

- To read the proposed rule, including the proposed FIP, visit <http://www.epa.gov/air/tribal/tribalnsr.html>