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Review of New Sources and Modifications in Indian Country - Rule Highlights

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Purpose

- > Indian Country Permitting High Points
- > Indian Country Existing Minor Source Registration Deadline and Requirements
- > Indian Country Future Requirements

Trinity Consultants - Overview



- > Founded 1974 in Dallas
- > ~400 employees in 35 U.S. offices, including China and Bahrain
- > Regulatory compliance and environmental management services with focus on air
- > ISO 9001 quality program certified in Dallas HQ

Trinity Consultants Offices



Trinity Services & Products

- > Air Quality Consulting
- > General Environmental and Safety Consulting
- > EH&S Auditing Services
- > Environmental Software
- > Professional Training
- > EH&S Staffing Services



Environmental Quality is a Dynamic, Changing Field



Always be certain to obtain the latest forms, policies, and regulations from the appropriate regulatory authority before determining permitting and compliance needs for your site. The information provided in this webinar, while up-to-date when developed, is subject to change as regulatory authorities update forms, policies and regulations. You are encouraged to use this information as an educational reference, but it is not a substitute for independent research and verification, and the application of sound professional judgment and analysis in real-time permitting and compliance situations.

Indian Country Air Permitting High Points

What is this Program?

- > Dates:
 - ❖ Proposed August 21, 2006
 - ❖ Signed June 10, 2011
 - ❖ Published in the Federal Register July 1, 2011.
- > A Federal Implementation Plan for “Review of New Sources and Modifications in Indian Country”
- > Establishes a minor New Source Review (NSR) program (minor preconstruction permits and minor modifications at major sources) and a major nonattainment New Source Review program for sources of air emissions located in Indian country
- > Applies to sources in Indian Country throughout the United States, except for those areas where a Tribal Implementation Plan (TIP) is in place

What is this Program?

> Background:

- ❖ Some State Implementation Plans did not cover sources located in Indian Country
- ❖ Some tribes have not developed Tribal Implementation Plans to cover air permitting for these sources
- ❖ Historically, many sources in Indian Country have only been subject to Federal air quality rules such as New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Title V, and Prevention of Significant Deterioration (PSD)

Who Administers the Program?

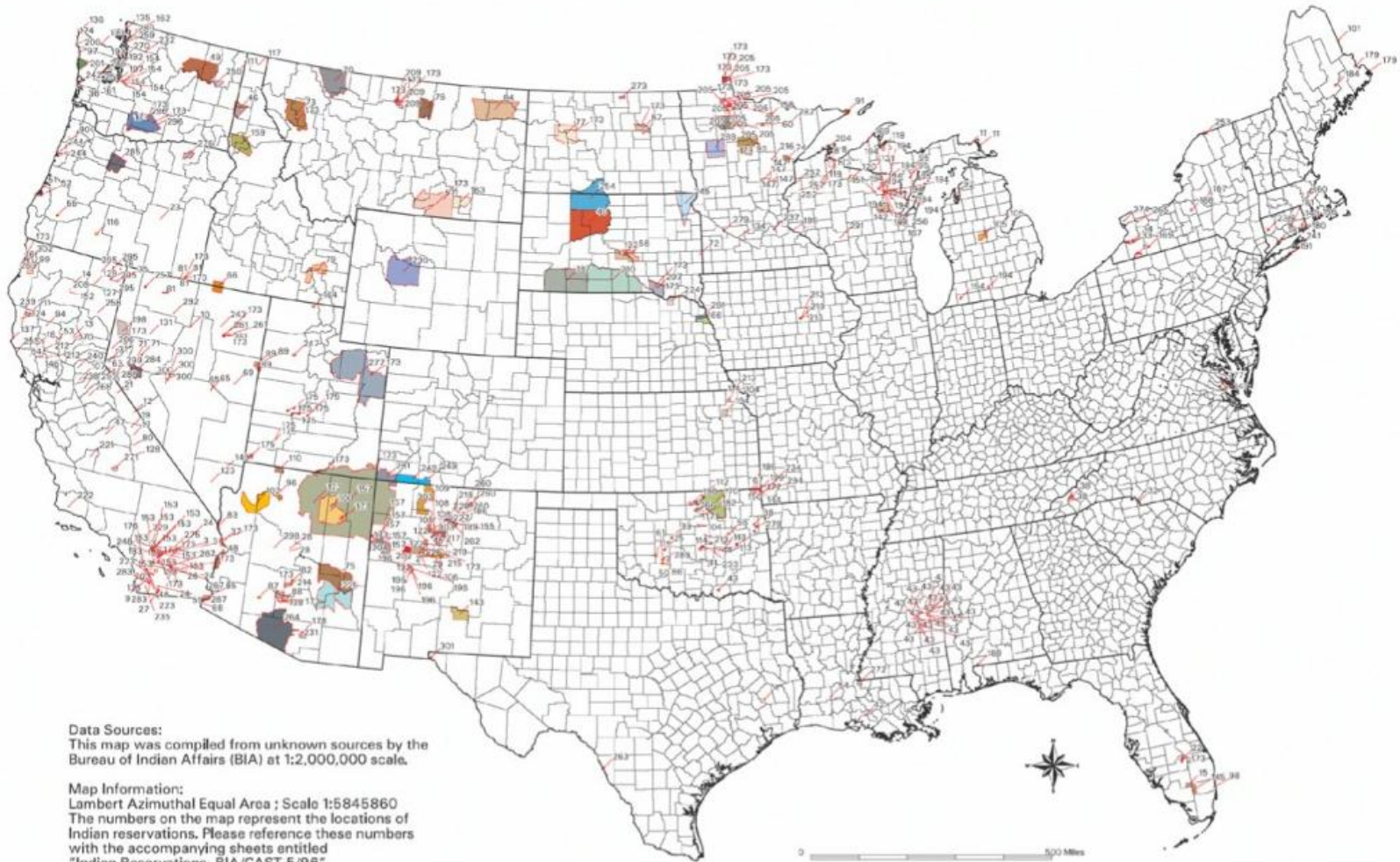
- > If EPA has approved a TIP that includes a minor NSR program for sources in Indian country that meets the requirements, the tribe is the authority
- > If EPA has not approved a TIP, EPA may delegate the authority to assist with portions of the rule
- > If EPA has not approved a TIP or granted delegation to a Tribal agency, EPA is the reviewing authority

Important Definitions

- > “Indian country” is defined under 18 U.S.C. 1151 as:
 - ❖ All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation,
 - ❖ All dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a state, and
 - ❖ All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

(Emphasis added.)

Continental U.S. Indian Reservations



Data Sources:
This map was compiled from unknown sources by the Bureau of Indian Affairs (BIA) at 1:2,000,000 scale.

Map Information:
Lambert Azimuthal Equal Area ; Scale 1:5845860
The numbers on the map represent the locations of Indian reservations. Please reference these numbers with the accompanying sheets entitled "Indian Reservations- BIA/CAST 5/96".

Important Definitions

- > “Minor source” means a source, not including the exempt emissions units and activities listed in Sec. 49.153(c), that has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds in 40 CFR Sec. 49.167 or Sec. 52.21, as applicable, but equal to or greater than the minor NSR thresholds in Sec. 49.153
- > The potential to emit includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) or 52.21(b)(1)(iii), as applicable (“list of 28”)
- > Existing minor source means it was constructed prior to August 30, 2011 or September 2, 2014 (two registration triggers)

Minor Source Thresholds

Regulated NSR Pollutant	For Nonattainment Areas (tpy)	For Attainment Areas (tpy)
→ Carbon monoxide (CO)	5	10
→ Oxides of nitrogen (NO _x)	5	10
→ Sulfur dioxide (SO ₂)	5	10
→ Volatile organic compounds (VOC)	2	5
PM	5	10
PM-10	1	5
PM-2.5	0.6	3
Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2
→ Hydrogen sulfide (H ₂ S)	NA	2
Total reduced sulfur (including H ₂ S)	NA	2
Reduced sulfur compounds (including H ₂ S)	NA	2
Municipal waste combustor emissions	NA	2
Municipal solid waste landfills emissions	NA	10

Important Definitions

- > Minor sources exempt from the rule:
 - ❖ Mobile sources
 - ❖ Ventilating units for comfort that do not exhaust air pollutants into the ambient air from any manufacturing of other industrial processes
 - ❖ Noncommercial food preparation
 - ❖ Consumer use of office equipment and products;
 - ❖ Janitorial services and consumer use of janitorial products;
 - ❖ Internal combustion engines used for landscaping purposes; and
 - ❖ Bench scale laboratory activities, except for laboratory fume hoods and vents.

Important Definitions - Potential To Emit (PTE)

- > The maximum capacity of a source / facility to emit air pollutants.
- > May be limited by enforceable permit conditions
 - ❖ Hours of operation
 - ❖ Usage of raw material(s)
 - ❖ Production of product(s)
 - ❖ Control device(s)
 - ❖ Monitoring and/or recordkeeping

Important Definitions - What is a Facility?

- > All pollutant-emitting activities that are:
 - ❖ Same industry (same 2 digit primary SIC),
and
 - ❖ Common Ownership / Control
and
 - ❖ Contiguous or adjacent property

Minor Source Program

- > True Minor Sources
 - ❖ Sources with potential emissions below major source thresholds and, in the case of this rule, above minor NSR thresholds
- > Synthetic Minor Sources
 - ❖ Major sources who restrict their potential emissions to become minor sources
 - ❖ The rule terminated the 1999 PTE Transition Policy
 - ◆ If actuals were <50% of major, did not have to get a synthetic minor permit in the past
 - ◆ Applications under this rule were due September 4, 2012
- > Minor Modifications at Major Sources
 - ❖ Small modifications (low emissions) at major sources

Permit Application Timeline	Modifications to Existing* Sources		Existing Sources		New Sources			
	Major Modification of Existing Major Source	Minor Modification of Existing Major Source	Existing True Minor Source	Existing Synthetic Minor Source	New Major Source in area of attainment	New Major Source in Area of Nonattainment	New True Minor Source	New Synthetic Minor Source
Applicable Permit Program	PSD or Nonattainment NSR	Minor NSR	Minor NSR	Minor NSR	PSD	Nonattainment NSR	Minor NSR	Minor NSR
After Effective Date of Rule (August 30, 2011)	Apply for permit before construction of modification	Apply for permit before construction of modification		Source may need to apply for permit depending on how existing synthetic minor status was obtained**	Apply for permit before construction	Apply for permit before construction		Apply for permit before construction
18 Months after Effective Date (March 1, 2013)			Register source within first 18 months after effective date or 90 days after source begins operation					
36 Months after Effective Date (Sept. 2, 2014)			No permit needed unless modification is proposed				Obtain a permit within 36 months after effective date or 6 months after general permit is published in the Federal Register	

Existing Minor Source Registration

Existing Minor Source Registration

- > Existing minor sources in Indian Country (pre-August 30, 2011 construction) are to be registered by March 1, 2013
- > Questions that must be answered...
 - ❖ What specific sources are in Indian Country?
 - ❖ What sources are major, minor, or not subject to the rule?
 - ◆ What is the PTE per facility?
 - ◆ What facilities should be aggregated?

Registration Requirements

- > If your true minor source commences construction in the time period between August 30, 2011 and September 2, 2014, you must register your source with your reviewing authority within 90 days after the source begins operation.

Registration Requirements

- > Identifying information (name, address, contact information)
- > A description of processes and products
- > A list and description of all emissions units (except exempt emissions units and activities)
- > Type and amount of fuels, raw materials, production rates and operating schedules
- > Identification and description of any existing air pollution control equipment and compliance monitoring devices or activities
- > Any existing limitations on source operation affecting emissions or any work practice standards
- > Allowable and estimated actual annual emissions of each regulated NSR pollutant in tpy with supporting documentation
- > PTE and actual emissions
- > Any other information specifically requested by the reviewing authority.
- > Registration Form - [existing_source_registration_rev.pdf](#)

Submit the EPA Region Unless the Tribe is Delegated Authority



Future Permitting Reminder

- > After August 23, 2011, the new sources that need federal enforceability to remain minor sources (i.e., new synthetic minor sources) require a permit prior to starting construction.

Future Permitting Reminder

- > If construction or modification of a true minor source subject to this rule commences any time on or after September 2, 2014, you must apply for and receive a permit prior to commencing construction.

Minor Source Permit Processing

- > Source-specific minor source permit (i.e., not a general permit):
 - ❖ 45-day application completeness review
 - ❖ 30-day public comment period
 - ❖ Granted or denied within 135 days after the application is deemed complete
- > General permit:
 - ❖ 45-day application completeness review
 - ❖ No public comment period (since the public had opportunity to comment on the general permit when it was developed by EPA)
 - ❖ Granted or denied within 90 days of the request for coverage

Minor Source Permit Processing

- > Minor modifications at major sources:
 - ❖ 60-day application completeness review
 - ❖ 30-day public comment period
 - ❖ **Granted or denied within one year after the application is deemed complete**
- > Synthetic minor permits:
 - ❖ 60-day application completeness review
 - ❖ 30-day public comment period
 - ❖ **Granted or denied within one year after the application is deemed complete**
- > Permits become effective 30 days after notice of the approval decision is provided by EPA.

Questions?

For Further Information:

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