U.S. Environmental Protection Agency
Region 10 Federal Air Rules for Reservations, 40 CFR 49.139

Non-Title V Operating Permit Application Form Instructions

1. Assistance on Non-Title V Operating Permits

Any air pollution source (facility) wishing to request federally-enforceable limitations on their actual emissions or potential to emit should become familiar with the Region 10 Federal Air Rules for Reservations (FARR), the application form, and these instructions. The FARR was originally published in the Federal Register on April 8, 2005 (67 FR 18074) and is effective June 7, 2005. The final rule is available at the EPA Region 10 website https://www.epa.gov/farr. The FARR rule can also be found in the annually updated Code of Federal Regulations (CFR) Title 40, Part 49. The non-Title V operating permit requirements can be found in 40 CFR 49.139.

The FARR website provides additional background information on the rule and implementation of the FARR. The FARR Hotline is available at 1-800-424-4372 (option 3) to provide information, permit forms and respond to questions. Additional guidance pertaining to air quality regulations and programs can also be found on line at EPA's national website at www.epa.gov/oar.

2. Who Can Request Federally-Enforceable Limitations Under the FARR Authority?

The FARR applies only to sources located within the exterior boundaries of an Indian reservation in Idaho, Oregon and Washington or other reservation lands as specified in 40 CFR part 49, subpart M. So, to use the authority in the FARR to create federally-enforceable limitations, a facility must be located within a reservation in one of those states. Land ownership status (for example, whether the land is owned by a Tribal member or whether the land is owned in fee or in trust) does not affect how the rule applies.

3. Who Might Want to Request Federally-Enforceable Limitations?

The primary reason for requesting federally-enforceable limitations is to avoid an otherwise applicable federal Clean Air Act program, rule or requirement. Many federal Clean Air Act programs use a source's "potential to emit" (PTE) air pollution to determine which rules or requirements apply. A facility's PTE is based on the maximum annual operational (production, throughput, etc) rate of the facility taking into consideration the capacity and configuration of the equipment and operations. Emission or operational limits can also be taken into consideration as maximums if they are federally enforceable. So, using a non-Title V operating permit to establish federally enforceable limitations can lower a facility's PTE and possibly allow the facility to avoid certain federal Clean Air Act requirements.

Three examples of federal Clean Air Act programs that use PTE to determine whether they apply are (1) the Prevention of Significant Deterioration (PSD) construction permitting program, (2) the Title V operating permit program, and (3) the Maximum Achievable Control Technology (MACT) program. For example, existing sources that are considered "major" for Title V (meaning they have the potential to emit air pollution at levels defined in that rule as "major") must apply for a Title V operating permit. If a source accepts a federally-enforceable limitation through a non-Title V permit that reduces their PTE to below the "major" threshold, the source no longer needs a Title V operating permit. When planning for the construction of a new source or expansion of an existing source, a source can also accept limitations on PTE (using a non-Title V

permit) that allow the source to avoid PSD. Limitations on PTE can similarly help a source to avoid new MACT standards that would otherwise apply to the source.

4. Where to Submit the Non-Title V Operating Permit Application Form

Send completed forms and all applicable attachments and supporting information, as specified in the form, to:

Non-Title V Operating Permit Coordinator
EPA Region 10
Air and Radiation Division
1200 6th Ave, Suite 155
Seattle,WA 98101

5. Confidential Treatment of Information

A company may assert a business confidentiality claim covering any portion of the submitted information as provided in 40 CFR part 2, subpart B. Please submit any information claimed as confidential business information separately, along with a claim of confidentiality. Note that emissions data and information necessary to determine emissions is not entitled to confidential treatment. Failure to assert a claim in the manner described in 40 CFR part 2, subpart B allows the submitted information to be released to the public without further notice. Information subject to a business confidentiality claim may be disclosed by EPA only to the extent set forth in the above-cited regulations.

6. Instructions for Each Section of Application Form

There are three individual sections of the form which specify the required information as well as the additional information that must be attached to the form. The entire form must be completed, including the certification of truth, accuracy and completeness in Section D. Instructions for each section follow.

Section A General Information

General facility information is required to be submitted each request for a federally-enforceable limitation. This section allows the source to identify the location, contacts and other general information about the source. The facility's main nature of business generally describes the products that the facility manufactures or the services it provides. Standard Industrial Classification (SIC) codes are commonly used for state revenue reporting and can be found in a document called SIC manual or on line at http://www.osha.gov/pls/imis/sic_manual.html. Most libraries have the SIC manual available for public use. If the source does not have a street address, a brief description of the physical location of the source should be included. The local individual responsible for compliance is commonly a person with the authority to make operations and purchasing decisions that assure compliance, such as a plant manager.

Section B Limitation Request

This section lists the information that must be attached to the application form for each requested limitation. The requested limitation(s) must be described for each affected emissions unit (or pollutant-generating activity) and pollutant and must be accompanied by the supporting information listed on the form and described below. Note that applicability of many federal Clean Air Act requirements (such as Title V, PSD and MACT) is often based on facility-wide

emission levels of specific pollutants. In that case, all emissions units at a facility and all pollutants regulated by that given rule or regulation must be addressed by this section of the application form.

Item 1 – The requested limitation and its effect on actual emissions or potential to emit must be presented in enough detail to document how the limitation will limit the source's actual or potential emissions as a legal and practical matter and, if applicable, will allow the source to avoid an otherwise applicable requirement. The information presented must clearly explain how the limitation affects each emission unit (see Item 4) and each air pollutant from that emission unit. Use the information provided in response to Items 7 and 8 below to explain how the limitation affects emissions before and after the limitation is in effect.

Item 2 – For each requested limitation, the application must include proposed testing, monitoring, recordkeeping and reporting that will be used to demonstrate and assure compliance with the limitation. Testing approaches should incorporate and reference appropriate EPA reference methods where applicable. Monitoring should describe the emission, control or process parameters that will be relied on and should address frequency, methods, and quality assurance.

Item 3 – A narrative description of all of the facility processes along with a process flow diagram must be provided to enable EPA to understand the effect the limitation(s) will have on the operation. A process flow diagram must also be provided which reflects the major pieces of equipment that combust, process, handle or store materials or products. The narrative description should follow the flow of the process flow diagram and address all of the major processing and storage equipment, control devices (see Item 6), products, fuels and raw materials (see item 5). The hourly, daily and annual (maximum for each) operating rates for each production process or device and the hourly, daily and annual maximum firing rates for each fuel and combustion equipment should be described. The capacity for storage units and the material and product handling equipment should be listed. The typical operating schedule should be presented in terms of hours per day, days per week, and weeks per year.

Item 4 – The application must include a list of emission units and air pollution-generating activities that will be affected by the requested limitation. Each listed emission unit should be addressed by Items 1 through 8 to the extent applicable.

Item 5 – The application must include a list of the type and quantity of fuels and/or raw materials used. Each fuel and raw material should be consistently addressed by the Items 3, 7 and 8, and, if the limitation involves fuels or raw materials, Items 1 and 2.

Item 6 – The application must include a description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions. For control equipment that is not proposed to be modified to meet the requested limit, simply note that fact; however, for equipment that is proposed to be modified (e.g. improved efficiency) or newly installed to meet the proposed limit, address both current and future descriptions and efficiencies.

Items 7 and 8 – Air pollutant emission estimates must be provided for the current actual and potential emissions as well as the future potential (allowable) emissions, including all of the supporting calculations, assumptions and references. Emission estimates must address all emission units (see Item 4) and pollutants affected by the limitation and be presented in short term (e.g. pounds per hour) as well as annual (tons per year) units. Actual emissions reflect the operations and controls in place during a past period of time (e.g., most previous past calendar year), while potential to emit and allowable emissions are based on maximum short term operating rates scaled to an entire year. Estimates of future emissions should reflect maximum

allowable operating rates and anticipated controls. All of the data and calculations used to develop the emission inventory must be attached to and submitted with the application form. All assumptions that were made, such as pollutant emitted, control efficiencies and emissions factors used, should be clearly documented with the calculations. References for each emission factor and any other resources used for developing the emission inventory should also be included with the emission estimates.

Emission estimation tools and techniques can be found on line at https://www.epa.gov/air-emissions-factors-and-quantification/basic-information-air-emissions-factors-and-quantification. Estimates of actual emissions must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the Regional Administrator. Any emission estimates submitted to the Regional Administrator must be verifiable using currently accepted engineering criteria. Be aware that the resulting non-Title V permit will likely require verification of compliance with the requested limitation; so reliable emission estimation techniques are important. The following procedures are generally acceptable for estimating emissions from air pollution sources:

- Source-specific emission tests;
- Mass balance calculations;
- Published, verifiable emission factors that are applicable to the source;
- Other engineering calculations; or
- Other procedures to estimate emissions specifically approved by the Regional Administrator.

Section C Certification of Truth, Accuracy and Completeness

The owner or operator of the facility must certify the truth, accuracy and completeness of the statements and information in and attached to the application form. The application must be signed and dated prior to submittal. If there is more than one owner, list the other owners on an attachment. For example, the owner(s) could be an individual, a partnership, a company, a parent company, or any combination of these.