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This procedure shall encompass all circumstances in which the tribe is incapable of exercising applicable enforcement requirements as provided in § 49.7(a)(6). This agreement shall be incorporated into a Memorandum of Agreement with the EPA Region.

§ 49.9 EPA review of tribal Clean Air Act applications.

(a) The EPA Regional Administrator shall process a request of an Indian tribe submitted under § 49.7 in a timely manner. The EPA Regional Administrator shall promptly notify the Indian tribe of receipt of the application.

(b) Within 30 days of receipt of an Indian tribe's initial, complete application, the EPA Regional Administrator shall notify all appropriate governmental entities.

(1) For tribal applications addressing air resources within the exterior boundaries of the reservation, EPA's notification of other governmental entities shall specify the geographic boundaries of the reservation.

(2) For tribal applications addressing non-reservation areas, EPA's notification of other governmental entities shall include the substance and bases of the tribe's jurisdictional assertions.

(c) The governmental entities shall have 30 days to provide written comments to EPA's Regional Administrator regarding any dispute concerning the boundary of the reservation. Where a tribe has asserted jurisdiction over non-reservation areas, appropriate governmental entities may request a single 30-day extension to the general 30-day comment period.

(d) In all cases, comments must be timely, limited to the scope of the tribe's jurisdictional assertion, and clearly explain the substance, bases, and extent of any objections. If a tribe's assertion is subject to a conflicting claim, the EPA Regional Administrator may request additional information from the tribe and may consult with the Department of the Interior.

(e) The EPA Regional Administrator shall decide the jurisdictional scope of the tribe's program. If a conflicting claim cannot be promptly resolved, the EPA Regional Administrator may approve that portion of an application addressing all undisputed areas.

(f) A determination by the EPA Regional Administrator concerning the boundaries of a reservation or tribal jurisdiction over non-reservation areas shall apply to all future Clean Air Act applications from that tribe or tribal consortium and no further notice to governmental entities, as described in paragraph (b) of this section, shall be provided, unless the application presents different jurisdictional issues or significant new factual or legal information relevant to jurisdiction to the EPA Regional Administrator.

(g) If the EPA Regional Administrator determines that a tribe meets the requirements of § 49.6 for purposes of a Clean Air Act provision, the Indian tribe is eligible to be treated in the same manner as a State with respect to that provision, to the extent that the provision is identified in § 49.3. The eligibility will extend to all areas within the exterior boundaries of the tribe's reservation, as determined by the EPA Regional Administrator, and any other areas the EPA Regional Administrator has determined to be within the tribe's jurisdiction.

(h) Consistent with the exceptions listed in § 49.4, a tribal application containing a Clean Air Act program submittal will be reviewed by EPA in accordance with applicable statutory and regulatory criteria in a manner similar to the way EPA would review a similar State submittal.

(i) The EPA Regional Administrator shall return an incomplete or disapproved application to the tribe with a summary of the deficiencies.

§ 49.10 EPA review of State Clean Air Act programs.

A State Clean Air Act program submittal shall not be disapproved because of failure to address air resources within the exterior boundaries of an Indian Reservation or other areas within the jurisdiction of an Indian tribe.

§ 49.11 Actions under section 301(d)(4) authority.

Notwithstanding any determination made on the basis of authorities granted the Administrator under any other

provision of this section, the Administrator, pursuant to the discretionary authority explicitly granted to the Administrator under sections 301(a) and 301(d)(4):

(a) Shall promulgate without unreasonable delay such Federal implementation plan provisions as are necessary or appropriate to protect air quality, consistent with the provisions of sections 304(a) and 301(d)(4), if a tribe does not submit a tribal implementation plan meeting the completeness criteria of 40 CFR part 51, appendix V, or does not receive EPA approval of a submitted tribal implementation plan.

(b) May provide up to 95 percent of the cost of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. After two years from the date of each tribe's initial grant award, the maximum Federal share will be reduced to 90 percent, as long as the Regional Administrator determines that the tribe meets certain economic indicators that would provide an objective assessment of the tribe's ability to increase its share. The Regional Administrator may increase the maximum Federal share to 100 percent if the tribe can demonstrate in writing to the satisfaction of the Regional Administrator that fiscal circumstances within the tribe are constrained to such an extent that fulfilling the match would impose undue hardship.

§§ 49.12–49.50 [Reserved]

Subpart B—General Provisions

§§ 49.51–49.100 [Reserved]

Subpart C—General Federal Implementation Plan Provisions

SOURCE: 70 FR 18095, Apr. 8, 2005, unless otherwise noted.

FEDERAL IMPLEMENTATION PLAN FOR MANAGING AIR EMISSIONS FROM TRUE MINOR SOURCES IN INDIAN COUNTRY IN THE OIL AND NATURAL GAS PRODUCTION AND NATURAL GAS PROCESSING SEGMENTS OF THE OIL AND NATURAL GAS SECTOR

§ 49.101 Introduction.

(a) *What is the purpose of §§ 49.101 through 49.105*? Sections 49.101 through 49.105 adopt legally and practicably enforceable requirements to control and reduce emissions of volatile organic compounds, nitrogen oxides, sulfur dioxide, particulate matter (PM, PM_{10}, $PM_{2.5}$), hydrogen sulfide, carbon monoxide and various sulfur compounds from new and modified true minor sources in the oil and natural gas production and natural gas processing segments of the oil and natural gas sector.

(b) *Am I subject to §§ 49.101 through 49.105*? You are subject to the requirements if you:

(1) Own or operate a new true minor oil and natural gas source or an existing true minor oil and natural gas source undergoing modification as determined pursuant to § 49.153(a) that meets the criteria specified in paragraphs (b)(1)(i) through (v) of this section. Then you shall comply with the requirements of §§ 49.104 and 49.105, unless you obtain a source-specific permit as specified in paragraph (b)(2) or (3) of this section.

(i) The source is an oil and natural gas source as defined in § 49.102;

(ii) The oil and natural gas source as defined in § 49.102 is located in Indian country as defined in § 49.152(d), within the geographic scope of the Federal Minor New Source Review Program in Indian Country, as specified in § 49.102;

(iii) The oil and natural gas source as defined in § 49.102 is a new true minor source or a minor modification of an existing true minor source, as determined under § 49.153;

(iv) The oil and natural gas source as defined in § 49.102 begins construction or modification on or after October 3, 2016; and

(v) The oil and natural gas source as defined in § 49.102 is not located in a designated nonattainment area.