Dated: May 27, 2014.

Lynn B. Mahaffie,

Senior Director, Policy Coordination, Development, and Accreditation Service, delegated the authority to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2014–12582 Filed 5–29–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–HQ–OAR–2003–0076; FRL–9909–78–OAR]

RIN 2060–AR25

Review of New Sources and Modifications in Indian Country—Amendments to the Federal Indian Country Minor New Source Review Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing final amendments to the federal minor New Source Review (NSR) program in Indian country. We refer to this NSR rule as the ''federal Indian country minor NSR program.'' We are amending this rule in two ways. First, we are expanding the list of emissions units and activities that are exempt from the federal Indian country minor NSR program by adding several types of low-emitting units and activities. Second, we have clarified construction-related terms by defining ''commence construction'' and ''begin construction'' to better reflect the regulatory requirements associated with construction activities. We believe both of these changes will simplify the program, and result in less burdensome implementation without detriment to air quality in Indian country. Finally, we have reconsidered the advance notification period for relocation of a true minor source in response to a petition on the rule from the American Petroleum Institute, the Independent Petroleum Association of America and America's Natural Gas Alliance, but we are not changing that provision.

DATES: The final rule is effective on June 30, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0076. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Nizich, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–3078; fax number (919) 541–5509; email address: *nizich.greg@epa.gov*.

SUPPLEMENTARY INFORMATION: The information in this Supplementary Information section of this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final rule include owners and operators of emission sources in all industry groups planning to locate or located in Indian country. Categories and entities potentially affected by this action are expected to include:

Category	NAICS [a]	Examples of regulated entities
Industry	21111	Oil and Gas Production/Operations.
	211111	Crude Petroleum and Natural Gas Extraction.
	211112	Natural Gas Liquid Extraction.
	212321	Sand and Gravel Mining.
	22111	Electric Power Generation.
	221210	Natural Gas Distribution.
	22132	Sewage Treatment Facilities.
	23899	Sand and Shot Blasting Operations.
	311119	Animal Food Manufacturing.
	3116	Beef Cattle Complex, Slaughter House and Meat Packing Plant.
	321113	Sawmills.

Category	NAICS [a]	Examples of regulated entities
	321212	Softwood Veneer and Plywood Manufacturing.
	32191	Millwork (wood products manufacturing).
	323110	Printing Operations (lithographic).
	324121	Asphalt Hot Mix.
	3251	Chemical Preparation.
	32711	Clay and Ceramics operations (kilns).
	32732	Concrete Batching Plant.
	3279	Fiber Glass Operations.
	331511	Casting Foundry (Iron).
	3323	Fabricated Structural Metal.
	332812	Surface Coating Operations.
	3329	Fabricated Metal Products.
	33311	Machinery Manufacturing.
	33711	Wood Kitchen Cabinet manufacturing.
	42451	Grain Elevator.
	42471	Gasoline Bulk Plant.
	4471	Gasoline Station.
	54171	Professional, Scientific, and Technical Services.
	562212	Solid Waste Landfill.
	72112	Casinos).
	811121	Auto Body Refinishing.
Federal government	924110	Administration of Air and Water Resources and Solid Waste Management Programs.
State/local/tribal government	924110	Administration of Air and Water Resources and Solid Waste Management Programs.

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be subject to the federal Indian country minor NSR program, and therefore potentially affected by this action. To determine whether your facility is affected by this action, you should examine the applicability criteria in 40 CFR 49.151 through 49.161 (i.e., the federal Indian country minor NSR rule). If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final rule will also be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this final rule will be posted in the regulations and standards section of the EPA's NSR home page located at *http://www.epa.gov/nsr*.

C. What acronyms, abbreviations and units are used in this preamble?

The following acronyms, abbreviations and units are used in this preamble:

BACT Best Available Control Technology
CAA or Act Clean Air Act
EPA U.S. Environmental Protection Agency
FARR Federal Air Rule for Indian Reservations
FR Federal Register
GP General Permit
HAPs Hazardous Air Pollutants
HP Horsepower
LAER Lowest Achievable Emission Rate
MMBTU/hr Million British thermal units per hour
NAAQS National Ambient Air Quality Standard(s)
NESHAP National Emission Standards for Hazardous Air Pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
ppm Parts per million
PSD Prevention of Significant Deterioration
PTE Potential to Emit
RFA Regulatory Flexibility Act
SBA Small Business Administration
SIP State Implementation Plan
TIP Tribal Implementation Plan
tpy Tons per year
UMRA Unfunded Mandates Reform Act

II. Purpose

The purpose of this rulemaking is to revise certain provisions in the federal Indian country minor NSR rule [1] (the Rule) to streamline implementation by expanding the list of appropriately exempted units/activities and clarifying language related to source construction. Specifically, we are adding five categories to the list of units/activities that are exempt from the federal Indian country minor NSR rule, and revising another category, because their emissions are deemed insignificant. Listing these categories explicitly for exemptions means that many applicants and reviewing authorities will not need to calculate potential emissions for those activities.

In the Rule, the term ''commence construction'' is used in two different contexts, i.e., the provisions governing construction prohibition, and also the provisions specifying that construction must occur within 18 months of the final permit issuance date. We are clarifying this distinction by adding two separate definitions for those situations: ''begin construction'' and ''commence construction.'' Further, we are replacing ''commence construction'' with ''begin construction'' in certain sections of the regulatory text for consistency with the new definitions. Finally, this rule reaffirms the 30-day advance notification requirement for relocation of true minor sources after reconsideration of this provision.

III. Background

A. What are the general requirements for the minor NSR program in Indian country?

Section 110(a)(2)(C) of the Clean Air Act (Act) requires that every state implementation plan (SIP) include a program to regulate the construction and modification of stationary sources, including a permit program as required in parts C and D of title I of the Act, to ensure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The permitting program for minor sources is addressed

[1] The federal Indian country minor NSR rule is a component of ''Review of New Sources and Modifications in Indian Country,'' Final rule 76 FR 38747 (July 1, 2011) that applies to new and modified minor sources and minor modifications at major sources.

by section 110(a)(2)(C) of the Act, which we commonly refer to as the minor NSR program. A minor source means a source that has a potential to emit (PTE) lower than the major NSR applicability threshold for a particular pollutant as defined in the applicable nonattainment major NSR program or any regulated NSR pollutant with respect to the Prevention of Significant Deterioration (PSD) program.

States must develop minor NSR programs designed to attain and maintain the NAAQS in a manner most suitable for the circumstances of the particular state. The federal requirements for state minor NSR programs are outlined in 40 CFR 51.160 through 51.164. These federal requirements for minor NSR programs are considerably less prescriptive than those for major sources to facilitate the development of programs that best reflect a state's chosen approach to achieving the required result. As a result, the requirements vary substantially across the state minor NSR programs.

Furthermore, sections 301(a) and 301(d)(4) of the Act, as implemented through the Tribal Authority Rule [2] (TAR), provide the EPA with a broad degree of discretion in developing a program to regulate new and modified minor sources in Indian country.

B. What is the Indian country NSR rule?

The ''Review of New Sources and Modifications in Indian country'' (*i.e.,* Indian country NSR rule) final rule was established under the authority of sections 301(a) and (d) of the Act and the TAR and published in the **Federal Register** on July 1, 2011 (76 FR 38748). This rule established a federal implementation plan (FIP) for Indian country that includes two NSR programs for the protection of air resources in Indian country. These two new NSR programs work together with the pre-existing PSD program at 40 CFR 52.21[3] and the title V operating permits program at 40 CFR part 71 [4] to provide a comprehensive permitting program for Indian country to ensure that air quality in Indian country will be protected in the manner intended by the Act.

One regulation created by the Indian country NSR rule, which we refer to as the ''federal Indian country minor NSR rule,'' is codified at 40 CFR 49.151–49.161 and applies to new and modified minor sources and to minor modifications at existing major sources throughout Indian country where there is no EPA-approved plan in place. The second regulation, which we refer to as the ''Indian country nonattainment major NSR rule,'' is codified at 40 CFR 49.166–49.173 and applies to new and modified major sources in areas of Indian country that are designated as not attaining the NAAQS (nonattainment areas). The Indian country NSR rules ensure that Indian country will be protected in the manner intended by the Act by establishing a preconstruction permitting program for new or modified minor sources, minor modifications at major sources, and new major sources and major modifications in nonattainment areas.

Under the federal Indian country minor NSR rule, new minor sources with a PTE equal to or greater than the minor NSR thresholds and modifications at existing minor sources, as well as minor modifications at major sources, with allowable emissions increases equal to or greater than the minor NSR thresholds, must apply for and obtain a minor NSR permit prior to beginning construction of the new source or modification. The effective date of the federal Indian country minor NSR rule was August 30, 2011. To facilitate the effective implementation of the federal Indian country minor NSR program, some components of the rule were phased in. Generally, the applicability of the preconstruction permitting rules to new synthetic minor sources [5] began on the rule's effective date, August 30, 2011; for new or modified true minor sources and minor modifications at major sources,[6] the rule applies beginning the earlier of September 2, 2014, or 6 months after the publication of a final general permit for that source category in the **Federal Register** (40 CFR 49.151(c)(1)(iii)(B)). In addition, existing true minor sources in Indian country were required to register with their reviewing authority by March 1, 2013.

C. What is the status of NSR air quality programs in Indian country?

No tribe is currently administering an EPA-approved PSD program. Therefore, the EPA has been implementing a FIP to issue PSD permits for major sources in attainment areas of Indian country (40 CFR 52.21). There are also no tribes currently administering an EPA-approved nonattainment major NSR program, so the EPA is the reviewing authority under a FIP (40 CFR 49.166 through 49.175). Only a few tribes are administering EPA-approved minor NSR programs. Accordingly, the EPA administers minor NSR programs in most areas of Indian country under a FIP (40 CFR 49.151 through 49.165).

Sections 301(d) and 110(o) of the Act provide eligible tribes the opportunity to develop their own tribal programs and we encourage eligible tribes to develop their own minor and nonattainment major NSR programs, as well as a PSD major source program, for incorporation into tribal implementation plans (TIPs). Tribes may use the tribal NSR FIP program as a model if they choose to develop their own EPA-approved TIPs.

IV. What final action is the EPA taking on amendments to the federal Indian country minor NSR rule?

This section discusses the final amendments to the federal Indian country minor NSR rule and our rationale for those amendments.

A. What additional emissions units and activities are exempted from the federal Indian country minor NSR rule?

This final rule adds five categories (and also expands one category) to the current list of units/activities that are exempt from the existing federal Indian country minor NSR rule. We are adding these units/activities to 40 CFR 49.153(c) because their potential emissions are insignificant and generally well below the minor source thresholds. These additional exemptions will reduce regulatory burden by eliminating the need for applicants and/or permitting agencies to

[2] The TAR is comprised of Subpart A of 40 CFR part 49, which is titled ''Indian Country: Air Quality Planning and Management''.

[3] The PSD program is a preconstruction permitting program that applies to new major stationary sources (major sources) and major modifications in areas attaining the NAAQS, including attainment areas in Indian country.

[4] Title V of the Act requires all new and existing major sources in the United States to obtain and comply with an operating permit that brings together all of the source's applicable requirements under the Act. All states, numerous local areas and one tribe have approved title V permitting programs under the regulations at 40 CFR part 70. The EPA implements the part 71 federal program in Indian country and other areas that are not covered by an approved part 70 program. Currently, one tribe has been delegated authority to assist the EPA with administration of the federal part 71 program.

[5] 40 CFR 49.152 defines ''synthetic minor source'' as a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in section 49.167, section 52.21 or section 71.2 of chapter 40, as applicable, but that has taken a restriction so that its PTE is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

[6] 40 CFR 49.152 defines ''true minor source'' as a source, not including the exempt emissions units and activities listed in section 49.153(c), that emits or has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds in section 49.167 or section 52.21 of Chapter 40, as applicable, but equal to or greater than the minor NSR thresholds in section 49.153, without the need to take an enforceable restriction to reduce its PTE to such levels.

calculate their potential emissions to verify that minor source permitting thresholds are not triggered. Adding these exemption categories fulfills the commitment we made in the preamble to the federal Indian country minor NSR rule (July 1, 2011; 76 FR 38759) to assess whether to add other activities to the list of exempted units/activities.

The following units/activities are being added to the exempt category list under 40 CFR 49.153(c):

- Emergency generators used solely to provide electrical power during power outages: in attainment areas the total site-rated horsepower rating shall be below 1,000; in nonattainment areas classified Serious or lower, the total site-rated horsepower shall be below 500. In areas classified Severe or Extreme, no exemption applies.
- Stationary internal combustion engines with a horsepower rating less than 50.
- Furnaces or boilers used for space heating that use only gaseous fuel with a total maximum heat input (i.e., from all units combined) at or below: in attainment areas, 10 million British thermal units per hour (MMBtu/hr); in nonattainment areas classified as Serious or lower, 5 MMBtu/hr; and in nonattainment areas classified as Severe or Extreme, 2 MMBtu/hr.
- Single family residences and residential buildings with four or fewer dwelling units.
- Air conditioning units used for human comfort that do not exhaust air pollutants to the atmosphere from any manufacturing or other industrial processes.

Also, we are modifying the existing exemption for food preparation, as we proposed, to include the cooking of food by other than wholesale businesses that both cook and sell cooked food. Lastly, we have decided not to finalize the proposed exemption category for forestry and silvicultural activities for the reasons explained under section V below.

B. How are construction-related activities defined for permitting purposes?

This final rule adds definitions for the terms ''begin construction'' and ''commence construction'' with only a minor change to the definitions we proposed. These definitions were proposed to better distinguish those situations where activity is prohibited without a permit from those situations where construction needs to occur within a specified period of time after permit issuance to maintain a valid permit. The only change being made to the proposed definitions in the final rule is that the term ''grading'' is being added to the list of activities that are allowed without a permit within the definition of ''begin construction.'' We discuss this change further under the public comments discussion in section V of this preamble. We are also finalizing the changes we proposed without revision to use ''begin construction,'' rather than ''commence construction,'' in those sections of the federal Indian country minor NSR rule where the regulatory text addresses actions that are prohibited prior to permit issuance. This makes our use of ''commence construction'' more consistent with the EPA's major NSR program, and, thus minimizing any potential confusion.

Also, we are finalizing the revised regulatory text in 40 CFR 49.151(c)(1)(iii)(B) clarifying our intent that true minor sources are not required to obtain a permit unless construction of such source, or modification, occurs on or after the date that is the earlier of 6 months after a final general permit for that specific source category is published in the **Federal Register**, or September 2, 2014.[7]

C. What is the deadline for advance notification to the reviewing authority for a true minor source that is relocating?

We requested public comment on the relocation provision under 40 CFR 49.160(d)(1) that requires the owner/operator of a true minor source to notify the relevant reviewing authority in writing 30 days prior to relocating an existing source. Specifically, we sought comment on possibly reducing the advance notification period from 30 days to as few as 10 days. After reviewing the public comments received on this topic, we have decided to retain the 30-day advance notification period since a clear basis for reducing the notification period was not provided, and because several reasons for retaining the current 30-day period were given. In the process of reviewing the comments addressing the advance notification provision, we did become aware that relocation of individual pieces of equipment, rather than entire sources, can occur often in certain industries, and therefore we provide further discussion addressing those situations in section V of this preamble.

Finally, to better clarify advance notification requirements when a source relocation results in a change in the reviewing authority (e.g., the source moves from a reservation in EPA Region 8 to a reservation in EPA Region 6), we are finalizing the proposed changes to 40 CFR 49.160(d)(1) specifying that a source must notify both the existing and new reviewing authorities in that case.

V. Summary of Significant Comments and Responses

The EPA provided a 60-day review and comment period on this rulemaking, which closed on August 5, 2013. We received seven comment letters (two industry letters, one state/local agency letter, three tribal letters and one private citizen letter) on the proposed amendments. The subsections that follow provide the significant comments and responses. The Response to Comments document that contains a summary of all comments received on the proposed amendments and the responses to those comments, is available in the docket.

A. Emissions Unit and Activity Exemptions

1. Overall Comment on Exemptions

Comment: One state/local commenter appreciates that additional exemptions may be needed; however, the commenter expressed an overall concern (that applies broadly to several of the exemption categories proposed) that the exemptions are inconsistent with their region's air quality rules. The commenter believes that exempting these sources from permitting will provide a competitive advantage to sources in Indian country compared to sources on non-tribal lands.

The commenter cites a specific concern with the competitive advantage issue in light of the EPA's recent proposed ''detachment'' of Morongo Indian country from California's South Coast Air Basin and the lowering of the classification of the Morongo reservation from Extreme to Serious ozone nonattainment (**Note:** the proposed reclassification identified by the commenter was finalized on September 23, 2013 (78 FR 58189)). The commenter states that the Morongo lands are located directly upwind from the Coachella Valley, a Severe ozone nonattainment area, and therefore the commenter is concerned that exempting certain sources from permitting in Indian country will result in negative air quality impacts thereby delaying attainment of the NAAQS in downwind airsheds for both non-tribal lands and certain tribal areas.

[7] The **Federal Register** dated January 14, 2014, proposed to extend the true minor source permitting deadline for oil and natural gas sources between 12 and 18 months after the current deadline of September 2, 2014 (79 FR 2517). This means the true minor source permitting deadline for this category of sources could be extended from between September 2, 2015 and March 2, 2016.

The commenter urges the EPA to adopt requirements specific to areas of Indian country that are classified as either Severe or Extreme ozone nonattainment areas, just as the EPA has adopted lower minor NSR emission thresholds in the existing rule for nonattainment areas as opposed to attainment areas.

Response: Prior to the August 30, 2011, effective date of the federal Indian country minor NSR rule, codified in 40 CFR part 49, promulgated July 1, 2011 (76 FR 38748), there were no emission reduction requirements for new minor sources within areas of Indian country such as the Morongo Reservation. We point this out to highlight that the federal Indian country minor NSR rule has already reduced any potential competitive advantage cited by the commenter by requiring pre-construction permits for sources (with emissions above permitting thresholds) where prior to August 30, 2011, there were no such requirements.

As discussed in the July 1, 2011, final rule, while section 182(e)(2) of the Act specifies an emissions increase threshold of ''0'' tons/year (tpy) for existing major sources in Extreme ozone nonattainment areas, we do not believe these thresholds are appropriate for minor sources and operators within Indian country. Nonetheless, we are mindful of the need to protect the NAAQS and, as discussed later in comment responses related to exemptions for emergency generators and boilers/furnaces, we have made some revisions to the exemption criteria in the final rule amendments.

2. Exemption for Emergency Generators

Comment: One state/local commenter expressed concern with the proposed exemption threshold for emergency generators under 500 horsepower (HP) in nonattainment areas and asserted it would create an imbalance between tribal lands and the surrounding non-tribal areas classified as Severe or Extreme nonattainment for ozone. Air quality regulations that apply to sources within the commenter's jurisdiction specify emission limits for nitrogen oxide (NO_X) and particulate matter (PM) for all engines over 50 HP. The commenter believes engines on tribal lands, which would be exempt from permitting under the EPA's proposed criteria, would emit NO_X in amounts above the 0.8 tpy and 1.8 tpy levels that new and older model engines, respectively, must meet under the state air district's Best Available Control Technology (BACT) requirements. The commenter states that these types of engines are controllable and contribute to ozone and therefore should be subject to NSR permitting.

The commenter also cited a report from the World Health Organization [8] that declared diesel PM to be a human carcinogen. The commenter states that emissions from three standby generators (approximately 900 HP in total) can create cancer risks exceeding 25 in a million, even if operated only 50 hours/year. The commenter elaborates that a 500 HP emergency generator, operating for 500 hours/year, would create even higher risk (than the engines totaling 900 HP in the earlier example) due to its longer operating period, and therefore PM should be controlled from these units and they should be subject to NSR since the EPA's source-specific rules are not applicable to these units.

Response: One of our objectives for proposing activities/units for exemption was to reduce burden on source owners. We believe that emergency generators with horsepower ratings below the exemption thresholds will predominately have emissions below the minor source permitting thresholds and therefore the proposed exemption would potentially save source owners the effort of estimating their emissions solely to demonstrate that emissions are well below the permitting threshold.

However, we also recognize the commenter's concerns regarding the impacts of sources in Indian country to portions of the South Coast Air Basin that are classified Severe or Extreme nonattainment for ozone. We are required by title I of the Act to ensure attainment and maintenance of the NAAQS. Accordingly, after considering the comment, we believe that an exemption for emergency generators is not appropriate in ozone nonattainment areas classified Severe or Extreme, and we have revised exemption language in the final rule accordingly. As finalized, the total site-rated 500 HP exemption for emergency generators in ozone nonattainment areas will only apply in ozone nonattainment areas classified Serious or lower. The site-rated 1,000 HP exemption proposed for attainment areas remains unchanged in this final rule.

3. Exemption for Boilers and Furnaces

Comment: One state/local commenter believes that boilers and/or furnaces below the proposed heat input rates should not be exempt from minor NSR permitting in ozone nonattainment areas classified as Severe or higher because it would provide a competitive advantage to sources locating in Indian country. The commenter explains that the South Coast Air Quality Management District's (SCAQMD) air quality rules require controls for NO_X at levels below the proposed exemption rates of 5 million Btu/hr for nonattainment areas; 10 million Btu/hr for attainment areas. The commenter refers to SCAQMD's NO_X emission limits of 9 ppm for natural gas boilers having heat input rates between 2 million Btu/hr and 5 million Btu/hr to be met by January 1, 2012. In addition to that requirement, natural gas industrial furnaces must meet an emissions limit of 30 ppm (Rule 1147) and NO_X controls for fan-type central furnaces under 175,000 Btu/hr are required as well (Rule 1111). The commenter states that the permitting exemption under Rule 219(b)(2) applies only to boilers and furnaces under 2 million Btu/hr.

Response: We believe the commenter raises a valid concern regarding the potential impacts to portions of the South Coast Air Basin classified as Severe or Extreme ozone nonattainment areas that are adjacent to/downwind from Indian country. In certain cases the proposed exemption could make it more difficult for downwind non-Indian country areas to achieve attainment of the NAAQS, which would be contrary to the requirements of title I of the Act. To minimize the likelihood of this occurring in the areas with higher ozone nonattainment classifications, we are finalizing a lower heat input rate (than the proposed 5 million Btu/hr which would have applied in all nonattainment areas) for Severe and Extreme ozone nonattainment areas. The heat input rate exemption for nonattainment areas in the final rule is specified as follows: for nonattainment areas classified Serious and lower, the exemption rate is heat input rates at or below 5 million Btu/hr; for ozone nonattainment areas classified as Severe or Extreme, the exemption level is a heat input rate at or below 2 million Btu/hr. The heat input rate exemption proposed for attainment areas remains unchanged.

4. Exemption for Forestry/Silvicultural Activities

Comment: One tribal commenter supports this proposed exemption. The commenter states the view that while emissions from road construction and maintenance are of particular concern (**Note:** while the commenter did not specify, we assume the comment is referring to activities related to the proposed exemption category), ''such emissions do not rise to a level requiring their removal from the list of proposed

[8] Press release dated June 12, 2012. *See www.iarc.fr/en/media-centre/pr/2012/pdfs/pr213_E.pdf.*

exemptions.'' The commenter further states that permitting requirements for road construction and maintenance will impact timely repair and maintenance of roads on the commenter's lands. The commenter also mentions that open burning, a potential source of emissions on their lands, is regulated by the Bureau of Indian Affairs. Therefore the commenter believes the proposed exemption for forestry and silvicultural activities is reasonable and will save permitting resources.

One state/local commenter requests that the proposed exemption category be modified or deleted. The commenter voices concern with significant emissions from road construction and maintenance, and logging activities. The commenter also expresses concern with the potential for multiple pieces of equipment to collectively exceed the minor source thresholds, such as engines associated with wood chippers, a consideration the EPA noted in identifying units/activities to propose for exemption (June 4, 2013; 78 FR 33270). The commenter urges the EPA to delete the proposed exemption and instead rely on the attainment and nonattainment area NO_X thresholds (10 tpy and 5 tpy, respectively) to determine when a permit must be obtained. As an alternative, the commenter suggests that specific types of equipment could be exempted instead of the entire category if the EPA determines them to have *de minimis* emissions.

Response: One reason we proposed the forestry/silvicultural category for exemption was to be consistent with the exemptions list in the Federal Air Rule for Indian Reservations, which applies in Indian country in the Northwest. A second reason we proposed this category for exemption was that we believed all emissions within the category would be *de minimis* in nature. Therefore, subjecting them to NSR permitting would provide little environmental benefit. Both commenters express some concern with the emissions associated with forestry and silvicultural activities, and one commenter identifies a situation where emissions could exceed *de minimis* levels.

Upon considering available information, we have concluded that a category-wide exemption is not the most appropriate approach to managing emissions for forestry and silvicultural activities. This conclusion is based on our recognizing the broad range of activities and potential emissions sources that could be part of this category and the potential to inadvertently exclude units with significant emissions. Due to the broad nature of activities under this category, we believe that there might be cases where permitting of certain emission units is needed to protect air quality, which would be precluded under a category-wide exemption. Based on that concern, we believe it is more appropriate to use the emission thresholds in the existing rule (e.g., NO_X: 10 tpy and 5 tpy in attainment and nonattainment areas, respectively) to determine source permitting requirements and not have a broad, category-wide exemption. Therefore the exemption for forestry and silvicultural activities is not included in the final amendments.

B. Definition of Begin Construction

Comment: One industry association commenter notes that the proposed definition of ''begin construction'' lists certain activities that can be conducted before the source has obtained a permit.[9] The commenter states that the list is more restrictive than the Agency's long standing approach to permissible activities. The commenter refers to a policy memo addressing activities allowed without a permit [10] and states that the EPA should not deviate from previously established policies.

Response: We agree with the commenter. Our intent was to include the same list of activities in the proposed definition that have been historically allowed under the EPA policy prior to obtaining a permit. We inadvertently omitted the term ''grading'' from the list in the proposed definition. We have added grading to the activities allowed under the definition of ''begin construction'' in the final rule to maintain consistency with the existing EPA policy.

C. Source Relocation

1. 30-Day Advance Notification Provision

Comment: One tribal commenter believes that at least 30 days notice is warranted for relocation of a non-portable source since a new permit may be required, and, in that case, the permitting authority will need sufficient time to process the application and issue a permit. The commenter elaborates that for a portable source, a 10-day notice requirement may be sufficient since its permit will likely include pre-approved new locations. The commenter agrees with the EPA's interpretation that these time periods apply where an entire source is relocated, noting that relocation of one or more pieces of equipment or emission units requires consultation with the source's reviewing authority to determine if a modification will occur under the federal Indian country minor NSR rule.

Another tribal commenter believes that, based on their permitting experience, in situations where a registered source relocates to a new, previously unapproved location, the permitting authority should have at least 30 days to review the relocation request. The commenter states that this time period is needed for tribal and historic preservation reviews to be performed.

One industry association commenter reiterates comments made in its petition for reconsideration on the July 1, 2011, final federal Indian country minor NSR rule stating that sources often relocate on short notice and occasionally change a previously planned relocation with little advance warning. The commenter states that the 30-day advance notice requirement is incompatible with oil and gas sector operations. In a subsequent teleconference, the commenter clarified that their primary concern involves relocation of one or more pieces of equipment or emissions units and not entire sources.[11] In response to the EPA's request for comment on the notification provision, the commenter agrees with the EPA's statement that there is no requirement for advance approval, or a permit, for a registered source that relocates prior to September 2, 2014. The commenter suggests that, in those cases, there is no need or value to an advance notification as long as the source continues to comply with its permit. The commenter elaborates that there will be sufficient opportunity after relocation to notify the EPA of any change. The commenter offers that one possible approach is the one used under 40 CFR 63.9(j), and could be adopted in the tribal rule.[12] The commenter also references the recently promulgated oil and gas sector

[9] The list we proposed includes the following activities: Engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel.

[10] Memorandum from Reich, Edward E., OAQPS, to DeSpain, Robert R., EPA Region VII, titled ''*Construction Activities Prior to Issuance of a PSD Permit with Respect to ''Begin Actual Construction,''* March 28, 1986.

[11] *See* memorandum titled *Summary of Discussion from the October 23, 2013, Teleconference between API Representatives and the Environmental Protection Agency on Source Relocation under the Tribal Minor NSR Rule.* Nov 13, 2013. Docket number EPA–HQ–OAR–2003–0076–0188.

[12] This section allows sources to submit changes to previously provided information within 15 days after the change occurs.

New Source Performance Standards (NSPS) which allows for a lag time between source startup and the determination of whether controls are required.

Response: We specifically requested comment on the case where the source relocates before September 2, 2014 (i.e., where no permit is required). As discussed in the preamble for the proposed amendments (78 FR 33723), a true minor source that relocates in that situation does not need prior approval from its reviewing authority. The notification provision simply specifies advance notification in that case. However, it was not clear in some tribal comments if they were addressing the situation where relocation occurs before September 2, 2014, or on or after that date, since the need for a permit was mentioned by commenters. For that latter case, as stated in the proposal, a previously unpermitted portable source (e.g., a hot-mix asphalt plant) that relocates on or after September 2, 2014, will be required to obtain a permit prior to relocation, and we believe that any such permit will contain provisions addressing any future relocation. In this case of relocation on/after September 2, 2014, the permit application fulfills the advance notification requirement. In addition, we believe in cases where a permit is required the permitting process addresses the tribal and historic preservation obligations cited by the commenters. Because none of the commenters presented examples of a situation where the 30-day advance notification provision justifies a reduction, we are retaining the 30-day notification period. In the additional discussion below, we are clarifying that the advance notice relocation provision is intended to apply to entire sources and not individual pieces of equipment or emissions units.

2. Permitting Issues Related to Source Relocation

Comment: One industry association commenter referenced the EPA's discussion in the proposed rule preamble addressing permitting obligations for true minor sources that relocate (78 FR 33273). The commenter disagrees with the EPA's statement that a true minor source constructed before September 2, 2014, that relocates after that date will have to obtain a permit. The commenter states that relocation is not tantamount to a modification of such a source and therefore the need for a permit is not triggered. The commenter clarified in a subsequent teleconference [13] that most of the situations addressed in the comments involve relocation or replacement of single pieces of equipment, not entire facilities, in the oil and gas sector.

Further, the commenter disagrees with the EPA's statement in the proposed rule preamble that a true minor source constructed after September 2, 2014, must obtain a permit for the original location and any subsequent relocation not specifically pre-authorized in the original permit. The commenter believes the EPA should clarify that permit conditions listing specific sites for relocation are not required. The commenter states that this approach would be particularly important for general permits where the ability to relocate would have to be based on generic criteria. The commenter believes no other approach would work with a general permit.

Response: The registration program and relocation provisions in 40 CFR 49.160(d)(1) apply to an entire true minor source, and are not applicable to an individual piece of equipment that is merely a part of the true minor source. The registration program is used for developing an inventory of emissions throughout Indian country to help us manage and protect air quality. We understand from the commenter that in oil and gas sector operations moving a single piece of equipment from one facility to another, or replacing a piece of equipment with a new one, can occur on a regular basis. For clarification purposes, we believe it would be beneficial to both sources and reviewing authorities for us to list the different situations involving a piece of equipment (a unit) that we believe will be most common, and specify the outcome with respect to minor NSR permitting. While we have listed expected outcomes below, the source owner/operator should still verify with its reviewing authority that the ''matching'' situation listed below, and its stated outcome, applies to its case:

(1) A unit at a permitted source is replaced ''in kind'' (i.e., the replacement unit is of the same size, capacity, horsepower, etc. as the existing unit)—The owner/operator should notify the reviewing authority as specified in its permit. If the existing permit conditions do not address equipment replacement/relocation, then the source should send a notification letter to its reviewing authority no later than 60 days following replacement of the unit.

(2) A unit at a registered but unpermitted source is replaced in kind—No new notification to the reviewing authority is required since this unit is already part of the inventory.

(3) A unit is moved within the boundary of a permitted or registered source—No new notification to the reviewing authority required, unless otherwise specified in the permit.

(4) A unit planned for addition (i.e., not replacement) at either a permitted or registered source, with PTE above the minor NSR thresholds—The owner/operator of the true minor source must first obtain a minor source permit before installing the unit at the new location beginning on September 2, 2014.[14]

(5) One or more units (with combined PTE between the minor and major source thresholds) that are relocated to an entirely new location (i.e., a greenfield facility)—(a) Prior to September 2, 2014, the owner/operator of the true minor source must register with its reviewing authority within 90 days of beginning operation at the new location in accordance with 40 CFR 49.160(c)(1)(ii); (b) On or after September 2, 2014, the owner/operator of the true minor source must obtain a minor NSR permit from the reviewing authority at the new location before beginning construction.

(6) A unit moved from one registered source to another registered source before the September 2, 2014, permitting deadline—The source must notify the reviewing authority of removal of the unit from the originating source (to update its inventory) and also notify the reviewing authority of the addition of the unit at the destination source within 60 days following the change in location.

3. Other Comments on Permitting

Comment: One industry association commenter states that, in the existing federal Indian country minor NSR rule, true minor sources constructed or modified after August 30, 2011, are required to obtain a permit. The commenter notes that the EPA proposed to revise this applicability date until September 2, 2014, and the commenter supports this change.

Response: We believe the commenter may have misinterpreted the existing requirements within 49.151(c)(1)(iii).

[13] *See* memorandum titled *Summary of Discussion from the October 23, 2013, Teleconference between API Representatives and the Environmental Protection Agency on Source Relocation under the Tribal Minor NSR Rule.* November 13, 2013. Docket number EPA–HQ–OAR–2003–0076–0188.

[14] The EPA published a notice of proposed rulemaking in the **Federal Register** on January 14, 2014 (79 FR 2546). Within that document we asked for comment on extending the true minor source permitting deadline from September 2, 2014, to between September 2, 2015, and March 2, 2016, for oil and natural gas production sources.

Our intent under the existing rule has always been that true minor sources do not need a permit if they begin construction before September 2, 2014. We proposed changes to the regulatory text on June 4, 2013, that are intended to clarify the nature of this deadline. We are finalizing these proposed changes to the regulatory text to make this intent clear.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The action will not create any new requirements under the federal Indian country minor NSR program, but rather will simplify minor source registrations and permit applications for some sources, potentially reducing burden. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations for the federal Indian country minor NSR program (40 CFR 49.151 through 49.161) under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0003. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this final action on small entities, small entity is defined as: (1) A small business as defined in the U.S. Small Business Administration size standards at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final action on small entities, I certify that this final action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect, on all of the small entities subject to the rule.

This final action will not create any new requirements under the federal Indian country minor NSR program, and therefore would not impose any additional burden on any sources (including small entities). This final action will simplify minor source registrations and reduce the burden of applicability determinations for some sources compared to the existing rule, potentially reducing burden for all entities, including small entities. We have therefore concluded that this final rule will be neutral or relieve the regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 for state, local and tribal governments, in the aggregate, or the private sector in any 1 year. This action will not create any new requirements under the federal Indian country minor NSR program, but rather will simplify minor source registrations and reduce the burden of applicability determinations for some sources. Therefore, this action is not subject to the requirements of sections 202 or 205 of UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. As noted previously, the effect of this final rule will be neutral or relieve regulatory burden.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule will revise the federal Indian country minor NSR program, which applies only in Indian country, and will not, therefore, affect the relationship between the national government and the states or the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Subject to the Executive Order 13175 (65 FR 67249, November 9, 2000), the EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments or the EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

The EPA has concluded that this final rule will have tribal implications. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. This final rule will have tribal implications since it revises the federal Indian country minor NSR program, which applies to both tribally-owned and privately-owned sources in Indian country. As with the existing rule, the revised rule will be implemented by the EPA, or a delegate tribal agency assisting the EPA with administration of the rules, until replaced by an EPA-approved tribal implementation plan. The effect of this final rule will be to simplify compliance with, and administration of, the federal Indian country minor NSR program, so any impact on tribes would be in the form of reduced burden and cost.

Prior to proposing the rule amendments, we presented highlights of the expected changes to tribal environmental staff during a conference call with the National Tribal Air Association on February 28, 2013, and

asked for comments. Following signature of the proposed amendments on May 23, 2013, the EPA mailed letters to over 560 tribal leaders to offer consultation. In addition, to help facilitate the tribes' decision concerning our offer of consultation, we held conference calls on June 17 and 20, 2013, with tribal environmental officials where we provided an overview of the proposed changes and answered any questions. We did not receive any requests for consultation from tribal governments. Lastly, we have taken into account the comments submitted from three tribes on the proposed amendments and fully considered those comments in finalizing the amendments in today's rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through the OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, the EPA has not considered the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This final rule will simplify minor source registrations and permit applications for some sources under the federal Indian country minor NSR program, but will not relax control requirements or result in greater emissions under the program.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on the date of publication, *i.e.,* on June 30, 2014.

L. Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by July 29, 2014. Any such judicial review is limited to only those objections that are raised with reasonable specificity in timely comments. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. Under section 307(b)(2) of the Act, the requirements of this final action may not be challenged later in civil or criminal proceedings brought by us to enforce these requirements.

VII. Statutory Authority

The statutory authority for this action is provided by sections 101, 110, 112, 114, 116 and 301 of the CAA as amended (42 U.S.C. 7401, 7410, 7412, 7414, 7416 and 7601).

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practices and procedures, Air pollution control, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 9, 2014.

Gina McCarthy,

EPA Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

■ 1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart C—[Amended]

■ 2. Section 49.151 is amended by revising paragraphs (c)(1)(i)(A), (c)(1)(ii)(A) and (B), (c)(1)(iii)(B), and (d)(1) to read as follows:

§ 49.151 Program overview.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) If you wish to begin construction of a minor modification at an existing major source on or after August 30, 2011, you must obtain a permit pursuant to §§ 49.154 and 49.155 (or a general permit pursuant to § 49.156, if applicable) prior to beginning construction.

* * * * *

(ii) * * *

(A) If you wish to begin construction of a new synthetic minor source and/or

a new synthetic minor HAP source or a modification at an existing synthetic minor source and/or synthetic minor HAP source on or after August 30, 2011, you must obtain a permit pursuant to § 49.158 prior to beginning construction.

(B) If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source, on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 prior to beginning construction.

* * * * *

(iii) * * *

(B) If you wish to begin construction of a new true minor source or a modification at an existing true minor source on or after 6 months from the date of publication in the **Federal Register** of a final general permit for that source category, or September 2, 2014, whichever is earlier, you must first obtain a permit pursuant to §§ 49.154 and 49.155 (or a general permit pursuant to § 49.156, if applicable). The proposed new source or modification will also be subject to the registration requirements of § 49.160, except for sources that are subject to § 49.138.

* * * * *

(d) * * *

(1) If you begin construction of a new source or modification that is subject to this program after the applicable date specified in paragraph (c) of this section without applying for and receiving a permit pursuant to this program, you will be subject to appropriate enforcement action.

* * * * *

■ 3. Section 49.152(d) is amended by adding in alphabetical order definitions for ''Begin construction'' and ''Commence construction'' to read as follows:

§ 49.152 Definitions.

* * * * *

(d) * * *

Begin construction means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. The following preparatory activities are excluded: Engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, grading, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel.

Commence construction means, as applied to a new minor stationary source or minor modification at an existing stationary source subject to this subpart, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(i) Begun on-site activities including, but not limited to, installing building supports and foundations, laying underground piping or erecting/installing permanent storage structures. The following preparatory activities are excluded: Engineering and design planning, geotechnical investigation (surface and subsurface explorations), clearing, grading, surveying, ordering of equipment and materials, storing of equipment or setting up temporary trailers to house construction management or staff and contractor personnel; or

(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

* * * * *

■ 4. Section § 49.153 is amended by:

■ a. Revising paragraphs (a)(3)(ii) and (iii) and (c) introductory text and (c)(3); and

■ b. Adding paragraphs (c)(8) through (12) to read as follows:

§ 49.153 Applicability.

(a) * * *

(3) * * *

(ii) If you wish to begin construction of a new synthetic minor source and/or a new synthetic minor HAP source or a modification at an existing synthetic minor source and/or synthetic minor HAP source, on or after August 30, 2011, you must obtain a permit pursuant to § 49.158 prior to beginning construction.

(iii) If you own or operate a synthetic minor source or synthetic minor HAP source that was established prior to the effective date of this rule (that is, prior to August 30, 2011) pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 prior to beginning construction.

* * * * *

(c) *What emissions units and activities are exempt from this program?* At a source that is otherwise subject to this program, this program does not apply to the following emissions units and activities that are listed in paragraphs (c)(1) through (12) of this section:

* * * * *

(3) Cooking of food, except for wholesale businesses that both cook and sell cooked food.

* * * * *

(8) Single family residences and residential buildings with four or fewer dwelling units.

(9) Emergency generators, designed solely for the purpose of providing electrical power during power outages:

(i) In nonattainment areas classified as serious or lower, the total maximum manufacturer's site-rated horsepower of all units shall be below 500;

(ii) In attainment areas, the total maximum manufacturer's site-rated horsepower of all units shall be below 1,000.

(10) Stationary internal combustion engines with a manufacturer's site-rated horsepower of less than 50.

(11) Furnaces or boilers used for space heating that use only gaseous fuel, with a total maximum heat input (i.e., from all units combined) of:

(i) In nonattainment areas classified as Serious or lower, 5 million British thermal units per hour (MMBtu/hr) or less;

(ii) In nonattainment areas classified as Severe or Extreme, 2 million British thermal units per hour (MMBtu/hr) or less;

(iii) In attainment areas, 10 MMBtu/hr or less.

(12) Air conditioning units used for human comfort that do not exhaust air pollutants in the atmosphere from any manufacturing or other industrial processes.

* * * * *

■ 5. Section 49.158 is amended by revising paragraph (c)(1) to read as follows:

§ 49.158 Synthetic minor source permits.

* * * * *

(c) * * *

(1) If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 before you begin construction.

* * * * *

■ 6. Section 49.160 is amended by revising paragraph (d)(1) to read as follows:

§ 49.160 Registration program for minor sources in Indian country.

* * * * *

(d) * * *

(1) *Report of relocation.* After your source has been registered, you must report any relocation of your source to the reviewing authority in writing no later than 30 days prior to the relocation of the source. Unless otherwise specified in an existing permit, a report of relocation shall be provided as specified in paragraph (d)(1)(i) or (ii) of this section, as applicable. In either case, the permit application for the new location satisfies the report of relocation requirement.

(i) Where the relocation results in a change in the reviewing authority for your source, you must submit a report of relocation to the current reviewing authority and a permit application to the new reviewing authority.

(ii) Where the reviewing authority remains the same, a report of relocation is fulfilled through the permit application for the new location.

* * * * *

[FR Doc. 2014–11499 Filed 5–29–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2014–0182; FRL–9911–56–Region 2]

Approval and Promulgation of Implementation Plans; Carbon Monoxide Maintenance Plan, Conformity Budgets, Emissions Inventories; State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the New York State Department of Environmental Conservation. This revision establishes an updated ten-year carbon monoxide (CO) maintenance plan for the New York portion of the New York-Northern New Jersey-Long Island (NYCMA) CO area which includes the following seven counties: Bronx, Kings, Nassau, New York, Queens, Richmond and Westchester. In addition, EPA is approving a revision to the CO motor vehicle emissions budgets for New York and revisions to the 2007 Attainment/Base Year emissions inventory.

The New York portion of the NYCMA CO area was redesignated to attainment of the CO National Ambient Air Quality Standard (NAAQS) on April 19, 2002 and maintenance plans were also approved at that time. By this action, EPA is approving the second maintenance plan for this area because it provides for continued attainment for an additional ten years of the CO NAAQS. The intended effect of this rulemaking is to approve a SIP revision that will insure continued maintenance of the CO NAAQS.

DATES: *Effective Date:* This rule is effective on June 30, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2014–0182. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Programs Branch, Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007–1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212–637–4249.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's final action, please contact Henry Feingersh, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone number (212) 637–3382, fax number (212) 637–3901, email *feingersh.henry@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

EPA is approving New York's SIP revision updating their existing ten-year carbon monoxide (CO) maintenance plan with another ten-year plan for the New York portion of the New York-Northern New Jersey-Long Island (NYCMA) CO area which includes the following seven counties: Bronx, Kings, Nassau, New York, Queens, Richmond and Westchester. The reader is referred to the March 25, 2014 (79 FR 16265) proposal for details on this rulemaking.

II. What comments did EPA receive on its proposal and what are EPA's responses?

EPA received one comment that supports our proposed approval of the updated CO maintenance plan. EPA is approving the New York SIP revision request.

III. What is EPA's final action?

EPA is approving New York's SIP revision updating their existing ten-year CO maintenance plan for the New York portion of the New York-Northern New Jersey-Long Island (NYCMA) CO area. EPA is also approving the 2007 CO base year emissions inventory and the CO motor vehicle emissions budgets all dated May 9, 2013.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose