

requirements, including control technology requirements, based on the specific circumstances of the source.

(3) If your existing synthetic minor source and/or synthetic minor HAP source was established through a mechanism other than those described in paragraphs (c)(1) and (c)(2) of this section, you must submit an application for a synthetic minor source permit under this program by September 4, 2012, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section.

(4) If you are required to obtain a synthetic minor source permit under this program for your existing synthetic minor source and/or synthetic minor HAP source, the following provisions apply:

(i) After submitting your synthetic minor source permit application, you must respond in a timely manner to any requests from the reviewing authority for additional information.

(ii) Provided that you submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) and any requested additional information as required in paragraph (c)(4)(i) of this section, your source will continue to be considered a synthetic minor source or synthetic minor HAP source (as applicable) until your synthetic minor source permit under this program has been issued. Issuance of your synthetic minor source permit under this program will be in accordance with the applicable requirements in §§ 49.154 and 49.155 and all other provisions under this section.

(iii) Should you fail to submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) or any requested additional information as required in paragraph (c)(4)(i) of this section, your source will no longer be considered a synthetic minor source or synthetic minor HAP source (as applicable) and will become subject to all requirements for major sources. In the case of sources subject to section (c)(2)(iii) of this section, the renewed part 71 permit will not contain enforceable emissions limitations and instead will include applicable major source requirements.

[76 FR 38788, July 1, 2011, as amended at 79 FR 31044, May 30, 2014]

§ 49.159 Final permit issuance and administrative and judicial review.

(a) *How will final action occur and when will my permit become effective?* After decision on a permit, the reviewing authority must notify you of the decision, in writing and if the permit is denied, of the reasons for such denial and the procedures for appeal. The reviewing authority must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials according to 49.157(b)(1), for synthetic minor sources and minor modifications at major sources and according to one or more of the provisions in § 49.157(b)(1)(ii)(A)–(E) for site-specific permits. A final permit becomes effective 30 days after service of notice of the final permit decision, unless:

(1) A later effective date is specified in the permit or

(2) Review of the final permit is requested under paragraph (d) of this section (in which case the specific terms and conditions of the permit that are the subject of the request for review must be stayed) or

(3) The reviewing authority may make the permit effective immediately upon issuance if no comments requested a change in the draft permit or a denial of the permit.

(b) *For how long will the reviewing authority retain my permit-related records?* The records, including any required applications for each draft and final permit or application for permit revision, must be kept by the reviewing authority for not less than 5 years.

(c) *What is the administrative record for each final permit?*

(1) The reviewing authority must base final permit decisions on an administrative record consisting of:

(i) The application and any supporting data furnished by you, the permit applicant;

(ii) The draft permit or notice of intent to deny the application;

(iii) Other documents in the supporting files for the draft permit that were relied upon in the decision-making;

(iv) All comments received during the public comment period, including any extension or reopening;

(v) The tape or transcript of any hearing(s) held;

(vi) Any written material submitted at such a hearing;

(vii) Any new materials placed in the record as a result of the reviewing authority's evaluation of public comments;

(viii) The final permit and

(ix) Other documents in the supporting files for the final permit that were relied upon in the decision-making.

(2) The additional documents required under paragraph (c)(1) of this section should be added to the record as soon as possible after their receipt or preparation by the reviewing authority. The record must be complete on the date the final permit is issued.

(3) Material readily available or published materials that are generally available and that are included in the administrative record under the standards of paragraph (c)(1) of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in that file.

(d) *Can permit decisions be appealed?*

(1) Permit decisions may be appealed under the permit appeal procedures of 40 CFR 124.19.

(2) An appeal under paragraph (d)(1) of this section is, under section 307(b) of the Act, a prerequisite to seeking judicial review of the final agency action.

(e) *Can my permit be reopened?* The reviewing authority may reopen an existing, currently-in-effect permit for cause on its own initiative, such as if it contains a material mistake or fails to assure compliance with applicable requirements. However, except for those permit reopenings that do not increase the emissions limitations in the permit, such as permit reopenings that correct typographical, calculation and other errors, all other permit reopenings shall be carried out after the opportunity of public notice and comment and in accordance with one or more of the public participation requirements under § 49.157(b)(1)(ii).

(f) *What is an administrative permit revision?* The following provisions govern administrative permit revisions.

(1) An administrative permit revision is a permit revision that makes any of the following changes:

(i) Corrects typographical errors.

(ii) Identifies a change in the name, address or phone number of any person identified in the permit or provides a similar minor administrative change at the source.

(iii) Requires more frequent monitoring or reporting by the permittee.

(iv) Allows for a change in ownership or operational control of a source where the reviewing authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittee has been submitted to the reviewing authority.

(v) Establishes an increase in an emissions unit's annual allowable emissions limit for a regulated NSR pollutant, when the action that necessitates such increase is not otherwise subject to review under major NSR or under this program.

(vi) Incorporates any other type of change that the reviewing authority has determined to be similar to those in paragraphs (f)(1)(i) through (v) of this section.

(2) An administrative permit revision is not subject to the permit application, issuance, public participation or administrative and judicial review requirements of this program.

[76 FR 38788, July 1, 2011, as amended at 85 FR 51656, Aug. 21, 2020]

§ 49.160 Registration program for minor sources in Indian country.

(a) *Does this section apply to my source?* This section applies to you if you are the owner/operator of a true minor source.

(b) *What is exempted from this section?* The exemptions in paragraphs (b)(1) and (b)(2) of this section apply to the registration program of this section.

(1) You are exempt from this registration program if any of the following paragraphs applies to your source: