

Attachment
Section - 7:
Education, Training,
and Resources



STATEMENT OF TRIBAL CAPACITY

[Date]

Prepared by: [Tribal contact]

For: [EPA Contact, Region, Division]

The [Tribe] believes that it has the capacity to effectively administer a tribal air program as described in the Code of Federal Regulations, Section 40, Parts 9,35,49,50, and 81 based on the following information:

I. Previous and Present Management Experience

The [Tribe] has the capability to develop and administer an effective air quality management program, as demonstrated by its existing administrative experience. The [Tribe] currently manages a wide range of programs, including the management of its two Casinos, and employs nearly 1,500 people. The programs managed by the [Tribe] are authorized by the Indian Self-Determination and Education Assistance Act, the Indian Mineral Development Act, and the Indian Sanitation Facility Construction Activity Act. Examples include:

1. Health
2. Education
3. Resource Management
4. Housing
5. Planning

II. Environmental/Public Health Programs

A. The [Tribe] has established the following committees to oversee public health and welfare concerns:

1. Human Services Advisory Board – The role of this group is to address the public health and welfare of the general population of the Reservation.
2. Senior Advisory Council – The role of this group is to advise the [Tribe], the governing body for the Reservation, on issues related to the senior programs.
3. Housing Committee – This group oversees the administrative operations of the [Tribe] Housing Program.
4. Land Use Committee – The Land Use Committee oversees the purchasing, use, and management issues described in the "By Laws of the [Tribe] Land Use Committee, [Tribe Ordinance # ...] (Attachment A).
5. Conservation Committee – The role of this group is to address the fish and wildlife, forestry and mining resources of the Reservation.
6. The Ceded Territory Committee – The role of this committee is to address the fish and wildlife, forestry and mining resources in the Ceded Territories.

B. In addition, the [Tribe] has established the following organizational management units to implement on-going federal, state, and tribal programs concerning the health and environment of the Reservation. See Attachment C for updated organizational chart

1. Health – The Health Division oversees programs related to the health and welfare of the [Tribe]. These include services related to medical, social, and mental well-being. Attachment B is a map showing the [Tribe] health care service area.
2. Education – The Education Division is responsible for programs that pertain to the educational needs of individuals from birth to post-graduate. The [Tribe] operates a Headstart program and a K-12 school. Scholarships are awarded to students meeting academic standards and wishing to continue their education.

3. **Resource Management** – Resource Management Programs are for the protection and conservation of the natural resources and environment of the [Tribe]. Programs included in the resource Management Division are: Forest Management, Environmental, Natural Resources, Conservation, Ceded Territory Conservation, and Police Protection.
4. **Housing** – The Housing Division is charged with meeting the housing needs of band members living on the Reservation. This assignment also includes programs that are geared toward providing a safe environment and activities for the children that live in the housing developments.
5. **Planning** – The Planning Division assists other divisions in preparing grant applications and have written grants to enhance the infrastructure of the Reservation. These projects include funding assistance to bring city water and sewer to Tribal buildings and Community Centers in Housing areas.

III. Executive, Legal, and Judicial

As described above, the [Tribe] has a government consisting of three branches: The Executive, consisting of the Reservation Business Committee and the tribal police; The Legal, consisting of a Tribal Attorney; and the Judicial, consisting of the Tribal Court System.

IV. Administrative Agency

The [Tribe] will be the administrative agency in developing and administering the air program. The Environmental Program lies within the Resource Management Division and is headed by the Environmental Program Manager who provides grant and program oversight. The Environmental Program consists of an Office of Water Protection, a Wetland Preservation Specialist, a Pollution Prevention Specialist, an Air Technician, and an Environmental Specialist. (See Attachment D for Environmental Program Organizational Chart.)

V. Technical and Administrative Capabilities

A. Technical

All staff within the Environmental Program have, at the least, a Bachelor of Science degree from an accredited college. The Air Technician and The Director of the Office of Water Protection have master's degrees. The [Tribe] Division of Resource Management and the Environmental Program have consistently hired exceptional applicants to fill the program positions.

In particular relation to the air program, our Air Quality Technician has valuable prior experience in the air pollution control field, both with state agencies and in private consulting. She has done Title V and new source permitting work, and has been involved both in writing permit applications and in issuing permits. Through this work, she has visited several types of industrial sites, and has been exposed to permitting activities, air pollution modeling procedures, and enforcement activities.

At the [Tribe] Environmental Program, all environmental staff members are encouraged to take appropriate training courses and attend important environmental conferences that pertain to their field of expertise.

B. Administrative

Oversight of all environmental programs is provided by the Environmental Program Manager in conjunction with the Resource Management Director. The Environmental Program Manager has valuable prior experience in managing grants. The [Tribe] provides oversight by approving grant resolutions and supplying support staff for financial, legal, computer, and human resource management matters.

SAMPLE TRIBAL RESOLUTION TO COMPLY WITH TRIBAL IMPLEMENTATION PLAN

[Tribe Letterhead]

[Tribe] Tribal Council Resolution

Tribal Implementation Plan

- WHEREAS, the [Tribe] Tribal Council is the duly recognized governing body of the [Tribe]; and,
- WHEREAS, the [Tribe] Tribal Council is responsible for the health, safety, education and welfare of all community members; and,
- WHEREAS, the authority, responsibility, and jurisdiction of the Tribal Council to protect air resources on Tribal Lands is derived from the Tribe's sovereign rights as the Aboriginal owners and guardians of their lands and waters and has been recognized by Federal Indian Policy; and
- WHEREAS, the Tribal Council has determined that the [Tribe] Environment Division shall have primary responsibility for administering an air program which monitors and regulates Tribal air quality, subject to review and approval by the Tribal Council in accordance with Tribal law; and,
- WHEREAS, the [Tribe] Environmental Division has identified the need to implement controls over the air quality on Tribal lands; and,
- WHEREAS, the Tribal Council has reviewed the proposed "Tribal Implementation Plan" drafted by the [Tribe] Environment Division

THEREFORE BE IT RESOLVED THAT, the [Tribe] hereby approves and makes part of Tribal law, the "Tribal Implementation Plan" submitted by the [Tribe] Environment Division; and

BE IT FURTHER RESOLVED THAT, all Tribal agencies, including but not limited to the Tribal Police Force, will be provided with copies of the Tribal Implementation Plan submitted by the [Tribe] Environment Division; and will assist in the compliance with and whenever applicable, the enforcement of the Tribal Implementation Plan in accordance with applicable law.

[Tribe] Tribal Council

[Signature of Tribal Chief/Chairperson]

[Name of Tribal Chief]

Certification: This is to certify that the above resolution was duly passed by the [Tribe] Tribal Council pursuant to the Authority rested therein.

[Signature of Tribal Clerk]

[Date]

[Name of Tribal Clerk]

SAMPLE TRIBAL RESOLUTION

[Tribal Letterhead]
[Tribe] Tribal Council
Resolution No. 89-19

A RESOLUTION OF THE [TRIBE] TRIBAL COUNCIL ADOPTING AMBIENT STANDARDS FOR PCBs ON THE [TRIBE] RESERVATION.

- WHEREAS, the [Tribe], a federally recognized Indian Government, in conjunction with the [Tribe] Nation Council of the xxxxxx Confederacy, and the [Tribe] Council of xxxxxx, comprise part of the independent sovereign [Tribe] Indian Nation. The [Tribe] Nation has existed since time immemorial as the aboriginal people who are the custodians and guardians of their air, lands, surface waters, ground waters, and living resources, and;
- WHEREAS, the Tribal Council of the [Tribe] is empowered by the people to act as the governing body of the [Tribe] within the borders of the United States of America and is authorized to act on the Tribe's behalf to enhance Tribal culture, maintain law and order, protect health and welfare, and preserve the living and non-living resources of xxxxxx, and;
- WHEREAS, the Tribal Council is authorized to protect these interests and values for the next seven generations of Tribal members through the enactment of ordinances, adoption of resolutions, negotiation of intergovernmental agreements, development of studies, and such further actions as may be necessary to protect public health, the environment and the resources upon which the Tribe relies, and;
- WHEREAS, the [Tribe] has a primary interest in protecting the health and welfare of all people who reside or do business on the [Tribe] Reservation and in preserving the quality of the Reservation Environment. The natural resources, including the Tribe's fishing and hunting rights, habitat values, and waters, are integral components of the Tribe's economic, social, cultural and spiritual life, and;
- WHEREAS, the Tribal Council is aware that activities taking place on and off the [Tribe] Reservation may impair human health and adversely affect Tribal resources and values, and has determined that it is in the Tribe's best interest to coordinate development, implementation and enforcement of the Tribe's environmental regulatory programs with the U.S. Environmental Protection Agency (EPA), the State of [State] and other interested public and private entities, and;
- WHEREAS, the Tribal Council has determined that exercise of the Tribe's legislative authority is necessary to Protect the health, welfare and resources of the people of [Tribe], and in support of such proposed legislation has directed the Environmental Program Department to gather and review data regarding Polychlorinated Biphenyls (PCBs); consult with EPA, the State of [State] and other experts; and conduct public meeting and;
- WHEREAS, the Tribal Council has been advised that on August 27, 1989, EPA published Interim Guidance on Compliance with other applicable or Relevant and Appropriate Requirements (ARARs) (52 Fed. Reg. 32496), which acknowledges EPA's obligation to comply with local environmental quality standards in Superfund clean-up actions, and the council has been further advised that on August 4, 1988, EPA published Revised Draft Guidance on Indian Involvement in the Superfund Program (OSWER Directive No. 9375. 1-10, at 11), which further recognized EPA's obligation to consider Tribal ARARs on the same basis as those of states. The council is also aware that EPA's recognition of the Tribal ARARs is further demonstrated in the proposed changes to the National Contingency Plan, 53 Fed. Reg. 51395, (December 21, 1988).

NOW, THEREFORE, BE IT RESOLVED, that we the [Tribe] hereby declare that upon enactment of this resolution it shall be the policy of the Tribe that no further degradation of the environment which comprises

the [Tribe] shall occur, moreover, it is the further policy of the [Tribe], and be free to consume fish, plants, and other wildlife free of contamination, as they have in the past, and in furtherance of these policies, the Tribal Council, and its subordinate agencies, shall do the within their power to maintain, enhance and restore the quality of the Reservation Environment so that the fish, plants and other wildlife as well as the air, soils, surface water, and ground waters are free from contamination and suitable for eating, drinking, swimming, religious and ceremonial use, and;

BE IT FURTHER RESOLVED, that we, the Tribal Council of the [Tribe] in furtherance of these policies, do on this date, hereby promulgate the enact of the following PCB ambient levels and PCB clean-up standards into Tribal law

The clean-up standards for PCBs found in or upon the solid, lands, vegetation, air, sediment, surface waters or ground waters of the [Tribe] shall not exceed: A) the current background level of PCBs for areas where the level of PCB contamination is less than the numerical PCBs levels set forth below; or B) the concentrations set forth below where the current level of PCB contamination exceeds these standards:

Media	PCB Level
Sediments	.1 Parts per million
For Soils	1 parts per million
For Surface Waters	1 parts per trillion
For Ground Waters	10 parts per trillion
For Air	5 nanograms per cubic foot

BE IT FINALLY RESOLVED, that we the Tribal Council of the [Tribe], in furtherance of our government-to-government relationship with the EPA, hereby request that EPA act in accordance with the applicable law and policy, and take such action as may be necessary to protect and further the interests of the [Tribe] as set forth in this Resolution, and that EPA take immediate action to:

- Acknowledge the Tribe's authority as a sovereign government to establish ARAs to protect human health and the quality of the Reservation Environment, and that EPA further acknowledge that Federal Superfund clean-up actions, shall be carried out in a manner consistent with the applicable ARAs, including those ARARs promulgated or enacted by the [Tribe] and those relevant and appropriate goals of environmental protection as set forth herein, and ;
- Acknowledge the governmental, property and aboriginal rights of the [Tribe] inclusive of the Tribe fishery resources, reserved water, and environmental quality rights and affirm EPA's commitment to protect, restore and enhance these important fishery and habitat values;
- Acknowledge the continuing role of the Tribe in working with RPA and other Federal and State agencies with regard to: (1) remediation; (2) natural resources damage assessment; and (3) adoption of Tribal ARARs as the Federal PCB clean-up standards.

[Tribe]

[Chairperson/Chief Signature] _____

[Chairperson/Chief Name]

Certification

I, _____, hereby certify that above Resolution was duly enacted by the [Tribe] on the [Day] of [Month], [Year]; a quorum being present, with a vote of [Number of people for] for [Number of people against] against.

[Tribal Clerk Signature] _____
Tribal Clerk

SAMPLE TRIBAL RESOLUTION FOR ELIGIBILITY DETERMINATION (TAS)

**NAME OF TRIBE
ADDRESS**

RESOLUTION #

A RESOLUTION SUPPORTING THE (NAME OF TRIBE) REQUEST FOR AN ELIGIBILITY DETERMINATION FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA) TO IMPLEMENT CLEAN AIR ACT PROGRAMS, ALSO KNOW AS TREATMENT AS A STATE (TAS), UNDER THE FEDERAL CLEAN AIR ACT.

WHEREAS, the (name of Tribe/Council) is the governing body of the (name of Tribe/Community); and

WHEREAS, the Council, pursuant to (Article/Section) of the (name of Tribe) Constitution and Bylaws of (date), may act to protect the health, peace, morals, education, and general welfare of the Community and its members; and

WHEREAS, the Community has jurisdiction and sovereignty over more than (# acres) and has inherent authority to control use and protection of its natural resources; and

WHEREAS, the quality of ambient outdoor air as well as the manner in which it is protected, are important to the health and economic well-being of the Community; and

WHEREAS, the Congress of the United States recognized Tribal authorities in Sections 110(o) and 310(d) of the Clean Air Act and the Environmental Protection Agency (EPA) established the Tribal Clean Air Act Authority, codified as Title 40, Part 49 of the *Code of Federal Regulations*; and

WHEREAS, Title 40, Part 49 of the *Code of Federal Regulations*, provides a process through which eligible Indian Nations may be treated in the same manner as States and have the same rights and responsibilities as States under the Clean air Act; and

WHEREAS, approval by the EPA of this request for an eligibility determination to implement Clean Air Act programs will establish the legal foundation necessary to implement the (name of the Tribe's air quality program); and

WHEREAS, the Community regulates these activities as permitted under *Montana v. United States*, 450 U.S. 544 (1981), which extends the authority of the Community to regulate activities of non-members; and

WHEREAS, the Community Council has determined that it is in the best interest of the Community to seek eligibility to be treated as a State by the EPA for purposes of implementing the Clean Air Act.

SAMPLE TRIBAL REQUEST FOR APPROVAL OF TRIBAL IMPLEMENTATION PLAN

[TRIBE] Environmental Program

Proposal to Air and Radiation Division, Region V, USEPA

[TRIBE] Air Program Development, Request for Approval of Tribal Implementation Plan

Prepared by [NAME], [TITLE]

[DATE]

Introduction:

The [TRIBE] is situated [location]. There are [ACRES] acres of land within the exterior boundaries of the Reservation, including [ACRES] acres of forested land, plus approximately [ACRES] acres of wetlands.

There are [#] bodies of water, totaling [#] acres, which approximately [#] acres are wild rice waters. Wild rice waters indicate good water quality and provide excellent wildlife habitat, along with a very important traditional food resource. The reservation also contains 96 miles of rivers and streams. The St. Louis River, the largest tributary to Lake Superior on the U.S. side, drains approximately 90 % of the Reservation and comprises the entire northern and most of the eastern boundary.

The [TRIBE] has predominant populations of white tail deer, black bear, ruffed grouse and various species of waterfowl. It is also home to animals as river otter, pine marten, fisher, moose, gray wolf, bald eagle, osprey, great grey owl, and northern boreal owl. There are [#] enrolled tribal members, with a Band member reservation population of [#]. A substantial number of non-tribal members also reside on the Reservation, bringing the total reservation population to 3,728 persons. The reservation provides an environment for the cultural and spiritual well-being of the [TRIBE], as well as hunting, fishing, trapping, and gathering which are, in general, of greater importance to the Indian people than to the general public.

Due to its proximity to [Nearby cities/towns] areas, the [TRIBE] is potentially exposed to pollutants that are emitted from industrial sources. Deposition of mercury from industrial sources, leading to bio-accumulation in the food chain, is a major concern. [City] has a large paper mill, a gymnasium facility, and other manufacturing sources. The [CITY] contains a paper mill oil refinery, a foundry, electric utilities, wood processing plants and thee rail and ship transport of coal, grain, and taconite. In addition, a compressor station for natural gas transmission line, with four gas-fired turbines, is located directly on the Reservation.

Tribal Implementation Plan

History:

In the 1990 amendments of the Clean Air Act, Congress authorized the United States Environmental Protection Agency (EPA) to treat tribes in manners as states for purposes of administering federal air quality programs on the reservation and other lands where the tribe exercises jurisdiction, and for receipt

of federal contract and grant assistance. In response to this authorization, the EPA has issued in the Federal Register final rules (effective March 16, 1998) further outlining the Tribal Authority Rule (TAR) program.

Scope:

Through issuance of these rules, the EPA recognizes broad tribal authority to regulate air quality over all lands in Indian country, including fee land owned by non-Indians. The EPA also acknowledges that tribes, like states, possess sovereign immunity from suit without their consent. Therefore while tribes will be required established some form of process by which tribal actions and decisions may be reviewed by an independent tribal entity, the EPA will not seek waivers of tribal sovereign immunity.

In recognition of the limited financial resources of many tribes, the rule authorizes tribes to submit CAA programs, but does not require them to do so. Additionally, the EPA has expressed its intent to provide such assistance as is required on those reservations where the tribe is not able to assume regulatory authority. The "modular approach" expressed in the rule means that tribes may choose to administer only certain parts of the air program, due to financial or staffing constraints. In these instances, the EPA will assume responsibility for the remaining portions of the tribal air program. Finally, the EPA will assume responsibility for the remaining portions of the tribal air programs. Finally, the EPA will provide financial assistance to tribes that establish eligibility under the TAR for support of air pollution planning and control programs. Such federal assistance will require a tribal match of five percent, with the possibility of a waiver for financial hardship. After two years, the EPA may raise this matching requirement to ten percent, based on the financial status of the tribe.

In this document, [TRIBE] is officially applying under the Tribal Authority Rule for authority under Section 505(a)(2) of the Clean Air Act (CAA) to be treated as an "affected state" under the provisions given there. Section 505(a) (2) provides that a state issuing an air pollution permit shall notify States within a 50-mile radius of the facility being permitted and provide the potentially affected States with an opportunity to submit written recommendations. If any part of those recommendations is not accepted by the State issuing the permit, the State shall notify the affected and the EPA Administrator in writing and identify the reasons for its action. Under this authority, [TRIBE] will be entitled to notification by any state issuing permits for sources within 50 miles of the Reservation. Also, under Section 505(1) (2), [TRIBE] will have an opportunity to provide recommendations to these states and must be notified should the states decide not to accept any of those recommendations.

Additionally, [TRIBE] is officially applying to receive funding for its air quality program under Section 105 of CAA. Section 105 provides for grants to support ongoing air pollution planning and control programs. This will replace [TRIBE]'s current Section 103 fell Section 105 funding is more appropriate to [TRIBE] air quality program, which has progressed from its pilot stage to a viable, ongoing program.

Application Requirements:

In order to be deemed eligible for these authorities, "a tribe must submit a treatment as a state" request to the EPA. In this document, the tribe must show that it meets the four eligibility criteria of the Clean Air Act. These criteria state that a tribe must: be recognized by the U.S. Secretary of the Interior; have a

governing body that is currently carrying out substantial governmental duties and functions; intend to manage and protect the air resources within the exterior boundaries of its reservation, or other areas within the tribe's jurisdiction and; demonstrate capacity to administer the Clean Air Act program document hereby serves to demonstrate that the [TRIBE] meets these four criteria and has therefore established eligibility under the Tribal Authority Rule.

1) Recognition by the U.S. Secretary of the Interior

The tribe is demonstrating that it has been recognized by the U.S. Secretary of the Interior through the attached document prepared by [TRIBE]'s Legal Counsel.

2) Tribal Governing Body

The following paragraphs describe the three branches of government currently in place on the Reservation:

A. Executive

The [TRIBE] Business Committee is the governing body of the Reservation. The RBC consists of five elected [TRIBE] members. The [TRIBE] Chairman serves as the principal officer of the Reservation. The Chairman serves as the principal officer of the Reservation, with full authority to enter into duly approved contracts and agreements on behalf of the [TRIBE]. The rest of the Council consists of a Secretary/Treasurer, and representatives from the districts on the Reservation. The business committee has the authority to approve or disapprove resolutions and budgets for the [TRIBE], and may authorize the Committee Chairman to enter into contracts and agreements on behalf of the [TRIBE].

B. Legal

The [TRIBE] employs a Tribal Attorney who advises the Business Committee on all matters concerning jurisdiction, sovereignty, and environmental law.

C. Judicial

The [TRIBE] has a Tribal Civil Court, which was established in the early 1970's by the Business Committee. This court has the authority to adjudicate all matters arising under any of the ordinances developed by the Reservation programs. The Tribal Civil Court consists of a Judge, Prosecuting Attorney, Court Administrator, and Court Recorder. Court is held once a month on the Reservation.

3) Intent to Manage and Protect Air Resources

The [TRIBE] has in the past demonstrated its interest in managing and protecting the environmental resources on the Reservation by taking a pro-active approach in pursuing the financial and technical means to establish Reservation environmental programs. The [TRIBE] intends to manage Reservation air resources in such a way as to protect the health of its members, and also to protect the Reservation's environment from any detrimental effects that may occur due to air-borne pollution. Due to the potential sensitivity of the children and

the elderly living on the reservation and in light of the fact that fishing and hunting provide a substantial portion of the food eaten by those living on the Reservation, the [TRIBE] believes that it has a greater interest in protecting its natural resources than many non-Native populations do.

The Reservation has been “checker boarded” over the years, so that much of the land within the external boundaries of the Reservation is not owned by the Band or by Band members. However, it is evident that since air pollutants discharged on fee lands can be easily transported to other areas within the external Reservation boundaries, they may have serious and substantial effects on the health and well-being of Band members. Potential sources of air emissions from fee lands can be easily transported to other areas within the external Reservation boundaries; they may have serious and substantial effects on the health and well-being of Band members. Potential sources of air emissions from fee lands include burn barrels, motorized vehicles, wood-burning stoves, gravel mining, construction activities, and dust from unpaved roads.

Grants/Program Management

The [TRIBE] has previous experience with developing and maintaining tribal programs. Examples of programs already in place on the Reservation may be found in the following section. In addition, the [TRIBE] has recently promulgated Reservation water quality standards.

The [TRIBE] Environmental Program Manager has extensive experience working with grants. She currently manages 12 grants involving 10 employees. All past audits of [TRIBE]’s accounting procedures, which included Environmental Program grants, have been satisfactory. The Environmental Program also underwent an audit by the EPA grant staff with positive results.

The [TRIBE] Environmental Program:

The Environmental Program, which includes the air program, was established eight years ago. The program started with one General Assistance Program staff person, and has grown to include a staff of ten. The projects being addressed by these staff are: Air Quality, Pollution Prevention, Surface Water Quality, Wetlands, General Assistance Program (GAP), Lead Paint, Radon, Groundwater Quality, Cultural Resources, and Geographic Information Systems. The Environmental Program falls under the management of the Resource management Division, and the Environmental Program Manager is supervised by the Resource Management Division Director.

The Environmental Program Manager oversees all staff and projects, manages all budgets, assures prompt grant closures and project reporting, hires all staff, and seeks new funding sources. [NAME] has been the program manager for the last six years. She has been working effectively with EPA staff for those years to assure that grants are managed within the proper EPA guidelines. The Environmental Program has been very active in its pursuit of

a clean environment for the [TRIBE] people and has been at the forefront of environmental self-regulation. Some accomplishments to date are:

[LIST ACCOMPLISHMENTS]

The [TRIBE] environmental staff already has experience in the field of air quality management and will continue to build tribal capacity in this area by completing additional training as it becomes available. The [TRIBE] Air Quality Technician, [NAME], has a bachelor's degree in chemical Engineering and a master's degree in Air Resource Management. In addition, she has experience writing Title V permit applications and in reviewing and issuing Title V permits for a state agency. She also has experience in working with emissions inventories, regional haze issues, Class redesignation issues, and has had some experience in stack testing and enforcement activities.

Some of Joy's past training has included attending workshops on tribal air programs, emissions inventory preparation, Prevention of Significant Deterioration issues, air pollution monitoring and instrument calibration methods, and Quality Assurance Project Plan preparation. She has completed EPA self-study courses on basic meteorology and an introduction to dispersion modeling. She has also served on the steering committee for the Tribal Air Monitoring Support Center, a joint project between the EPA's Las Vegas Lab and the Institute for Tribal Environmental Professionals (ITEP), is currently involved in regional haze issues in the central states area, and has attended training and meetings for the National Acid Deposition Program. Future training will include Tribal Implementation Plan Development and Data Management. Other [TRIBE] environmental staff members have also attended training on tribal air programs, Tribal Implementation Plan preparation, Title V permit review, and monitoring techniques. [TRIBE]'s latest grant application requests money to study indoor air quality problems, particularly molds, on the Reservation.

The FDL Band has shown initiative in working with other air quality protection agencies on common interests. For example, [TRIBE] and the [State] Pollution Control Agency (MPCA) recently negotiated a Memorandum of Agreement to jointly operate ozone and nitrogen oxide monitors on the [TRIBE] Reservation. [TRIBE] is involved in a central states' workgroup, whose purpose is to address regional haze issues, along with nine state agencies, sixty-five other tribes, industry, academia, and environmental groups. [FDL] has also provided assistance to other area tribes whenever possible in setting up new tribal air programs. In July 2001, [TRIBE] hosted an ITEP course in TIP preparation. [TRIBE] staff members have also attended meetings of the Minnesota Indoor Air Quality Coalition. We believe these examples serve to demonstrate that [TRIBE] not only concerned with reservation air quality, but is committed to becoming a valuable member of the air quality protection community.

In conclusion, we believe this document demonstrates why [TRIBE] should be granted Treatment as an Affected State status and be granted Section 105 funding so that we can effectively protect air quality on the Reservation.

**Sample Letter from Tribal Chairperson to Regional Administrator
(Treatment in the Same Manner as a State (TAS) Eligibility to Administer a
Regulatory Program under the Clean Air Act (CAA))**

Date

Name

Regional Administrator

EPA Region #

Address

City, State Zip Code

Subject: Treatment in the Same Manner as a State (TAS) Eligibility to Administer a Regulatory Program under the Clean Air Act (CAA)

Dear Mr./Mrs. _____:

The [Tribe] is requesting TAS eligibility to administer a regulatory program under the CAA. The [Tribe] has included the following enclosures/exhibits to demonstrate that [Tribe] meets the TAS eligibility requirements:

1. Federal Recognition – Provide a concise statement that the tribe is recognized by the Secretary of the Interior. (Example could include a copy of the most recent *Federal Register* listing of federally recognized Indian tribes.)
2. Governing Body – Provide a descriptive statement demonstrating that it is currently carrying out substantial governmental duties and powers over a defined area. The statement should include:
 - a. A description of the form of government (Example could include the organizational structure of the tribe and identify and describe each function.)
 - b. A description of the types of government functions currently performed (Discuss specific regulatory, legislative, executive and judicial activities the tribe undertakes to include its police power to protect the environment.)
 - c. An identification of the source of authority (Examples could include oral or written traditions, oral or written tribal constitution, tribal ordinances, codes, by-laws, charters, resolutions, etc.)
3. Authority to Regulate Air Quality – Provide a descriptive statement of the tribe's authority to regulate air quality – the functions exercised to maintain and protect air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction. The statement should include:
 - a. Identify with clarity and precision the exterior boundaries of the reservation (Example could include a map and legal description of the area.)
 - b. Identify with clarity and precision the areas outside the boundaries of the reservation (Example could include a map or legal description of the area over which the tribe has authority.)

- c. Legal Counsel Statement – Provide a descriptive statement that is the basis for the tribe’s assertion of authority over areas covered by the application – to include nonmember activities (Examples could include tribal constitutions, by-laws, charters, executive orders, codes, ordinances, resolutions, etc.)
4. Effective Administration of the CAA Program – The statement should include:
 - a. Narrative statement describing the capability of the applicant to administer effectively the CAA program.
 - b. A descriptive statement of the tribe’s previous management experience. (Examples could include own tribal program, the administration and services authorized by the Indian Self-Determination and Education Assistance Act, the Indian Mineral Development Act, or the Indian Sanitation Facility Construction Activity Act.)
 - c. List existing environmental or public health programs and a copy of related tribal laws, policies, and regulations. (Examples could include a tribal air, water, or waste management program.)
 - d. A descriptive statement of the entity (or entities) that exercise the executive, legislative, and judicial functions of the tribal government. (Can be duplicated or referred to from 2. above.)
 - e. A descriptive statement of the existing, or proposed agency of the Indian tribe that will assume primary responsibility for administering a CAA program – to include a description of the relationship between the existing or proposed agency and its regulated entities.
 - f. A descriptive statement of the technical and administrative capabilities of the staff to administer and manage an effective air quality program – or a plan which proposes how the tribe will acquire this expertise and how the tribe will obtain funds. (Include resumes, position descriptions, etc.)
5. Additional Information Required by EPA – Additional information may be required by EPA to clarify or supplement the tribe’s application.

(If your Tribe has previously received authorization for a CAA program or for any other EPA-administered program, the applicant is only required to identify the prior authorization and provide the required information that has not been submitted in the previous application - please describe here.)

Thank you for your time and consideration of the [Tribe’s] application for TAS eligibility. If you require additional information to complete this process, please feel free to contact [lead staff person assigned to this matter], [Name] at XXX-XXX-XXX or [email].

Sincerely,

[Signed]
Name
Title

Sample Eligibility Determination from the Region

**United States Environmental Protection Agency
Region (#)
Address
City, State Zip**

ELIGIBILITY DETERMINATION FOR THE (NAME OF TRIBE) TO BE TREATED IN THE SAME MANNER AS A STATE UNDER THE CLEAN AIR ACT FOR § (WHAT SECTION – EX. 105 GRANTS), AIR QUALITY DESIGNATION RECOMMENDATIONS, AND NOTIFICATION PROVISIONS OF THE TITLE V PERMIT PROGRAM

The Office of Regional Counsel (ORC) and the Air Division have reviewed the (Name of Tribe's) request for a determination under the Clean Air Act (CAA) Tribal Authority provisions found at 40 CFR Part 49, for the following programs: (1) grants for support of air pollution planning and control programs pursuant to CAA § § 105 and 106; (2) air quality designations pursuant to CAA § 107(d); and (3) Title V permit notification as an "affected State" pursuant to CAA § 505(a)(2), and they have recommended a finding of eligibility. Based on this review and recommendation, I have determined that the (Name of Tribe) has met the requirements of 40 CFR § 49.6 for the following purposes: receiving a grant under CAA § 105, submitting air quality designation recommendations, and being treated as an "affected State" under the notification provisions of the CAA Title V operating permit program.

Eligibility Requirements

The substantive requirements for this eligibility determination are identified in the Tribal CAA Authority provisions at 40 CFR § 49.6¹, and the application requirements are outlined at 40 CFR §49.7. The substantive requirements identified at 40 CFR §49.6 are as follows:

- a) The applicant is an Indian tribe recognized by the Secretary of the Interior;

The Tribe demonstrated that it fulfilled this requirement by referencing the list of "Indian Entities Recognized and Eligible to Receive Services from the United States and the Bureau of Indian Affairs," published by the Department of the Interior on March 13, 2000, in the Federal Register (65 Fed. Reg. 13298-01, p 71196). This list includes the Tribe.

- b) The Indian tribe has a governing body carrying out substantial governmental duties and functions;

The Tribe demonstrated that it fulfilled this requirement by referencing Article IV of the Tribe's constitution, which provides that the (Community Council) is the Tribe's governing body.

¹ The Tribal Authority Rule establishes the implementing regulations for the CAA provisions that apply to Tribes, including CAA § 301(d)(1)(A), 42 USC § 7601(d)(2), which provides that the Administrator "is authorized to treat Indian tribes as States under this chapter...[.]" and CAA § 302^o, 42 USC § 7602^o, which defines "Indian tribe" as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

Several provisions of the Tribe's constitution expressly authorize the Community Council to exercise powers that concern and encompass regulation of air quality within the Tribe's boundaries. These provisions include: Article VII, Section 1(d) (authorizes regulation of the Tribe's natural resources); Article VII, Section 1(d)(5) (authorizes the community council to prevent the misuse of natural resources); Article VII, Section 1(h) (authorizes the council to enter into agreements with the Federal government on behalf of the Tribe); Article VII, Section 1(c)(4) (provides for the protection of public health); and Article VII, Section 1(k) (authorized the council to make laws and take action to carry out the Tribe's constitution).

- c) The functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

The ORC has reviewed the Tribe's application and found that the (Tribe/Community) has met this requirement. The Tribe has provided detailed maps and a detailed legal description of the boundary. There are no non-Indian owned fee lands within the Tribe's boundaries. The specific functions described under this application for eligibility determination are not regulatory in nature.

- d) The Indian tribe is reasonable expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

The Air Division reviewed the Tribe's capability to administer its "affected State" responsibilities under Title V of the CAA. The Tribe has successfully managed a CAA § 103 grant since 1997, and have a history of involvement in air quality issues in (State). The Air Division has reviewed the staff and administrative capability to manage a grant under the CAA § 105 program, provide air quality designation recommendations, and be notified under nearby Title V sources, and conclude that the Tribe has the capability to carry out these functions.

In sum, the ORC and the Air Division find that the Tribe has met all of the requirements of CAA §§ 301(d)(2) and 302(r), and 40 CFR § 49.6, for the following purposes: receiving a grant under CAA § 105, submitting air quality designation recommendations, and being treated as an "affected State" under the notification provisions of the CAA Title V operating permit program.

Notification of "Appropriate Governmental Entities"

40 CFR § 49.9(b) provides that the Regional Administrator shall notify appropriate governmental entities upon receipt of a Tribe's initial, complete application for an eligibility determination under the CAA. Notification was provided to the Arizona Governor's Office, the Arizona Department of Environmental Quality, Maricopa County, Pima County, the Ak-Chin Indian Community, the Fort McDowell Yavapai Nation, and the Gila River Indian Community.

Consistent with the EPA policy, public notice was provided in the form of an advertisement in the Arizona Republic. This paper is widely read and has the largest number of subscribers in the area where the Tribe is located. One comment was received on the Tribe's application from the Arizona Department of Environmental Quality (ADEQ). This comment encouraged EPA to grant the Tribe's request and stated that ADEQ has no comments on the boundary of the reservation.

Determination

Based on the information provided to me by the Air Division and the Office of Regional Counsel, I have determined that the Salt River Pima Maricopa Indian Community has met the requirements of CAA § 301(d)(2) and 302(r) and 40 CFR § 49.6 for the following purposes: (1) grants for support of air pollution planning and control programs pursuant to CAA §§ 105 and 106; (2) air quality designations pursuant to CAA § 107(d); and (3) Title V permit notification as an “affected State” pursuant to CAA § 505(a)(2).

Date: _____

(Name) Regional Administrator (Signature)

DRAFT

Sample Eligibility Determination from the Region

United States Environmental Protection Agency

Region (#)

Address

City, State Zip

ELIGIBILITY DETERMINATION FOR THE (NAME OF TRIBE) FOR TREATMENT IN THE SAME MANNER AS A STATE UNDER THE CLEAN AIR ACT

The US Environmental Protection Agency (EPA) Region (#'s) Office of Regional Counsel (ORC) and the Division of Environmental Planning and Protection (DEPP) have reviewed the (NAME OF TRIBE) application for eligibility for purposes of section/s (#) of the Clean Air Act (CAA) and to establish regulations for a (TYPE PROGRAM) (Attachment 1). Based on information in the pending application, DEPP and ORC have concluded that the Tribe's application meets the requirements for an eligibility determination ("treatment in the same manner as a state") as set forth in sections (#) of the CAA (# USC section # and 40 Code of Federal Regulations (CFR) section/s (#) for purposes of:

Examples could include:

- Financial assistance under section (#) of the CAA; and
- Acting as an "affected state" under section (#) of the CAA.

While EPA nationwide has already made several eligibility determinations pursuant to section/s (#), this application is the first nationwide to include a determination for establishing a federally enforceable minor source permitting program. As a result, EPA needs additional time to evaluate this part of the application. EPA will defer making a determination on this portion of the application until a proper review can be conducted. Thus, this determination will address only §105 and § 505(a)(2).

ELIGIBILITY REQUIREMENTS

EPA published the Air Quality and Management Rule for Indian Tribes (Tribal Authority Rule or TAR) on February 12, 1988. 63 Federal Register 7254. The TAR at 40 CFR § 49.6 states:

Sections 301(d)(2) and 302(r), 42 U.S.C. §§ 7601(d)(2) and 7602(r), authorize the Administrator to treat an Indian Tribe in the same manner as a state for the CAA provisions identified in 40 CFR § 49.3 if the Indian Tribe meets the following criteria:

- (a) The applicant is an Indian Tribe recognized by the Secretary of the Interior;
- (b) The Indian Tribe has a governing body carrying out substantial governmental duties and functions;

- (c) The functions to be exercised by the Indian Tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the Tribe's jurisdiction; and
- (d) The Indian Tribe is reasonably expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

STATE AND PUBLIC REVIEW

The TAR at § 49.9(b) provides that the Regional Administrator shall notify appropriate governmental entities of an Indian Tribe's initial, complete application under the CAA. For applications addressing air resources within reservations, the notification "shall specify the geographic boundaries of the reservation." 40 CFR § 49.9(b)(1). For applications addressing non-reservation areas, the notification "shall include the substance and bases of the tribe's jurisdictional assertions." 40 CFR § 49.9(b)(2). Under the regulations, "governmental entities shall have 30 days to provide written comments to EPA's Regional Administrator regarding any dispute concerning the boundary of the reservation." 40 CFR § 49.9(c). The TAR further provides that when a tribal application addresses non-reservation areas, "appropriate governmental entities may request a single 30-day extension to the general 30-day comment period." 40 CFR § 49.9(c). As of (DATE), EPA had provided the State of (STATE) the information required under TAR § 49.9(b)(1) and (2). EPA also provided notice of the application in local newspapers, and invited local governments and citizens to submit comments to the State of (STATE) and EPA. Only (DATE), the State requested an additional 30-day extension to respond. EPA granted the State's request with the understanding that EPA would proceed with the Tribe's application for the undisputed Reservation area after the first 30-day period expires.

On (DATE), the State of (STATE), through its agent, (NAME OF AGENT), commented on the (NAME OF TRIBE) Tribe's request for an eligibility determination. The State disputed the Tribe's assertion of jurisdiction over an area known as the ("NAME/DESCRIPTION OF AREA") and commented on the Tribe's capability to implement a CAA program. As discussed below, EPA is making no determination regarding the (NAME/DESCRIPTION OF AREA) at this time. EPA notes that under the TAR, comments made by appropriate governmental entities "must be limited to the scope of the Tribe's jurisdictional assertion...." 40 CFR § 49.9(d). Thus, the State's comments on the Tribe's capability are beyond the scope of the Tribe's jurisdictional claims. No comments from local governments or citizens were received on the application.

For the reasons articulated in this decision document it is the judgment of the Regional Administrator that the (TRIBE NAME) has demonstrated that is reasonable expected to be capable of administering a CAA, § 105 grant, and carrying out the functions necessary to be treated as an affected state pursuant to § 505(a)(2) of the CAA.

ELIGIBILITY REVIEW

The following evaluation reviews whether the (NAME OF TRIBE) meets the eligibility criteria for the CAA authorities that are the subject of the application.

1. Federal Recognition

The (NAME OF TRIBE) is federally recognized by the Secretary of the Interior. 63 Federal Register 71941, 71944 (December 30, 1998).

2. Substantial Governmental Duties and Powers

The (NAME OF TRIBE) Tribal Council is comprised of (#) duly elected Chiefs, who serve for (WHAT TYPE AND # YEAR TERM) each and several sub-officers. This system of government, with limited interruption, has governed the (NAME OF TRIBE) people for some (#) years. As the governing body of the Tribe, the Tribal Council negotiates with Federal, State and local governments; appropriates Tribal funds for public purposes; promulgates and enforces ordinances for the administration of justice; safeguards and promotes the peace, safety, morals and general welfare of the Reservation; and charters subordinate organizations for economic and other purposes. The Tribal Council enacts rules and regulations governing activities within the boundaries of the (NAME OF TRIBE) Reservation directly, by Resolution. The Tribal Council delegated authority for the protection of human health and the environment to the Environment Division. Thus, each of the environmental programs created by Resolution is administered by the (NAME OF TRIBE) Tribe Environment Division. The Environment Division will therefore be the entity responsible for establishing and implementing a program under the CAA.

The application demonstrates that the (NAME OF TRIBE) is an Indian Tribe with a governing body carrying out substantial governmental duties and functions.

3. The functions to be exercised by the Indian Tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the Tribe's jurisdiction.

The Tribe is requesting an eligibility determination under § 105 (grant), § 505(a)(2) ("affected State") of the CAA for lands within the exterior boundaries of the Reservation. In order to clearly and precisely describe the Reservation boundaries, the Tribe included with its application legal descriptions and maps. The Tribe also later submitted the GIS coordinates. The maps and the GIS coordinates together clearly and precisely describe the boundaries of the Reservation, as required by the EPA regulations at 40 CFR § 49.7(a)(3).

The Tribes application demonstrates that the functions to be exercised by the Tribe pertain to the management and protection of air resources within the exterior boundaries of the Reservation.

However, the Tribe's application includes an assertion of jurisdiction over an area known as the (NAME OF AREA). The State of (STATE) has notified EPA that it objects to the Tribe's claim of jurisdiction over this area. This conflicting claim cannot be resolved promptly. As such, the determinations made in this action only include the undisputed areas and do not include the (NAME OF AREA). Should any boundary changes occur in the future, ORC and DEPP will take appropriate action pursuant to this eligibility determination.

4. **The Indian Tribe is reasonable expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.**

The Tribe is seeking eligibility for purposes of CAA § 105 and § 505(a)(2). The two provisions are evaluated separately below.

- § 105. The Tribe has submitted information showing successful management of EPA grants, including § 105 CAA grants, for (#) continuous years. The Tribe uses the funds to support its development of enabling legislation, develop its air quality protection infrastructure (the Clean Air Program), adoption of air quality regulations, retention of qualified staff, and establishment of formal relationships with EPA, (STATE EPA AGENCY), and regulated industries. It has also managed large air quality contracts. In addition to the § 105 grant, the Clean Air Program also manages two CAA 103 grants: acid rain deposition monitoring; and fine particulate matter monitoring across and adjacent to the reservation. The Program accounts for its activities through regular reports describing its activities each quarter including a financial report. These reports are often enhanced by field or technical reports detailing responses to complaints, inspections, or monitoring results. The Clean Air Program has grown to 2 full time employees, 1 part time employee and 1 seasonal intern. The Tribe's Air Program Staff is trained in administration, grants, monitoring, quality assurance, permitting and enforcement.
- § 505(a)(2). The Tribe has submitted information showing it has experience in evaluating air quality issues. The Tribe's Environment Division staff is capable of evaluating and commenting on air permit notices and draft permits for facilities located in contiguous jurisdictions where the air emissions may affect the Reservation air quality and/or facilities located within 50 miles of the Reservation. The Tribal air quality specialist spent a total of 6 weeks with Region 2 staff and received training in the areas of permitting issuance and review, instrumentation, monitoring and Tribal Implementation Plan development. For a number of years, the Clean air Program has been actively involved in reviewing, commenting and concurring on technical documents, the performance of field oversight during sampling and construction activities at Superfund sites, and provided support during negotiations and public outreach activities.
- Minor Source Permitting Program. ORC does not recommend taking action at this time on the Tribe's request for an eligibility determination for establishing a federally enforceable minor source permitting program. The Tribe's application for minor source permitting is the first received by EPA nationwide and is being reviewed with

great interest by EPA Headquarters Office of Air and Radiation and OGC, of particular importance is evaluation of the Tribe's capabilities. EPA will inform the Tribe of EPA's review status of the program by September 30, 2000.

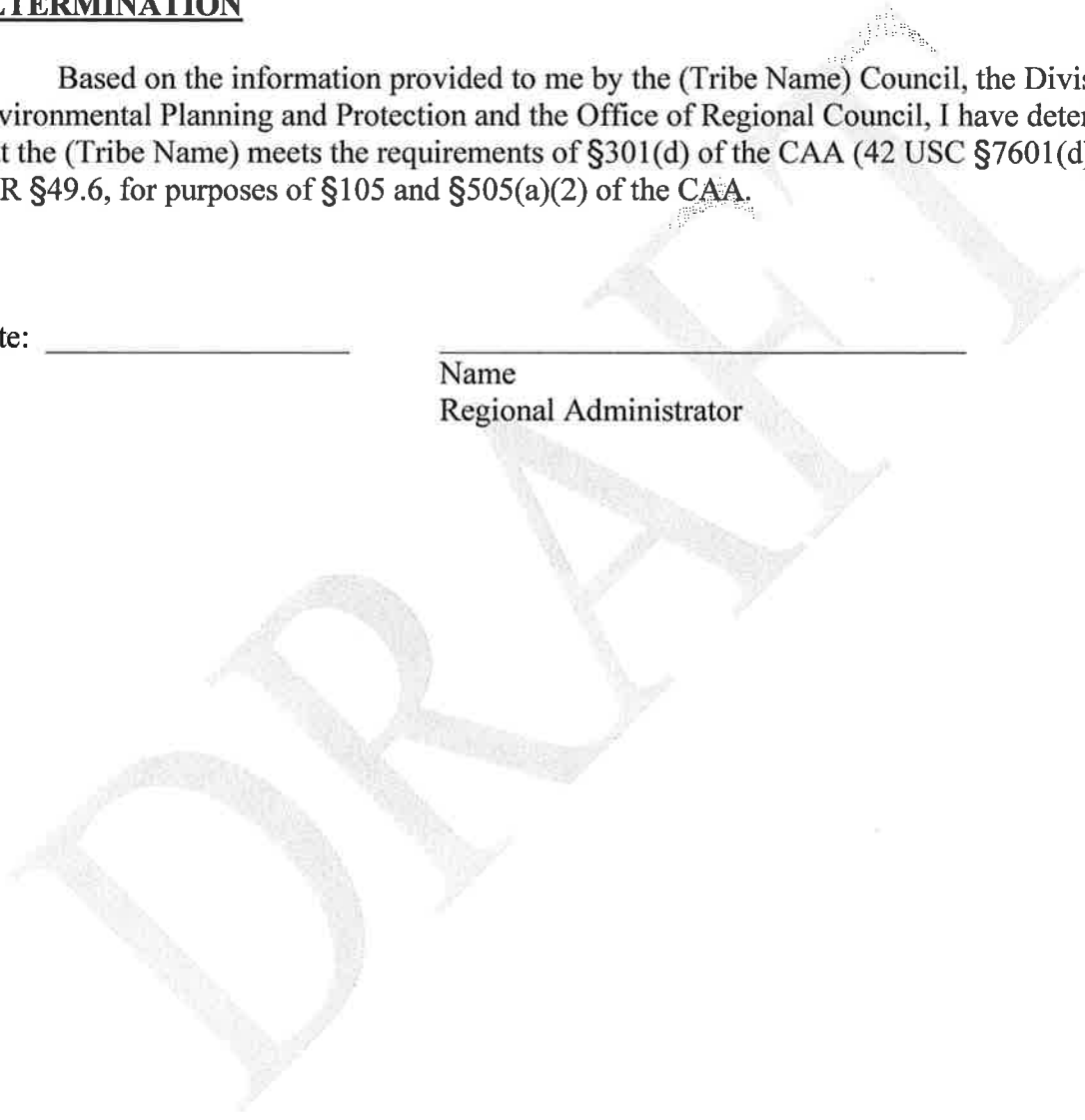
The DEPP has evaluate the capability of the (Tribe Name)(Can be attached.) Based on the information submitted by the Tribe and DEPP's evaluation, EPA concludes that the Tribe is capable of administering §105 and §505(a)(2) of the CAA.

DETERMINATION

Based on the information provided to me by the (Tribe Name) Council, the Division of Environmental Planning and Protection and the Office of Regional Council, I have determined that the (Tribe Name) meets the requirements of §301(d) of the CAA (42 USC §7601(d) and 40 CFR §49.6, for purposes of §105 and §505(a)(2) of the CAA.

Date: _____

Name
Regional Administrator



Sample Eligibility Determination from the Region

**United States Environmental Protection Agency
Region (#)
Address
City, State Zip**

**ELIGIBILITY DETERMINATION FOR THE (NAME OF TRIBE)
FOR TREATMENT IN THE SAME MANNER AS A STATE FOR PURPOSES OF
SECTION 110 OF THE CLEAN AIR ACT**

On (Date), the (Tribe) submitted an application to the U.S. Environmental Protection Agency (EPA) Region (#) requesting an eligibility determination of “treatment in a similar manner as a state” for a portion of the Clean Air Act (CAA). Specifically, the Tribe request EPA approval to develop a Tribal Implementation Plan under section 110 of the CAA.

EPA Region’s (#) Office of Regional Counsel (ORC) and the Division of Environmental Planning and Protection (DEPP) have reviewed the Tribe’s application (Attachment 1). Additionally, ORC and DEPP staff have discussed this matter with representatives of the Office of General Counsel, Office of air and Radiation, and the American Indian Environmental Office in EPA Headquarters to ensure consistency with national policy and program goals. Based on review of information presented in the application, the Tribe’s excellent record in conducting air quality program activities since 1990, discussions with Headquarters, a capability determination prepared by the DEPP (Attachment 2), and ORC’s review of the application, EPA Region (#) has concluded that the Tribe’s application meets the requirements for eligibility as set forth in § 301(d) for the CAA (42 USC § 7601(d)) and 40 CFR § 49.6 for purposes of developing and carrying out a TIP. EPA Region (#) will evaluate all relevant CAA and regulatory requirements for implementation plans as part of the TIP review process as it reviews the proposed TIP submitted by the Tribe.¹

ELIGIBILITY REQUIREMENTS

EPA published the Air Quality Planning and Management Rule for Indian Tribes (Tribal Authority Rule or TAR) on February 1, 1998. 63 Federal Register 7254. The Tribal Authority Rule at 40 CFR § 49.6 states:

Sections 301(d)(2) and 302(r), 42 USC §§ 7601(d)(2) and 7602(r), authorize the Administrator to treat an Indian tribe in the same manner as a state for the Clean air Act provisions identified in [40 CFR] § 49.3 if the Indian tribe meets the following criteria:

- (a) The applicant is an Indian tribe recognized by the Secretary of the Interior;
- (b) The Indian tribe has a governing body carrying out substantial governmental duties and functions;

¹ Pursuant to EPA regulations at 40 CFR §§ 49.7(a)(6) and 49.8, where applicable CAA or implementing regulatory requirements mandate criminal enforcement authority, tribal applications may be approved if the tribe and relevant EPA Region enter into an agreement regarding procedures for the provision of potential investigative leads to EPA and/or other appropriate federal agencies in circumstances where the tribe is precluded from asserting criminal enforcement authority. Consistent with these provisions, EPA Region (#) and the Tribe will enter into any necessary agreements relating to criminal enforcement authority prior to EPA approval of any implementation plan submitted by the Tribe with raises such issues.

- (c) The functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and
- (d) The Indian tribe is reasonable expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

STATE AND PUBLIC REVIEW

The Regional Administrator notified appropriate governmental entities of the Tribe's application for purposes of section 110 of the CAA. In a notice published in local newspapers, EPA also invited local governments and citizens wishing to comment on the boundaries of the (Tribe) to submit their comments to the State of (state) copying EPA.

By letter dated (date), from (law firm) to Regional Administrator of EPA Region (#), the State of (state) agreed to the northern and western boundaries asserted by the Tribe, asked for further clarification regarding the eastern boundary and requested additional time to provide information regarding the southern boundary. By letter dated (date), from (name) Chief, Air Programs Branch of EPA Region (#) to (law firm), EPA Region (#) responded by providing additional information regarding the eastern boundary and additional time for the State to submit any further information on the eastern and southern boundaries. By letter dated (date), from (law firm) to (name), Chief, Air Program Branch of EPA Region (#), the State replied by agreeing to the description of the eastern boundary and seeking additional information regarding the southern boundary. By letter dated (date), from (name), Chief, Air Programs Branch of EPA Region (#) responded by providing a map containing information regarding the Reservation boundaries, noting that EPA would proceed based upon those boundaries once confirmed by the US Bureau of Indian Affairs and offering to consider further comments from the State. EPA received confirming boundary information from BIA on (date). No further clarification was requested by the State. No other comments were received on the application.

ELIGIBILITY REVIEW

The following present the results of our assessment of whether the (tribe) meets EPA's eligibility criteria for CAA authority to develop and carry out a TIP.

1. Federal Recognition

The (Tribe) is federally recognized by the Secretary of the Interior. 67 Fed. Reg. 46328 (July 12, 2002).

2. Substantial Governmental Duties and Powers

The EPA established that the (Tribe) does have a governing body carrying out substantial governmental duties and functions in determination documents dated (date) (relating to the Tribe's application for purposes of sections 105 and 505(a)(2) of the CAA) and (date) (relating to the Tribe's application for purposes of establishing a federally enforceable minor source permitting program). See 49 CFR § 49.7(a)(8). In brief, the (Tribe) has a governing body that carries out substantial government duties and functions. The Tribal government is comprised of three Chiefs and three Sub-Chiefs. The Tribal government enacts laws and legislation within the (Tribal) Reservation. The Tribal government administers health, education, environmental and welfare programs for the benefit of its people.

3. The functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction.

For purposes of the current application, the Tribe is requesting and eligibility determination solely for lands within the exterior boundaries of the Reservation at this time, the Tribe is not seeking an eligibility determination for the area known as the (name of area) area, and EPA is making no determination with respect to that area. Pursuant to § 49.7(a)(3) of the TAR, the application contains a statement describing the basis of the Tribe's assertion of authority for these CAA purposes.

In order to clearly and precisely describe the boundaries of the Reservation, the Tribe included with its application certain detailed description and maps which included GIS coordinates. The maps adequately describe the exterior boundaries of the Reservation. In addition, the Tribal boundaries were confirmed by BIA's maps.

The Tribe's application appropriately identifies the exterior boundaries of the (name of Reservation) and demonstrates that the functions to be exercised by the Tribe pertain to the management and protection of air resources within the exterior boundaries of the Reservation.

4. The Indian tribe is reasonable expected to be capable, in the EPA Regional Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

The application is seeking approval under § 301(d) of the CAA (42 USC § 7601(d)) to develop and carry out a TIP. The Tribe's Air Quality Program has increased its capabilities, skills, and knowledge since it began in 1990. The Air Quality Program employs three technicians and one program manager. The educational background ranges from Associates in Science to a Masters Degree. Each technician is cross-trained to perform monitoring for atmospheric deposition, polychlorinated biphenyls, polycyclic aromatic hydrocarbons, sulfur dioxide, nitrogen oxides, heavy metals, particulate matter and styrene. All equipment used for monitoring is owned by the Air Quality Program and is maintained and calibrated on-site.

The Tribe's Air Quality staff has acquired technical training through the TIP series offered by Northern Arizona University's Institute for Tribal Environmental Professionals. The Tribe's Air Quality Program Manager has spent a total of 6 weeks with Region (#) staff training in areas of TIP development, permitting issuance, review, and instrumentation.

Support staff for the Air Quality Program includes two Conservation Officers, environmental attorneys, an on-site legal advisor, maintenance personnel and technical support through EPA's Tribal Air Monitoring Center in Las Vegas.

In addition to the technical skills of its staff, as an organization, the Tribe's Air Quality Program has demonstrated considerable capabilities in the programmatic, administrative, and legal spheres that contribute to the preparation and implementation of a comprehensive TIP. Specifically, the Tribe has demonstrated a working understanding and/or significant skills in the following areas:

- Air quality standards, including recommending attainment designations
- Air quality monitoring and data interpretation
- Air quality modeling and impact assessment
- Air pollution control regulation development

- Air pollution control permitting
- Enforcement, including the existence of a tribal court system
- Program implementation, including obtaining staff and financial resources
- Public participation, public notification, and public hearings

The DEPP has evaluated the capability of the (name) Tribe (Attachment 2). Based on EPA's evaluation, the Tribe is capable of developing and carrying out a TIP under the CAA.

DETERMINATION

Based on the information provided to me by the (name) Tribal Council, the DEPP and the ORC, I have determined that the (name) Tribe meets the requirements of § 301(d) of the CAA (42 USC § 7601(d)) and 40 CFR § 49.6, for purposes of developing and carrying out an implementation plan under section 110 of the CAA.

Date: _____

(Signature)
(Name) Regional Administrator

Sample Written Approval Notification from Region to Tribe

United States Environmental Protection Agency

Region (#)

Address

City, State Zip

Name

Title

Name of Tribe

Address

City, State Zip

Dear (Tribal Leader):

I am pleased to formally announce that the (Name of Tribe) has met the eligibility requirements of the Clean Air Act (CAA) Tribal Authority Rule (TAR), and has been approved to receive at CAA § 105 continuing air pollution control program grant, provide comments in the same manner as a state for air quality designations, and be notified of large sources of air pollution that are constructed or modified near your reservation (description).

I would like to commend the Tribe's effort in preparing an excellent application which resulted in a final approval. It has been a pleasure to work with your staff to achieve this important milestone. We would like to publicly acknowledge and celebrate this accomplishment at an upcoming Region Tribal Operations Committee meeting, and we will be in touch with your staff to coordinate this. We look forward to continuing this productive relationship as we work together to protect and enhance the Community's air resources.

If you have any questions, please contact (Regional Tribal Contact) of our Air Division at (Telephone Number), or (Optional Contact) of our Office of Regional Counsel at (Telephone Number).

Sincerely,

(Name)

Regional Administrator

cc: (Copies may be sent to all Tribal Environmental staff, etc.)



CLEAN AIR ACT COMPLIANCE GUIDE FOR INDIAN COUNTRY

Air pollution sources in Indian country require air permits

The federal Clean Air Act (CAA) applies to air pollution sources in Indian country. This information sheet is intended to assist tribes in determining when the U.S. Environmental Protection Agency (EPA) will require you to apply for an air permit.

EPA issues two types of air permits in Indian country – New Source Review (NSR) Permits, and Title V Operating Permits.

NSR permits are required *before you construct* new sources or modify existing sources of air pollution – this includes construction of entirely new facilities, and construction projects at existing facilities, such as expansions, additions, process changes, and equipment modifications.

New and existing sources of air pollution may also need to apply for a Title V Operating Permit from EPA. Title V Operating permits pull together in one document a list of all the air pollution-emitting equipment at the facility and all the requirements that apply to that equipment.



Does your tribe own or operate a power plant, a cement plant, a hotel, casino, or a landfill?

Power plants, cement plants, hotels and casinos with large boilers or diesel engines, and landfills are often categorized as “major sources” of air pollution. A facility is a major source if its air pollution emissions exceed the major source threshold. This threshold depends on the air quality in your area. All major sources are required to apply for Title V Operating Permits.

Areas with good air quality are called attainment areas, and areas with poor air quality are called nonattainment areas. Sources in nonattainment areas are subject to more stringent NSR permitting requirements. EPA can help you determine the attainment status of your area.



Does your tribe own or operate a gas station, a hospital, a school, or an oil and gas operation?

Gas stations, hospitals or schools with small boilers or diesel engines, and oil and gas drilling operations are often categorized as “minor sources” of air pollution. A facility is a minor source if its air pollution emissions are below the major source threshold, but above the minor source threshold. EPA recently finalized a Tribal NSR rule to permit minor sources in Indian country. Please contact EPA to determine if your facility needs to obtain a permit.

How can I get more information?

If you have questions, or need help calculating the emissions from your facility or determining the attainment status of your area, please contact the EPA Region ____ Air Permits Office. EPA can help determine whether you need a permit and what requirements apply, and provide you with a checklist of information you may need to submit in your permit application. Remember, if it emits air pollution, it may need an air permit!

If you have questions, please contact the EPA Region ____ Air Permits Office:

Name	Phone number	Email address	For NSR Permit Questions
Name	Phone number	Email address	For Title V Operating Questions



CLEAN AIR ACT REQUIREMENTS FOR AIR POLLUTION SOURCES IN INDIAN COUNTRY

Air pollution sources in Indian country require permits

The Clean Air Act (CAA) applies to pollution sources in Indian country. EPA issues two types of CAA permits in Indian country – New Source Review (NSR) Permits, and Title V Operating Permits. This information sheet focuses on NSR permits. NSR permits are required *before you construct* – this includes construction of entirely new facilities, and expansions, additions, process changes, and other modifications at existing facilities.



What are attainment and nonattainment areas?

Attainment areas have good air quality and air pollution levels that are lower than the national air quality standard. Nonattainment areas need to improve air quality because air pollution levels exceed the national air quality standard. The EPA Region ____ [region number], website: http://www.epa.gov/region____ contains air quality maps for the following states

Lists of designated nonattainment areas are also available in the EPA Greenbook.¹



Why do I need an NSR permit?

NSR permits benefit public health and the environment because they require pollution sources to evaluate air pollution controls and impacts on air quality before construction. Remember: "construction" includes new facilities and expansions, additions, process changes, and other modifications at existing facilities. Different requirements under the CAA may apply, depending on how much pollution the source emits and whether the source is located in an air quality attainment or nonattainment area. Sources in Indian country do not need permits from state/local air pollution permitting authorities, but federal permit requirements still apply.



¹ <http://www.epa.gov/oar/oaqps/greenbk/>

What kind of NSR permit would I need?

How much air pollution does your facility emit?	Attainment status of your location?	Type of permit you may need to obtain
Major source of air pollution (e.g., power plants with large boilers or turbines, cement plants, oil refineries, landfills, sand and gravel operations). See Table 2 for major source thresholds.	Attainment	Prevention of Significant Deterioration (PSD)
	Nonattainment	Nonattainment NSR (NNSR)
Minor source of air pollution (e.g., gas stations, casinos with small boilers or diesel generators, paint spray booths). See Table 2 for minor source thresholds.	Attainment or Nonattainment	Minor NSR

Table 1: General Flow Chart to Determine What Type of NSR Permit You Need²

The PSD Program: PSD is the NSR program that applies in attainment areas, and includes requirements for emission limits and air quality modeling to ensure that emissions from the facility do not harm air quality. EPA currently issues PSD permits to major sources in Indian country in accordance with the Federal PSD program at 40 CFR § 52.21. For more detailed information on PSD requirements, please visit the EPA Region ____ [region number], website at: http://www.epa.gov/region_ _____.

The NNSR Program: The NNSR Program is designed to improve air quality while allowing for economic growth. NSR requires the most stringent emission limits and also requires sources to offset increased emissions by reducing emissions elsewhere at the facility, or by obtaining Emission Reduction Credits (ERCs) from nearby facilities.

EPA currently issues NNSR permits to major sources in Indian country in accordance with the Federal NNSR program in the Code of Federal Regulations (CFR) at 40 CFR Part 51, Appendix S.³ On June 10, 2011 EPA finalized the Tribal NSR rule that addresses when offsets are required and other options if no ERCs are available in the area. Unless/until a tribe takes delegation of the program or develops a TIP, EPA will continue to issue NNSR permits to sources in Indian country under Appendix S.

Tribal Minor NSR Program for Attainment and Nonattainment Areas: For a minor air pollution source, EPA may require you to install pollution control technology and/or require you to conduct an air quality impact analysis. Additional information is available in the final Tribal NSR rule, FR 76 38747. Please contact EPA to determine if your facility needs to obtain a permit.

If you have questions, please contact the EPA Region ____ Air Permits Office:			
Name	Phone number	Email address	For NSR Permit Questions
Name	Phone number	Email address	For Title V Operating Questions



²Please contact the EPA Region ____ Air Permits Office for more detailed information on determining the size of your facility, and the attainment status of your location.

³Sources must comply with 40 CFR Part 51, Appendix S in Indian country.

How do I apply for a permit?

Please contact the EPA Region ____ [region's number] Air Permits Office. The staff there can help answer your questions, help determine what regulations and requirements apply, and provide you with a checklist of information you may need to submit in order to process your application.

Title V Operating Permits

After you obtain a PSD or NSR permit, you must submit an application to EPA⁴ for a Title V Operating Permit (Part 71 Permit) within 12 months of starting operation. These permits require sources to assure compliance with all requirements that are applicable to your facility. The Title V Operating Permit Program gives the public an opportunity to review and comment on the proposed operating permit, the ability to petition EPA, and the ability to track compliance by reviewing reports and certifications. Operating permits must be renewed every

five years. Additional information about Title V Operating Permits can be found on the EPA website at <http://www.epa.gov/oar/oaqps/permits/partic/proof.html>.



⁴ If, however, EPA has authorized the tribe to implement the Title V Operating Permit Program, these applications must be submitted to the tribal permitting authority.

Table 2: Major and Minor Thresholds for NSR

POLLUTANT	ATTAINMENT		NONATTAINMENT	
	MAJOR SOURCE (tpy)	MINOR SOURCE (tpy)	MAJOR SOURCE (tpy)	MINOR SOURCE (tpy)
Carbon Monoxide (CO)	250 tpy or 100 tpy if source is one of 28 source categories listed in 40 CRF 52.21(b)(1)	10	100 (moderate) 50 (serious)	5
Nitrogen Oxide (NO _x)		10	100 (marginal/moderate) 50 (serious) 25 (severe) 10 (extreme)	5
Sulfur Dioxide (SO ₂)		10	100	5
Volatile Organic Compounds (VOC)		5	100 (marginal/moderate) 50 (serious) 25 (severe) 10 (extreme)	2
Total Particulate Matter		10	100 (moderate) 70 (serious)	5
Particulate Matter – 10 microns or less diameter (PM ₁₀)		5	100 (moderate) 70 (serious)	1
Particulate Matter – 2.5 microns or less diameter (PM _{2.5})		3	100 (moderate) 70 (serious)	0.6
Lead (Pb)		0.1	100	0.1
Fluorides		1	Not Applicable	
Sulfuric Acid Mist		2		
Hydrogen Sulfide		2		
Total Reduced Sulfur (including H ₂ S)		2		
Reduced Sulfur Compounds (including H ₂ S)		2		
Municipal Waste Combustor Emissions		2		
Municipal Solid Waste Landfills Emissions	10			

Table 3: Permit Timeline

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



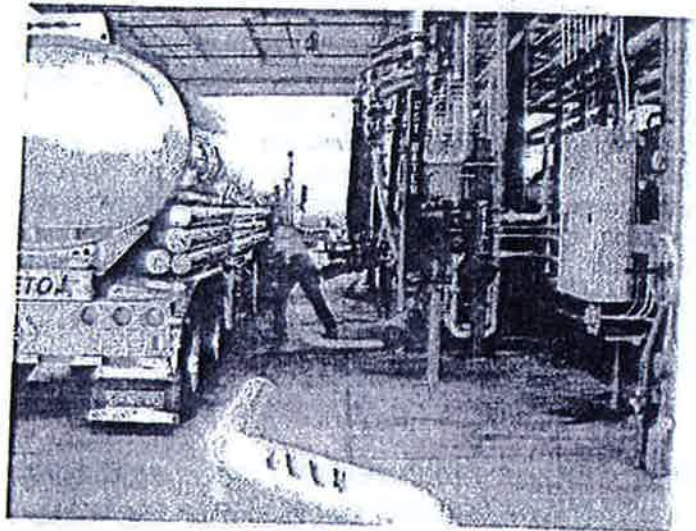
Community Benefits of Green Gas Stations and Convenience Stores

The Benefits of the Green Gas Station and Convenience Store for the Community

Communities working towards reducing pollution and maximize resources through programs such as the Sustainable Skyline Initiative (SSI), the Climate Showcase Communities Program, implementation plans for tribes or states (TIP and SIP) may benefit from encouraging the owners of their gas dispensing facilities and convenience stores to Go Green. Several new technologies are available that reduce operating costs while reducing energy use. Other technologies are available that can directly reduce gasoline emissions during delivery, storage and dispensing, which reduces gasoline waste. Reducing energy use and controlling gasoline emissions have a direct impact on air quality.

It is well known that poor air quality is harmful to the health of the gas station employees and the local community. Air pollution from gas stations is in the form of volatile organic compounds (VOC's) from gasoline. These emissions contribute to ground level ozone, smog and decrease air quality, which triggers a variety of health problems. These include aggravated asthma, reduced lung capacity and increase susceptibility to respiratory illnesses like pneumonia and bronchitis.

economic development by reducing their current emissions may benefit from encouraging local gas stations and convenience stores to "Go Green." The air quality benefits are not only at the gas station, but can be realized across the community and at the power plant. As businesses become more energy efficient, less energy is used at the energy station, and less pollution is emitted. Thus, green gas stations can be an integral part of sustainable development within the community.



pollution is also a concern for the economic development of a community, as existing poor air quality reduces the potential for the new industry and economic growth. Communities who are looking to support

What Technologies can reduce Gasoline Emissions during delivering, storing, and dispensing ?

The new technology reduces gasoline waste during delivery, storage and pumping, making more gasoline available for sale. These technologies include:

- Stage I Vapor Recovery
- Drip-less nozzles and Low Permeability Hoses
- Stage II Vapor Recovery

Stage I Vapor Recovery Systems return vapor from the gasoline storage tank back to the tank truck during delivery of the gasoline. Because the gasoline vapor is returned to the tanker truck instead of being released into the air, Stage I technology significantly reduces gasoline station emissions, by

as much as 46%.¹ For a gasoline station that takes delivery every month, Stage I vapor recovery can prevent over ½ a ton of VOC's from being emitted into the air each year.²

Inexpensive equipment is available that decreases the amount of gasoline vapor generated during dispensing. Drip-less Gas Nozzles and UL approved Hose Assemblies for Dispensing Flammable Liquids are very efficient at reducing waste, and are comparable in price to older technology. The nozzles can reduce drips and/or spillage by up to 60%. Low permeability hoses are comparable in price to other hoses used to dispense gasoline, but have the potential to reduce emissions from the hose by 96%.

Stage II emission controls reduce gasoline vapors when gasoline is pumped into customers fuel tanks. This technology captures gasoline vapor at the vehicle fill neck and returns the vapor back to the underground storage tank. There are two types of vapor recovery systems available, including a balance system or a vacuum assist system. The gas station owner benefits from reduced evaporative or "shrinkage" losses and eventually recovers the cost of their investment in Stage II equipment. Information regarding the use of CARB certified Stage II equipment can be found at [local office or reference to person with phone number] or at <http://arbis.arb.ca.gov/vapor/vapor.htm>.

What Other techniques are available lowering operational costs while reducing emissions?

Other energy saving techniques can lower operating costs. These include the use of:

- Energy Efficient Lighting
- Energy Efficient Construction and Finishing Materials
- Water Efficient Restrooms and Car washes
- Storm Water Management
- Efficient Refrigeration and HVAC Units

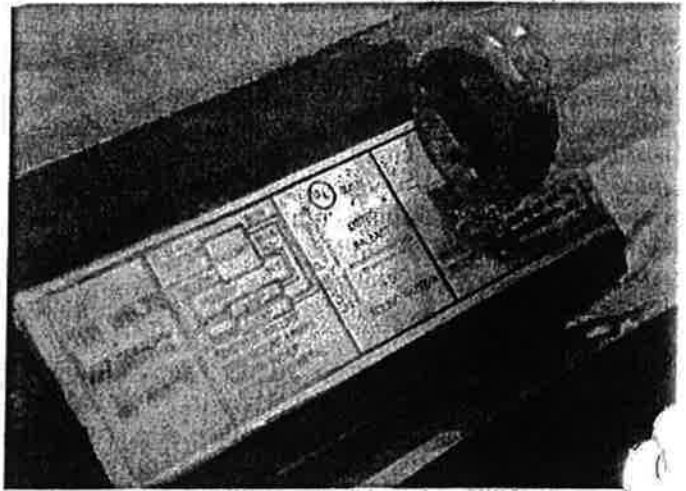
Smart choices during operation of the gas station and construction can significantly reduce air pollution within the community. Reduction of air pollution can be

¹ Need good reference for this number, but currently have a 10 year old study
http://www.cgrer.uiowa.edu/people/carmichael/atmos_course/ATMOS_PROJ_99/jlhicks/index.html

² Based on data from Michigan Department of Treasury, Motor Fuel Division. This assumes 1 gallon of gasoline creates 7.5 lbs of VOC's or (0.00375 Tons), and Stage 1 technology recovers 120 gallons of gasoline over the course of one year.

located either at the small business facility or at the energy station, by reducing overall demand for energy.

Energy efficient indoor and outdoor lighting is one of the easiest and most effective ways to immediately reduce energy consumption. For businesses that sell food and produce, the new lighting makes produce look fresher and more appealing, potentially increasing sales and tax revenue. Replacing exterior neon lights with solid state lighting (SSL) or LED lighting can provide significant cost savings for the small business owner, while preserving health and safety standards. This new lighting can accentuate the small business presence and image, which can improve customer traffic and safety.



The use of energy efficient construction materials such as walls, cool roofs, windows and window films can decrease operating costs for the small business, and should be considered during construction and renovation. Installation of water efficient fixtures such as low-flow toilets, waterless urinals and light-powered infrared sinks can significantly reduce water usage. Use of gray water and recycling of rinse water in car wash booths are also great ways to control water costs.

Storm water management, through the use of porous concrete can reduce flooding and icing, improving the safety of a parking lot and sidewalks. This also decreases soil erosion around the facility, improving the look and feel of the business.

There are several choices that the small business owner can make regarding refrigeration and HVAC systems that can significantly reduce energy usage, lowering operating costs.

If you have questions, please contact		
Who 1	(919) phone	email address
Who 2	(919) phone	email address

Definitions

Acid deposition - process by which acidic particles, gases, and precipitation leave the atmosphere. Although it is more commonly referred to as acid rain, acid deposition has two components: wet deposition (through snow, rain, and fog) and dry deposition (through the settling of gases and particles out of the atmosphere).

Acid rain - primarily the result of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) reacting in the atmosphere with water and returning to earth as rain, fog, or snow. This term is broadly used to include both wet deposition and dry deposition (through the settling of gases and particles out of the atmosphere).

Aerometric Information Retrieval System (AIRS-AQS) - a database with easily-retrieved information on the levels of the criteria pollutants in all areas of the country. The EPA's procedures for reporting and using data ensure timely and widespread access to accurate information. The public may browse and obtain reports from AIRS-AQS at www.epa.gov/airs/.

Ambient air - any unconfined portion of the atmosphere; open air, surrounding air.

Area source - any small source of non-natural air pollution that is released over a relatively small area but which is not classified as a point source. Such sources may include vehicles and other small engines, small businesses, and household activities.

Attainment area - an area considered to have air quality as good as or better than the national ambient air quality standards as defined by the Clean Air Act. An area may be an attainment area for one pollutant and a nonattainment area for others.

Baseline - the ambient concentration level of a pollutant that exists at the time of the first application for a PSD permit. The baseline concentration is established for each pollutant (and relevant averaging time). In areas with a PSD program, ambient air concentration levels may not exceed the baseline plus an established increment.

Best Available Control Measures (BACM) - a term used to refer to the most effective measures (according to EPA guidance) for controlling small or dispersed particulates from sources such as roadway dust, soot and ash from woodstoves and open burning of brush, timber, grasslands, or trash.

Best Available Control Technology (BACT) - an emission limitation based on the maximum degree of emission reduction (considering energy, environmental, and economic impacts) achievable through application of production processes and available methods, systems, and techniques. BACT does not permit emissions in excess of those allowed under any applicable CAA provisions. Use of the BACT concept is allowable on a case by case basis for major new or modified emission sources in attainment areas (used under the Prevention of Significant Deterioration program) and applies to each regulated pollutant.

Biogenic source - non-manmade or natural emitter of air pollutants. For example, conifer trees emit terpenes which are volatile organic compounds, a precursor to ozone.

Carbon Monoxide (CO) - a colorless, odorless, poisonous gas produced by incomplete fossil fuel combustion. CO is a criteria pollutant regulated under NAAQS.

Class I, II, and III Attainment Areas - classifications of attainment/unclassifiable areas established in the CAA. Class I areas are held to the strictest air pollution standards; Class III areas allow for the greatest amount of emissions of criteria pollutants. "Federal Class I" areas are the Class I areas created in the CAA: national wilderness areas and national memorial parks greater than 5,000 acres, national parks greater than 6,000 acres, and international parks. Additional areas have since been reclassified as Class I areas. Class II areas initially were all those areas that were in attainment or unclassifiable that were not established as Class I areas. Class II areas can be redesignated as Class I or Class III areas.

Clean Air Act (CAA) - the basis of U.S. clean air programs. The original CAA passed in 1970 and was amended in 1977 and 1990. It is comprised of nine sections or Titles that cover, in order, the National Ambient Air Quality Standards, mobile sources, hazardous air pollutants, acid-deposition control, stationary source operating permits, stratospheric ozone and global climate protection, enforcement, miscellaneous provisions, and clean air research.

Continuous Emission Monitoring Systems (CEMS) - the total equipment necessary for determining the gas or particulate matter concentration or emission rate using pollutant analyzer measurements and a conversion equation, graph, or computer program to produce results in units of the applicable emission limitation or standard. CEMS are required under some of the EPA regulations for either continual compliance determination or determination of exceedances of the standards.

Code of Federal Regulations (CFR) - a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government. The CFR is divided into 50 titles which represent broad areas subject to Federal regulation. Title 40 consists of regulations related to protection of the environment. The CFR is available online at www.access.gpo.gov/nara/cfr/index.html.

Clearinghouse for Inventories and Emissions Factors (CHIEF) - an on-line resource (www.epa.gov/ttn/chief/) with information on emissions factors, emissions inventories, and emissions estimation software.

Contingency Measures - the part of an attainment strategy that provides extra emission reductions if your basic control strategy fails to achieve reasonable further progress or fails to attain the primary NAAQS on schedule. Contingency measures should accomplish about one year's worth of progress toward meeting the NAAQS or an additional 20 to 25% of the emissions being reduced.

Criteria Pollutants - pollutants known to be hazardous to human health for which the 1970 amendments to the Clean Air Act required EPA to set National Ambient Air Quality Standards (NAAQS). EPA has identified and set standards to protect human health and welfare for six pollutants: ozone (O₃), carbon monoxide (CO), total suspended particulates (also known as particulate matter or PM), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂). The term, "criteria pollutants," derives from the requirement that EPA must describe the characteristics and potential health and welfare effects of these pollutants. It is on the basis of these criteria that standards are set or revised.

Design Value - the ratio of current pollutant concentration to the National Ambient Air Quality Standards (NAAQS). A design value greater than one indicates the area is in violation of the NAAQS for that pollutant.

Eligible Tribe - a tribe that has received a determination of eligibility to run CAA programs (formerly known as "treatment in the same manner as a state"). To become eligible, your tribe must demonstrate federal recognition, have a governing body carrying out substantial governmental duties and powers, provide evidence it will perform functions pertaining to the management and protection of air resources within its jurisdiction, and demonstrate the capability to implement the programs for which it is seeking approval.

Emission - pollution discharged into the atmosphere from smokestack, other vents, and surface areas of commercial or industrial facilities; from residences; and from motor vehicle, locomotive, or aircraft exhausts.

Emissions Factor - a ratio that relates emissions of a pollutant to an activity level at a plant that can be easily measured, such as the amount of material processed or an amount of fuel consumed. Given an emissions factor and a known activity level, multiplication yields an estimate of emissions.

Emissions Inventory - a listing, by source, of the amount of air pollutants discharged into the atmosphere of a geographic area.

Emissions Inventory Improvement Program (EIIP) - a jointly sponsored effort of the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials and EPA. The goal of EIIP is to provide cost-effective, reliable inventories by improving the quality of emissions information and developing systems for collecting, calculating, and reporting emissions data. The primary guidance on inventory development is summarized in the *EIIP Document Series, Volumes I-X*, accessible through the EIIP website (www.epa.gov/ttn/chief/eiip/).

Emission Standard - the maximum amount of air polluting discharge legally allowed from a single source, mobile or stationary.

Emissions Trading - EPA policy that allows a plant complex with several facilities to decrease pollution from some facilities while increasing it from others, so long as total results are equal to or better than previous limits. Facilities where this is done are treated as if they

exist in a bubble in which total emissions are averaged out. Complexes that reduce emissions substantially may “bank” their “credits” or sell them to other industries.

Enforcement - EPA, state, tribal, or local legal actions to obtain compliance with environmental laws, rules, regulations, or agreements and/or obtain penalties or criminal sanctions for violations. Enforcement proceedings may vary, depending on the requirements of different environmental laws and related implementing regulations.

Federal Implementation Plan (FIP) - under current law, a federally implemented plan to achieve attainment of air quality standards, used when a state or a tribe is unable to develop an adequate plan.

Federal Land Manager - with respect to any lands owned by the government of the United States, the Secretary of the department with authority over such lands. Four agencies administer the majority of this land: the Forest Service (in the Department of Agriculture), the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service (in the Department of the Interior). Management authority may be delegated to regional or local officials, such as the Regional Forester or the individual Forest Supervisor for Forest Service lands.

Fugitive Emissions - sources of emissions that do not come from an exhaust stack or vent and are not collected or controlled. Fugitive emissions may escape from buildings or come from unconfined activities such as outdoor materials storage piles swept by wind and surface mining activities.

Geogenic Sources - natural sources that create pollution, such as oil and natural gas seeps which emit ozone precursors (VOCs and NO_x), volcanoes which emit PM and SO₂, and wind that blows dust from natural areas, creating PM.

Grand Canyon Visibility Transport Commission (GCVTC)- a regional planning group that developed a strategy for dealing with visibility impacts in the national parks and wilderness areas on the Colorado Plateau. The GCVTC was comprised of tribal, state, and federal representatives. Once the GCVTC made its recommendations, the Western Regional Air Partnership (WRAP) was formed to implement them.

Hazardous Air Pollutants (HAPs) - 188 air pollutants that are not covered by ambient air quality standards, but which, as defined in Title III of the Clean Air Act, may reasonably be expected to cause or contribute to irreversible illness or death. Such pollutants include asbestos, beryllium, mercury, benzene, coke oven emissions, radionuclides, and vinyl chloride.

Increment - the maximum allowable increase in concentration that is allowed to occur above a baseline concentration for a pollutant in areas with a PSD program. Class I areas have the smallest increments and thus allow only a small degree of air quality deterioration. Class III areas have the largest increments and therefore allow for a larger amount of development than either Class I or Class II areas.

Inventory Preparation Plan (IPP) - a concise, prescriptive document that states exactly how you intend to develop and present your inventory. The IPP should include inventory objectives and general procedures, and should clearly describe how you will present and document the inventory for submission to EPA and/or others.

Knowing Violation - a violation in which the responsible party is aware of an environmental regulation, yet still takes an action that causes the regulation to be violated.

Lead (Pb) - a heavy metal that is hazardous to health if breathed or swallowed. Its use in gasoline, paints, and plumbing compounds has been sharply restricted or eliminated by federal laws and regulations. Lead is a criteria pollutant regulated under NAAQS.

Lowest Achievable Emission Rate (LAER) - under the Clean Air Act, the rate of emissions that reflects (a) the most stringent emission limitation in the implementation plan of any state for such source unless the owner or operator demonstrates such limitations are not achievable; or (b) the most stringent emissions limitation achieved in practice, whichever is more stringent. A proposed new or modified source may not emit pollutants in excess of existing new source standards. LAER is usually required in nonattainment areas under the New Source Review program.

Major Modification - any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the CAA. See 40 CFR 51.165(a)(1)(v)(A).

Major Stationary Source - a source that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the CAA. See 40 CFR 51.165(a)(1)(iv)(A).

Minor Stationary Sources - any stationary source of air pollutants that does not meet the definition of a major stationary source.

Mobile Source - any non-stationary source of air pollution such as cars, trucks, motorcycles, buses, airplanes, and locomotives.

Minor New Source Review (minor NSR) program - applies in both attainment and nonattainment areas to smaller new facilities and expanding facilities that are not large enough to qualify as major new sources or major modifications.

National Ambient Air Quality Standards (NAAQS) - national standards for pollutants considered harmful to public health and the environment. The Clean Air Act requires EPA to set NAAQS and established two types of national air quality standards. Primary standards set limits to protect public health, including the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings. The EPA Office of Air Quality Planning and

Standards (OAQPS) has set NAAQS for six principal pollutants, which are called "criteria" pollutants: ozone, carbon monoxide, total suspended particulates (also known as particulate matter), sulfur dioxide, lead, and nitrogen dioxide.

National Emissions Standards for Hazardous Air Pollutants (NESHAPs) - emissions standards set by EPA for an air pollutant not covered by the National Ambient Air Quality Standards (NAAQS) that may cause an increase in fatalities or in serious, irreversible, or incapacitating illness.

New Source Performance Standards (NSPS) - uniform national EPA air emission and water effluent standards which limit the amount of pollution allowed from new sources or from modified existing sources.

National Emissions Trends (NET) Database - a national database that blends state and locally supplied data with EPA derived data to form a comprehensive national inventory of criteria and toxic pollutants. The NET inventory does not necessarily include state data for any particular source or pollutant. However, in the 1996 NET inventory, EPA intends to provide statewide emissions inventory data on a county level basis to every state in the country. The NET is accessible at <http://www.epa.gov/ttn/chief/trends/index.html>.

New Source - any stationary source built or modified after publication of final or proposed regulations that prescribe a given standard of performance.

New Source Review (NSR) preconstruction permitting program - requires all new major sources or existing sources with major modifications in both nonattainment areas and attainment areas to obtain preconstruction permits. The nonattainment NSR and the Prevention of Significant Deterioration (PSD) programs, collectively known as major NSR, are federal regulations under the CAA. The programs focus primarily on the criteria pollutants regulated by the NAAQS. See also "minor New Source Review," "nonattainment New Source Review," and "Prevention of Significant Deterioration."

Nitrogen Dioxide (NO₂) - the result of nitric acid combining with oxygen in the atmosphere; major component of photochemical smog; a criteria pollutant regulated under NAAQS.

Nonattainment Area - an area that does not meet one or more of the National Ambient Air Quality Standards for the criteria pollutants designated in the Clean Air Act.

Noncriteria pollutant - an air pollutant other than one of the six criteria pollutants [ozone (O₃), carbon monoxide (CO), particulate matter (PM), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide(NO₂)].

Nitrogen Oxide (NO_x) - a product of combustion from transportation and stationary sources and a major contributor to the formation of ozone in the troposphere and to acid deposition.

Nonattainment New Source Review (nonattainment NSR) preconstruction permitting program - in areas where air quality is worse than the NAAQS, this program prevents increases in emissions from major new sources and major modifications of existing

sources and thus ensures progress toward meeting the standards. To obtain a permit under NSR, a facility must install control equipment ensuring the Lowest Achievable Emission Rate (LAER) and obtain emission "offsets" or reductions from other sources equal to the increased pollutant emissions.

Offsets - emissions reductions obtained from existing source(s) by a prospective major new stationary source, or a source planning major modifications, in order to offset the increase in pollutant emissions caused by the new or modified source (thereby creating no net increase in emissions). Offsets are generally secured from other sources in the vicinity of the new source or modification. However, in the case of modifications, offsets can also be obtained, with limitations, from the source itself.

Opacity - the amount of light obscured by particulate pollution in the air; clear window glass has zero opacity, a brick wall is 100 percent opaque. Opacity is an indicator of changes in performance of particulate control systems.

Ozone (O₃) - found in two layers of the atmosphere, the stratosphere and the troposphere. In the stratosphere (the atmospheric layer 7 to 10 miles or more above the earth's surface), ozone is a natural form of oxygen that provides a protective layer shielding the earth from ultraviolet radiation. In the troposphere (the layer extending up 7 to 10 miles from the earth's surface), ozone is major component of smog. It can seriously impair the respiratory system and is one of the most widespread of all the criteria pollutants for which the Clean Air Act required EPA to set standards. Ozone in the troposphere is produced through complex chemical reactions of nitrogen oxides, which are among the primary pollutants emitted by combustion sources; hydrocarbons, released into the atmosphere through the combustion and processing of petroleum products; and sunlight.

Particulates - fine liquid or dust particles such as dust, smoke, mist, fumes, or smog, found in air or emissions; particulate matter is a criteria pollutant regulated under NAAQS.

Permit - an authorization, license, or equivalent control document issued by EPA or an approved state or tribal agency to implement the requirements of an environmental regulation; e.g., a permit to operate a wastewater treatment plant or to operate a facility that may generate emissions.

Particulate Matter (PM) - (1) PM₁₀ - a standard for measuring the amount of solid or liquid matter suspending in the atmosphere, i.e., the amount of particulate matter over 10 micrometers (µm) in diameter; smaller PM₁₀ particles penetrate to the deeper portions of the lung, affecting sensitive populations groups such as children and individuals with respiratory ailments. (2) PM_{2.5} - particulate matter greater than or equal to 2.5 µm in diameter. PM is a criteria pollutant regulated under NAAQS.

Point Source - a stationary location or fixed facility from which pollutants are discharged; any single identifiable source of pollution, e.g., a pipe, ditch, ship, ore pit, factory smokestack.

Potential to Emit - emission estimates for a source based on the maximum capacity of that source, taking into consideration enforceable permit conditions, such as the type of materials combusted, the type of materials processed, and the annual hours of operation.

Precursor - a substance from which another substance is formed; ozone precursors, such as NO₂ and VOC, react in sunlight to form ozone.

Prevention of Significant Deterioration preconstruction permitting program (PSD) - an EPA program in which state, tribal, and/or federal permits are required in order to restrict emissions from new or modified sources in places where air quality already meets or exceeds primary and secondary ambient air quality standards.

Public Comment Period - the time allowed for the public to express its views and concerns regarding an action by the EPA or other regulating authority (e.g., a *Federal Register* notice of proposed rule-making or a public notice of a draft permit).

Quality Assurance/Quality Control (QA/QC) - a system of procedures, checks, audits, and corrective actions to ensure that all EPA research design and performance, environmental monitoring and sampling, and other technical and reporting activities are of the highest achievable quality.

Reasonably Available Control Measures (RACM) - a broadly defined term referring to technological and other measures for pollution control.

Reasonably Available Control Technology (RACT) - control technology that is both reasonably available, and both technologically and economically feasible. RACT is usually applied to existing sources in nonattainment areas; in most cases it is less stringent than new source performance standards.

Reasonably Severable - means that the TIP elements selected for the TIP must be able to stand alone and meet applicable CAA and regulatory requirements

Source - any activity that causes pollutants to be emitted into the air. A stationary source is a fixed-site producer of pollution, such as power plants, industrial facilities, and gas stations. A mobile source is any non-stationary source of air pollution such as cars, trucks, motorcycles, buses, airplanes, and locomotives. A major source is one that emits, or has the potential to emit, pollutants over a major source threshold. A minor source is any source which emits less pollutants than the major source threshold.

State Implementation Plan (SIP) - EPA approved state plans for the establishment, regulation, and enforcement of air pollution standards. A detailed description of the programs a state will use to carry out its responsibilities under the *Clean Air Act*. Collections of regulations used by the state to reduce air pollution.

Sulfur Dioxide (SO₂) - a pungent, colorless, gaseous pollutant formed primarily by the combustion of fossil fuels.

Stationary Source - a fixed-site producer of pollution, such as power plants, industrial facilities, and gas stations.

Synthetic Minor - a source with major source potential to emit that agrees to enforceable emission limits below the major source threshold. Synthetic minor provisions can be included in minor New Source Review programs.

Tribal Air Program - a program that incorporates technical, administrative, and outreach elements to address air quality concerns on a reservation or other area under a tribe's jurisdiction. Technical elements in a tribal air program may include identifying emission sources, establishing and maintaining an emissions inventory, collecting meteorological data, monitoring air quality, rule-making, and enforcing rules.

Tribal Authority Rule (TAR) - The TAR identifies eligibility criteria for tribes seeking to implement CAA programs and defines the process for EPA approval of tribal CAA programs. The TAR was issued on February 12, 1998 (63 Federal Register 7254) and the regulatory provisions codified at 40 CFR Section 49. The rule is available at: <http://www.epa.gov/air/tribal/pdfs/FINALFR.pdf>.

Tribal Implementation Plan (TIP) - a practical and enforceable plan, the primary purpose of which is to ensure that the National Ambient Air Quality Standards (NAAQS) are not violated. Tribes may choose to develop TIPs, whereas states are required to develop state implementation plans (SIPs). The EPA may develop and implement a federal implementation plan (FIP), where necessary or appropriate, for areas of Indian Country where the tribe is unable to or chooses not to develop an implementation plan that meets EPA approval.

Volatile Organic Compounds (VOCs) - any organic compound that participates in atmospheric photochemical reactions, except those designated by EPA as having negligible photochemical activity. Atmospheric photochemical reactions can transform VOCs into ozone.

Western Regional Air Partnership (WRAP) - the organization created to implement the Grand Canyon Visibility Transport Commission's (GCVTC) recommendations for dealing with visibility impacts in the national parks and wilderness areas on the Colorado Plateau. The WRAP's goal is to "promote and monitor the implementation of the recommendations from the GCVTC and, with the concurrence of its members, engage in other common regional air quality issues." The members of WRAP include governors from western states, western tribal leaders, and representatives of the Departments of Agriculture and Interior, and EPA.

Delegation Section: Progress Checklist

As of 8/9/10

Title of Section	Have an Example	Retyped Example	Need an Example
IV. Delegation			
<i>h. Process for Delegation</i>			
1. Tribe-to-EPA: communicate interest for receiving delegation	--	--	--
2. Tribe staff to EPA staff phone call: discuss appropriate provisions to include in delegation agreement	--	--	--
3. Tribe & EPA: Ongoing discussion during development of delegation request	--	--	--
4. Letter from Tribal Chairperson to Regional Administrator formally requesting delegation	✓	✓	—
5. EPA formal response: acknowledge receipt of request for delegation			✓
6. Notification letter from EPA to all appropriate governmental entities offering to consult about the delegation request			✓
7. EPA provides Tribe with a draft delegation agreement	✓		
8. Tribe & EPA review comments by Tribe on Draft Delegation Agreement: agree on language	--	--	--
9. Tribe & EPA consultation on government-to-government basis: at Tribe's request	--	--	--
10. EPA publishes notice of delegation in Federal Register & notes the delegation in the FIP for the reservation	✓		
11. EPA publishes announcement of delegation agreement in local newspapers	✓		

Education and Training Resources

Resource	Contact Information
<p>Air Pollution Training Institute (APTI) - offers classroom, telecourse, self-instructional courses, and web-based learning, links to some of which are provided below</p>	<p>www.epa.gov/apti/</p> <p>(919) 515-4265 (phone)</p> <p>(919) 541-5678 (fax)</p>
<p>APTI Area Training Centers - classroom courses and training opportunities</p>	<p>www.epa.gov/apti/course_listing.html</p> <p><u>Area Training Centers</u> Rutgers (Univ. of NJ), New Brunswick: (732) 932-8065 Univ. of IL, Chicago: (312) 996-2094 CA Polytechnic State, San Luis Obispo: (805) 756-2559 Univ. of So. FL, Tampa: (813) 974-5815</p> <p><u>Specialized Training Centers</u> Environmental & Occupational Health Sciences Institute, Piscataway, NJ: (732) 445-0220 Environmental Training Institute, Univ. of OH, Cincinnati: (513) 556-2542 Air Pollution Training Academy, Univ. of TX, Arlington: (817) 272-2915</p>
<p>APTI OL:2000 - an online reference manual with reading material and problems on fundamental engineering principles and concepts, permit review, compliance monitoring and inspection, and CAA regulatory requirements</p>	<p>www.epa.gov/apti/course_listing.html</p>
<p>EPA Education and Outreach Group (EOG) - provides APTI courses and a variety of other air training events, links to some of which are provided below</p>	<p>www.epa.gov/oar/oaqps/eog/catalog/ccs2.html</p>

Resource	Contact Information
APTI Air Pollution Distance Learning Network (APDLN) - provides seminars and telecourses via satellite broadcasts to over 100 governmental and university affiliates	www.epa.gov/oar/oaqps/eog/apdln.html (919) 541-5455 (phone) (919) 541-5678 (fax)
APTI self-instructional courses - both introductory and advanced courses are available	www.epa.gov/apti/course_listing.html#self (919) 515-5875
Institute for Tribal Environmental Professionals (ITEP) - provides technical and administrative training (the <i>American Indian Air Quality Training Program</i>), a resource center and database (the <i>Tribal Environmental Resource Center</i>), outreach to schools, and professional and student internships	www4.nau.edu/itep/ (520) 523-9555
Tribal Air Monitoring Support Center (TAMS) - provides hands-on training and support services for tribal air professionals on the topic of air quality monitoring	www4.nau.edu/tams/ (702) 798-2559

Information on Criteria Pollutants

(For additional information see: <http://epa.gov/air/criteria.html>)

CO	What Is It?	<ul style="list-style-type: none"> » Carbon monoxide, or CO, is a colorless, odorless gas that is formed when carbon in fuel is not burned completely. » Higher levels of CO generally occur in areas with heavy traffic congestion and during the colder months of the year.
	Health Effects	<ul style="list-style-type: none"> » CO can cause harmful health effects by reducing oxygen delivery to the body's organs (like the heart and brain) and tissues. » For a person with heart disease, a single exposure to CO at low levels may cause chest pain and reduce that person's ability to exercise; repeated exposures may contribute to other cardiovascular effects. » People who breathe high levels of CO can develop vision problems, reduced ability to work or learn, reduced manual dexterity, and difficulty performing complex tasks. » At extremely high levels, CO is poisonous and can cause death.
	Environmental Effects	<ul style="list-style-type: none"> » CO contributes to the formation of smog (ozone). » CO emissions lead to increases in the concentrations of carbon dioxide, methane, and ozone, which are greenhouse gases.
	Common Emission Sources	<ul style="list-style-type: none"> » Motor vehicle exhaust contributes about 56 percent of all CO emissions nationwide. » Other non-road engines and vehicles (such as construction equipment and boats) contribute about 22 percent of all CO emissions nationwide.
NO₂	What Is It?	<ul style="list-style-type: none"> » Nitrogen dioxide (NO₂) belongs to a family of highly reactive gases called nitrogen oxides (NO_x). » While EPA's National Ambient Air Quality Standard covers this entire family of NO_x, NO₂ is the component of greatest interest and the indicator for the larger group of nitrogen oxides.
	Health Effects	<ul style="list-style-type: none"> » Current scientific evidence links short-term NO₂ exposures, ranging from 30 minutes to 24 hours, with adverse respiratory effects including airway inflammation in healthy people and increased respiratory symptoms in people with asthma. » Studies show a connection between breathing elevated short-term NO₂ concentrations, and increased visits to emergency departments and hospital admissions for respiratory issues, especially asthma. » In addition, NO_x emissions contribute to the formation of O₃ and fine particle pollution which have adverse health effects.
	Environmental Effects	<ul style="list-style-type: none"> » Sulfur dioxide and NO_x are the two key air pollutants that cause acid deposition, which can harm lakes and streams and damage trees, crops, historic buildings, and monuments. » NO_x emissions contribute to accelerated eutrophication of coastal waters and estuaries. » Nitrous oxide (N₂O) is a greenhouse gas. » NO_x emissions lead to formation of compounds that impair visibility.
	Common Emission Sources	<ul style="list-style-type: none"> » NO₂ forms quickly from emissions from cars, trucks and buses, power plants, and off-road equipment.

O ₃	What Is It?	<ul style="list-style-type: none"> » Ozone (O₃) is a gas composed of three oxygen atoms. » At ground level, O₃ is created by a chemical reaction between NO_x and volatile organic compounds (VOC) in the presence of sunlight. » Ground-level O₃ is harmful to health and the environment and is the primary constituent of smog. » Very high in the atmosphere (about 10 to 30 miles above the earth's surface) "good" ozone occurs naturally and forms a layer that protects life on earth from the sun's harmful rays.
	Health Effects	<ul style="list-style-type: none"> » People with lung disease, children, older adults, and people who are active can be affected when ozone levels are unhealthy. » Numerous scientific studies have linked ground-level O₃ exposure to a variety of problems, including: airway irritation, coughing, and pain when taking a deep breath; wheezing and breathing difficulties during exercise or outdoor activities; inflammation, which is much like a sunburn on the skin; aggravation of asthma and increased susceptibility to respiratory illnesses like pneumonia and bronchitis; and, permanent lung damage with repeated exposures.
	Environmental Effects	<ul style="list-style-type: none"> » Ground-level O₃ can have detrimental effects on plants and ecosystems. » These effects include: interfering with the ability of sensitive plants to produce and store food, making them more susceptible to certain diseases, insects, other pollutants, competition and harsh weather; damaging the leaves of trees and other plants, negatively impacting the appearance of urban vegetation, as well as vegetation in national parks and recreation areas; and reducing forest growth and crop yields, potentially impacting species diversity in ecosystems.
	Common Emission Sources	<ul style="list-style-type: none"> » Motor vehicle exhaust and industrial emissions, gasoline vapors, and chemical solvents as well as natural sources emit NO_x and VOC that lead to formation of O₃.
Pb	What Is It?	<ul style="list-style-type: none"> » Lead (Pb) is a metal found naturally in the environment as well as in manufactured products. » As a result of EPA's regulatory efforts to remove lead from gasoline, emissions of lead from the transportation sector dramatically declined by 95 percent between 1980 and 1999, and levels of lead in the air decreased by 94 percent between 1980 and 1999.
	Health Effects	<ul style="list-style-type: none"> » Lead can adversely affect the nervous system, kidney function, immune system, reproductive and developmental systems and the cardiovascular system. » Lead exposure also affects the oxygen carrying capacity of the blood. » The lead effects most commonly encountered in current populations are neurological effects in children and cardiovascular effects in adults. » Infants and young children are especially sensitive to even low levels of lead, which may contribute to behavioral problems, learning deficits and lowered IQ.

	Environmental Effects	<ul style="list-style-type: none"> » Ecosystems near point sources of lead demonstrate a wide range of adverse effects including losses in biodiversity, changes in community composition, decreased growth and reproductive rates in plants and animals, and neurological effects in vertebrates.
	Common Emission Sources	<ul style="list-style-type: none"> » The major sources of lead emissions have historically been motor vehicles (such as cars and trucks) and industrial sources. » Today, the highest levels of lead in air are usually found near lead smelters. » Other stationary sources are waste incinerators, utilities, and lead-acid battery manufacturers.
PM	What Is It?	<ul style="list-style-type: none"> » Particulate matter (PM) is a mixture of extremely small particles and liquid droplets, including acids (such as nitrates and sulfates), organic chemicals, metals, and soil or dust particles. » As the size of particles is directly linked to their potential for causing health problems, EPA groups particle pollution into two categories. » "Inhalable coarse particles," such as those found near roadways and dusty industries, are larger than 2.5 micrometers and smaller than 10 micrometers in diameter. » "Fine particles," such as those found in smoke and haze, are 2.5 micrometers in diameter and smaller.
	Health Effects	<ul style="list-style-type: none"> » PM particles are so small that they can get deep into the lungs and cause serious health problems. » Numerous scientific studies have linked particle pollution exposure to a variety of problems, including increased respiratory symptoms, such as irritation of the airways, coughing, or difficulty breathing, for example; decreased lung function; aggravated asthma; development of chronic bronchitis; irregular heartbeat; nonfatal heart attacks; and premature death in people with heart or lung disease. » People with heart or lung diseases, children and older adults are the most likely to be affected by particle pollution exposure.
	Environmental Effects	<ul style="list-style-type: none"> » Fine particles are the major cause of reduced visibility (haze) in parts of the United States, including many of our treasured national parks and wilderness areas. » Particles can be carried over long distances by wind and then settle on ground or water. The effects of this settling include: making lakes and streams acidic; changing the nutrient balance in coastal waters and large river basins; depleting the nutrients in soil; damaging sensitive forests and farm crops; and affecting the diversity of ecosystems. » Particle pollution can stain and damage stone and other materials, including culturally important objects such as statues and monuments.
	Common Emission Sources	<ul style="list-style-type: none"> » PM can be directly emitted from sources such as forest fires, or they can form when gases emitted from power plants, industries and automobiles react in the air.

SO ₂	What Is It?	<ul style="list-style-type: none"> » Sulfur dioxide (SO₂) is one of a group of highly reactive gasses known as "oxides of sulfur." » EPA's National Ambient Air Quality Standard for SO₂ is designed to protect against exposure to the entire group of sulfur oxides (SO_x). » SO₂ is the component of greatest concern and is used as the indicator for the larger group of SO_x. Other gaseous sulfur oxides (e.g. SO₃) are found in the atmosphere at concentrations much lower than SO₂.
	Health Effects	<ul style="list-style-type: none"> » Current scientific evidence links short-term exposures to SO₂, ranging from 5 minutes to 24 hours, with an array of adverse respiratory effects including bronchoconstriction and increased asthma symptoms. These effects are particularly important for asthmatics at elevated ventilation rates (e.g., while exercising or playing.) » Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses, particularly in at-risk populations including children, the elderly, and asthmatics. » Emissions of SO_x can react with other compounds in the atmosphere to form PM, which has adverse health effects.
	Environmental Effects	<ul style="list-style-type: none"> » SO_x and NO_x are the two key air pollutants that cause acid deposition, which can harm lakes and streams and damage trees, crops, historic buildings, and monuments. » SO_x emissions lead to formation of compounds that impair visibility.
	Common Emission Sources	<ul style="list-style-type: none"> » The largest sources of SO₂ emissions are from fossil fuel combustion at power plants (73%) and other industrial facilities (20%). » Smaller sources of SO₂ emissions include industrial processes such as extracting metal from ore, and the burning of high sulfur containing fuels by locomotives, large ships, and non-road equipment.

Informational Resources

Description	Website and/or Other Sources of Information
Starting Points	
American Indian Environmental Office (AIEO)	www.epa.gov/indian
Institute for Tribal Environmental Professionals (ITEP)	www4.nau.edu/itep/
American Indian Science and Engineering Society (AISES)	www.aises.org
General Law	
The Clean Air Act (CAA)	www.epa.gov/air/caa/
Plain English Guide to the CAA	www.epa.gov/air/caa/peg/
Code of Federal Regulations (CFR)	www.gpoaccess.gov/cfr/index.html
Text of 40 CFR (environmental regulations)	www.epa.gov/lawsregs/search/40cfr.html
Tribal Authority Rule (TAR)	63 Federal Register 7254 40 CFR parts 9, 35, 49, 50, and 81
Laws, regulations, and guidance of special interest to tribes	http://water.epa.gov/scitech/swguidance/waterquality/standards/wqslibrary/regs.cfm
National Ambient Air Quality Standards (NAAQS)	40 CFR 50 http://epa.gov/air/criteria.html
Memoranda for NAAQS - Policy & Guidance Memos	http://www.epa.gov/ttn/caaa/t1pgm.html
Reports for NAAQS - Background Information Documents	http://www.epa.gov/ttn/caaa/t1bid.html
State Implementation Plan (SIP) requirements	CAA Section 110(a) 40 CFR parts 51 and 52

Description	Website and/or Other Sources of Information
Criteria used to determine the administrative completeness of implementation plans	40 CFR 51 Appendix V
Ozone nonattainment area requirements	CAA Sections 181 through 185
Carbon monoxide nonattainment area requirements	CAA Sections 186 and 187
PM nonattainment area requirements	§188 to §190
Sulfur oxide, lead, or nitrogen oxide nonattainment area requirements	CAA Sections 191 and 192
Nonattainment areas	www.epa.gov/oaqps001/greenbk/
Section 126 petitions to EPA to find that sources outside your reservation are contributing to NAAQS violations	www.epa.gov/cair/rule.html
Redesignation from nonattainment to attainment	CAA Section 107(d)(3)(E)
Emissions Inventories	
Emissions Inventory Improvement Program (EIIP)	www.epa.gov/ttn/chief/eiip/
<i>EIIP Document Series, Volumes I-IX</i> -the primary guidance on inventory development	www.epa.gov/ttn/chief/eiip/%20 or the National Technical Information Service (www.ntis.gov/ or (703) 605-6000)
Clearing House for Inventories and Emissions Factors (CHIEF)	www.epa.gov/ttn/chief
<i>Handbook for Criteria pollutant Inventory Development: A Beginner's Guide for Point and Area Sources</i>	Handbook (reference number EPA-454/R-99-037)
The Institute for Tribal Environmental Professionals (ITEP)	www4.nau.edu/itep/

Description	Website and/or Other Sources of Information
<i>The Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations, April 1999</i>	www.epa.gov/ttnchie1/eidocs/eiguid/index.html (reference number EPA-454/R-99-006)
<i>AP-42, Emission Factors Handbook</i> - includes brief descriptions of processes used, potential sources of air emissions from the processes, common methods used to control these air emissions, and methodologies for estimating the quantity of air pollutant emissions via emission factors	http://www.epa.gov/ttn/chie/efpac/abefpac.html
Air Quality Monitoring	
Information on existing air quality monitoring stations	www.epa.gov/oar/oaqps/qa/monprog.html
The Aerometric Information Retrieval System - Air Quality System (AIRS-AQS) - a database with information on the levels of the criteria pollutants in all areas of the country	http://www.epa.gov/ttn/airs/airsaqs/
Ambient Monitoring Technology Information Center	www.epa.gov/ttn/amtic/
Air Pollutant Monitoring website	www.epa.gov/oar/oaqps/montring.html
The Tribal Air Monitoring Support Center	www4.nau.edu/tams/
<i>Quality Assurance Handbook for Air Pollution Measuring Systems: Volume 1—A Field Guide to Environmental Quality Assurance</i>	http://www.epa.gov/ttnamti1/files/ambient/qaqc/r94-038a.pdf
<i>Quality Assurance Handbook for Air Pollutant Measuring Systems: Volume 3—Stationary Source-Specific Methods</i>	http://www.epa.gov/ttnemc01/qahandbook3/

Description	Website and/or Other Sources of Information
Data analysis requirements	40 CFR 50 http://www.epa.gov/ttn/caaa/t1pgm.html
Control Measures	
Clean Air Technology Center (CATC) - a resource on all areas of emerging and existing air pollution prevention and control technologies, and information on their use, effectiveness, and cost	www.epa.gov/ttn/catc/
NSR RACT/BACT/LAER Clearinghouse	http://cfpub1.epa.gov/RBLC/
<i>Procedures for Identifying Reasonably Available Control Technology for Stationary Sources of PM₁₀</i> (EPA 452/R-93-001), September 1992	Retrieve here
Air Quality Modeling	
Support Center for Regulatory Air Models	www.epa.gov/ttn/scram/
Emissions Measurement	
Emission Measurement Center (EMC)	www.epa.gov/ttn/emc/ or the EMC 24-hr automated telephone information hotline: (919) 541-0200
EMC's promulgated test methods site	www.epa.gov/ttn/emc/promgate.html
Enforcement	
Office of Enforcement and Compliance Assurance (OECA)	www.epa.gov/compliance/
OECA's Compliance Assistance Centers for specific industry sectors	www.assistancecenters.net/
National Enforcement Training Institute (NETI)	www.fedcenter.gov/Bookmarks/index.cfm?id=968&pge_id=1606 or call 1-800-EPA-NETI

Description	Website and/or Other Sources of Information
American Indian Lands Environmental Support Project (AILESP) - a database with release, compliance and enforcement histories for facilities located on and within five kilometers of tribal lands	www.epa.gov/compliance/
BEN - a computer model for determining the economic benefits gained by a source for avoiding or delaying required environmental expenditures	www.epa.gov/Compliance/civil/econmodels/#ben
Miscellaneous	
Criteria pollutants - general information	www.epa.gov/air/urbanair/
New Source Review	www.epa.gov/nsr/
Visibility / Regional Haze Program	www.epa.gov/visibility/program.html
<i>Tribal Environmental and Natural Resources Assistance Handbook</i> - a central location of federal resources of both technical and financial assistance available to tribes for environmental management	http://yosemite.epa.gov/R10/TRIBAL.NSF/af6d4571f3e2b1698825650f0071180a/1e4f27736563fc3a882571db00661b15/\$FILE/tribook.pdf
<i>Developing a Tribal Air Program, Training Manual</i> (April 1999) - information on public relations campaigns and other topics relating to air program development	Institute for Tribal Environmental Professionals at Northern Arizona University at (520) 523-9555 and ITEP @lists.nau.edu (e-mail); US EPA Region 6
Office of Air and Radiation, Tribal Air	www.epa.gov/oar/tribal/
State and Territorial Air Pollution Program Administrators (STAPPA) and Association of Local Air Pollution Control Officers (ALAPCO) - national associations representing air pollution control agencies across the United States	www.4cleanair.org

Description	Website and/or Other Sources of Information
National Tribal Environmental Council (NTEC) - a membership organization dedicated to working with and assisting tribes in the protection and preservation of the reservation environment	www.ntec.org
National Service Center for Environmental Publications (NSCEP) - has over 5000 EPA publications available in hard copy and multimedia product, free of charge	www.epa.gov/ncepihom/

SAMPLE

Public Notice in Local Newspaper

**Notice of Public Comment
[Tribe] – Environment Division
Air Quality Program
[Date]**

The Air Quality Code is being enacted to ensure a high quality of life for the [Tribe] community by preserving, sustaining, protecting, and enhancing the air environment, air quality across the reservations should be healthful for all its members and of sufficient purity to preserve the quality of life and prevent undue economic loss.

Through rules and standards, this Air Quality Code will provide a means for the community to become involved in maintaining and improving the [Tribe] air shed. Before these rules can become effective, the Air Quality Program will submit the Code before the community of [Community Name] or on the web at [Website Address].

All people within [names of] counties are encouraged to comment on the contents of the Air Quality Code. Each comment will be carefully considered and addressed, and if appropriate, incorporated into the Code. The deadline for the comment period will be July 29, 2002. Comments can be sent to the:

[Tribe]
Environment Division
[Address]
[City], [State], [Zip Code]

RESOLUTION # _____

The [Tribe] Business Committee, on behalf of the [Tribe], hereby enacts the following Resolution:

WHEREAS, The [Tribe] is a sovereignty, created by the Treaty of September 30, 1954, 10 Stat. 1109, as the permanent home of the [Tribe], which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the [Tribe]; and

WHEREAS, it is the sovereign obligation of the [Tribe] Business Committee, as the Governing Body of the [Tribe], under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee has a responsibility to promote and protect the general health, safety, and welfare of the [Tribe] and its members; and

WHEREAS, on February 12, 1998, the United States Environmental Protection Agency (USEPA) published a notice in the Federal Register announcing rulemaking which implements the provisions of section 301(d) of the Clean Air Act (CAA), which authorizes the USEPA to issue regulations specifying the provisions of the CAA for which Indian tribes may be treated in the same manner as states. Under this Tribal Authority Rule (TAR), the USEPA may authorize eligible tribes to implement their own tribal air programs; and

WHEREAS, the Reservation Business Committee has determined it to be necessary and in the best interests of the [Tribe], in an effort to promote and protect the general health, safety, and welfare of its members, to request a grant of Authority from EPA to adopt its own tribal program to monitor and protect the air resources of the reservation for use and enjoyment by present and future generations, and preventing the degradation of reservation air quality by activities either internal or external of the Reservation boundaries; and

WHEREAS, the Reservation Business Committee has received and reviewed a letter written by the [Tribe] Environmental Program requesting authority under USEPA's Tribal Air Authority rule;

NOW THEREFORE BE IT RESOLVED, that the [Tribe] Reservation Business Committee does hereby announce its intention to seek status as the air quality authority on the [Tribe], with the ability to implement a Tribal Implementation Plan and necessary regulations.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of ___ for, ___ against, ___ silent, with a quorum of ___ being present at a _____ Meeting of the [Tribe] Business Committee held on _____ in [City, State].

, Chairman

, Sec/Treas.

Step 7 of 11
Sample Draft Delegation Agreement
As of 8/10/10
Delegation Agreement

Agreement for Delegation of the **Federal Implementation Plan [New Source Review] for the [Tribe] by the United States Environmental Protection Agency, Region # to the [Tribe]**

This agreement between the [Tribe] and the U.S. Environmental Protection Agency (EPA), Region #, sets forth the legal and procedural basis for delegation of administrative authority for implementation of certain sections of the **Federal Implementation Plan (FIP) [New Source Review Rule]** (40 CFR Part __ Subpart __, Sections __), hereafter referred to as the [Tribe] **FIP/NSR**.

I. Purpose

The purpose of this Delegation Agreement is to delegate certain administrative responsibilities and authorities of the **FIP/NSR** to the [Tribe]. The **FIP/NSR** establishes Federal regulations and requirements applicable to all sources of air pollution located within the current federally-recognized exterior boundaries of the [Reservation] as declared by 1888 Secretary of Interior Order of Restoration, 23 Stat. 340-342 (Reservation). Upon the effective date of this Delegation Agreement, EPA Region # delegated to the [Tribe] authority to administer portions of the [Tribe] **FIP/NSR** on all lands within the Reservation.

II. Legal Authority

A. Clean Air Act Amendments of 1990 (CAA or Act) provide EPA authority to promulgate regulations to protect air quality within Indian country. See section __ and __ of the Act. EPA Region # has promulgated such regulations for the [Tribe] Reservation. [See 40 CFR __ Part...]

B. **PLEASE FILL IN ALL APPLICABLE LEGAL AUTHORITIES HERE**

III. [Tribe] FIP/NSR

The Following are the federal regulations from 40 CFR __ through 40 CFR __ that apply to all sources of air pollution within the Reservation.

PLEASE FILL IN ALL APPLICABLE INFORMATION HERE

IV. Delegated Provisions of the [Tribe] FIP

(Partial) authority to administer the [Tribe] FIP may be delegated to the [Tribe] for all sources of air pollution located within the Reservation that are subject to the [Tribe] FIP (40 CFR __). This section of the delegation agreement identifies those provisions where the [Tribe] will assist EPA with implementing delegated provisions. In addition, this delegation agreement identifies program elements that require coordination and communication between EPA and the [Tribe].

Step 7 of 11
Sample Draft Delegation Agreement

As of 8/10/10

A. EPA delegates to the [Tribe] the following rules, effective immediately upon signature by both EPA and [Tribe]:

1. Section ___ General Provisions

This section of the [Tribe] FIP provides definition of terms, requirements for testing, requirement for monitoring, credible evidence and incorporation by reference materials applicable to the requirements of the [Tribe] FIP.

2. Section ___ General rule for _____

PLEASE FILL IN ALL APPLICABLE INFORMATION HERE

V. **Complaint Response**

A. The [Tribe] is delegated authority to [ex. initially respond to air quality complaints on the Reservation].

B. **PLEASE FILL IN ALL APPLICABLE INFORMATION HERE**

VI. **Inspections and Investigations**

A. The [Tribe] may assist EPA in [ex. compliance monitoring activities by investigating complaints and conducting compliance inspections].

B. **PLEASE FILL IN ALL APPLICABLE INFORMATION HERE**

VII. **Enforcement**

A. Enforcement of the [Tribe] FIP will remain the sole responsibility of [ex. EPA Region #, Tribe, etc.].

B. EPA Region # will follow all established Federal policies and procedures, including policies and procedures issued by the Office of Enforcement and Compliance Assurance (OECA) and EPA Region #, in the pursuit of enforcement remedies for violations of the [Tribe] FIP.

C. **PLEASE FILL IN ALL APPLICABLE ENFORCEMENT INFORMATION HERE**

VIII. **Data and Reporting Requirements**

A. Date and information obtained by the [Tribe] relating to implementation of delegated portions of the [Tribe] FIP shall be reported to EPA in summary format, on a [quarterly] basis.

B. EPA shall furnish the Tribe requested information in its files related to implementation of the [Tribe] FIP.

Step 7 of 11
Sample Draft Delegation Agreement

As of 8/10/10

C. Data and information may be withheld, should either EPA or the [Tribe] have a valid reason.

D. Employees of the Tribe should not accept any information submitted to the Tribe under a claim as confidential business information. The Tribe will instruct the person making the claim to submit the protected information directly to EPA. Information without a claim of confidential business information may be made available to the public without further notice.

E. PLEASE FILL IN ALL APPLICABLE DATA AND REPORTING REQUIREMENTS HERE

IX. Funding

A. EPA expects to provide funds to the [Tribe] to carry out the Tribe's responsibilities delegated under this agreement, as resources allow. This funding will be provided through a [Clean Air Act section 105 grant] or other appropriate funding mechanism.

B. The [Tribe] may promulgate tribal regulations authorizing the collection of fees to offset the cost of their administration. These fees are for the sole purpose of program income to the [Tribe] air program.

C. PLEASE FILL IN ALL APPLICABLE FUNDING INFORMATION HERE

X. Additional Provisions

A. The [Tribe] has, or will have, the technical capability and adequate resources to carry out responsibilities delegated through this agreement. [As requested by the [Tribe], EPA will strive to provide technical assistance and resources to meet needs identified by the [Tribe] or EPA.] See IX Funding above.

B. The [Tribe] will provide a process to resolve issues arising between a regulated entity and the Tribe from the Tribe's decisions or actions relating to their delegated authority under this agreement, before raising the issue to EPA.

C. PLEASE FILL IN ALL APPLICABLE ADDITIONAL PROVISIONS HERE

XI. Agreement Evaluation, Modification, or Termination

A. EPA and the [Tribe] will engage in an annual evaluation of this delegation agreement. This evaluation may include among other things, identification of level of effort, description of program activities, costs, evaluation of citizen complaints, and identification of areas for improvement.

Step 7 of 11
Sample Draft Delegation Agreement
As of 8/10/10

B. This agreement may be modified to account for any changes to the [Tribe] FIP promulgated after [DATE]. Implementation of new or revised requirements after [DATE], will remain the sole responsibility of EPA until this Agreement is modified.

C. Pursuant to [40 CFR ____], this Delegation Agreement may be modified, amended, or revoked, in part or in whole, by the Regional Administrator after consultation with the [Tribe]. Any substantive modifications or amendments to this agreement will be subject to the procedures described in [40 CFR ____], including public notice.

D. The [Tribe] may, at any time, submit to the Regional Administrator a written request for modification or amendment of this delegation agreement.

E. The [Tribe] may, at any time, terminate this Agreement by providing [one hundred twenty (120)] days written notice to the Regional Administrator.

F. PLEASE FILL IN ALL APPLICABLE TERMS HERE

XII. Appendix

PLEASE INCLUDE ALL APPENDIX INFORMATION HERE

XIII. Signatures

EPA and the [Tribe] recognize that each reserve the rights, powers, and remedies now or hereafter existing in law or in equity, by statute, treaty, or otherwise. Nothing in this Agreement is, or shall be construed, to be a waiver of the sovereignty of the [Tribe] or the United States. By entering into this agreement, EPA and the [Tribe] reserve, and do not waive, any jurisdictional claims relating to proper application of the CAA or any other matter. This delegation agreement is intended solely for the purpose of facilitating intergovernmental cooperation, and creates no rights in third parties or the right to judicial review.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year below.

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Date: _____
Name, Acting Regional Administrator
U.S. EPA Region #

[TRIBE]

Date: _____
Name, Position
Tribe

SAMPLE EPA RESPONSE:

United States Environmental Protection Agency

[Region]

[Address]

[Chief]

[Address]

Re: Application for Eligibility Determination

Dear [Chief]:

I am pleased to notify you that the United States Environmental Protection Agency (EPA) [Region] is approving the [Tribe]'s Request for an eligibility determination for the purposes of establishing a minor source permitting program. In making the decision, I have evaluated information provided to me by the [Tribe] Tribal Council and its Environmental Division and determined that the Tribe meets the requirements of CAA Section 301 (d) CAA and 40 Code of Federal Regulations (CFR) Section 49 which provides for the authorization of specific Tribal CAA authorities. The scope of today's action is summarized briefly below.

The Tribe applied for an eligibility determination for the purposes of establishing a minor source permitting program. This is the first request for permitting eligibility nationwide and is potentially precedent setting.

In the request, there is also a conflicting jurisdictional claim filed by the State of New York regarding the area known as the Hogansburg Triangle. Under EPA's regulations 40 CFR 49.9(e), if a conflicting claim cannot be readily resolved, the EPA may make a determination of eligibility for the undisputed areas. Therefore, I am making the determination of eligibility for the geographic areas described in the Tribe's application, excluding the Hogansburg Triangle.

Enclosed for your records is a copy of the signed document entitled, "Eligibility Determination for the [Tribe] for Treatment in the Same Manner as a State under the Clean Air Act".

**Sample Letter from Regional Office to be Published in Local Newspaper/s
Notice of Application
(Treatment in the Same Manner as a State (TAS) Eligibility to Administer a Regulatory
Program Under the Clean Air Act (CAA))**

**United States Environmental Protection Agency
Region #
Address
City, State Zip Code**

**NOTICE OF APPLICATION FOR
TREATMENT IN THE SAME MANNER AS A STATE
FOR PURPOSES OF THE CLEAN AIR ACT [SPECIFIC SECTION/S] AND OTHER CAA
PROVISIONS FOR WHICH NO SEPARATE TRIBAL PROGRAM IS REQUIRED**

Notice is hereby given that the [Tribe] of [Indian Reservation] have applied to the U.S. Environmental Protection Agency (EPA) Region (#) for Treatment in a Similar Manner as a State (TAS) for certain Clean Air Act (CAA) provisions. Specifically, the Tribes' CAA TAS application asks EPA to find that the [Tribe] of [Indian Reservation] are eligible, pursuant to CAA Section 301(d) and implementing regulations for authority to administer [Specific provision/section]; to be treated as an "affected state" under CAA Section 505(a)(2); for approval for CAA provisions for which no separate Tribal program is required, including Sections 107(d)(3), 112(r)(7)(B)(iii), 126, 169B, 176A, and 184; and for a determination by EPA that the Tribes meet the eligibility requirements of 40 C.F.R. Section 49.6.

This notice provides an opportunity to comment on the [Tribe or Indian Reservation] boundary description provided by the Tribes in their CAA TAS application. EPA is not proposing or finalizing an Agency decision on the application at this time but is inviting comment on the Tribes' Reservation boundary description provided in their application. After considering relevant comments received during this notice and comment period, EPA will make a decision on the Tribes' application.

The Tribes' CAA TAS application describes the Reservation boundary as: [describe the legal / actual area – to include Treaties, Acts, boundaries, counties, state, etc.]. EPA invites comments on the Tribes' Reservation boundary description. Comments should be submitted to EPA in writing no later than (date) at:

**EPA Regional Contact Name
U.S. EPA Region #, Air Program
Mail Code
Address
City, State Zip Code
Phone Number**

Additional information from the Tribes' CAA TAS application related to their Reservation boundary description can be accessed at www.epa.gov/region# (link to TAS application) or a copy can be obtained by contacting:

EPA Regional Contact Name
U.S. EPA Region #, Air Program
Mail Code
Address
City, State Zip Code
Phone Number

or

Tribe
Tribal TAS Application Contact Name
Address
City, State Zip Code
Phone Number

PUB: (States where this was published)
Date Published: (date)

DRAFT

Step 4 of 11

Sample Letter from Tribal Chairperson to Regional Administrator (Formal Delegation Request)

As of 8/9/10

Date

Name

Regional Administrator

EPA Region #

Address

Address

Subject: Request for Delegation of Authority to Administer New Source Review rules for [Tribe]

Dear Mr./Mrs. _____:

The [Tribe] is pleased to request (Partial) Delegation of Administrative Authority to a Tribe (Delegation) of the federal Clean Air Act rules for the [Tribe] in accordance with __ CFR __.

The [Tribe] has included the following attachments/exhibits to demonstrate that we meet the requirements for a Delegation:

- Attachment 1 : [include brief description of attachment]
- Attachment 2 : [include brief description of attachment]
- Attachment 3 : [include brief description of attachment]

[If your Tribe has previously submitted an application for TAS, then please mention it here.]

Thank you for your time and consideration of our application. We look forward to working with the EPA to improve the air quality for the [Tribe] and to continuing our positive relationship with the EPA. You will also have our cooperation throughout the EPA review of this application and consultation with surrounding cities and counties. If you require any further information to complete this process, please contact our [lead staff person assigned to this matter], [Name] at XXX-XXX-XXXX.

Sincerely,

[Hand Signature]

Name

Title

