

Section 11.0 General Permit Requirements

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11.1 Purpose

The purpose of this Section is to require owners and/or operators of proposed or existing air contamination sources to submit an application and obtain a permit from the Air Quality Program for the operation of such sources.

11.2 Applicability

Unless specifically exempted pursuant to Section 12.2.2, owners and /or operators of air contamination sources must comply with this Section. Owners and/or operators of major stationary sources subject to 40 CFR Part 71, must obtain a Title V permit from the US Environmental Protection Agency. Owners and/or operators of other emission sources must submit an application pursuant to Sections 11.4 and 11.5 of this Plan. Owners and/or operators of emission sources required to obtain a Title V permit may request limitations on such source's potential to emit regulated air pollutants in accordance with Section 13.0 of this Plan in order to avoid such requirements.

11.3 Public Participation

Federal, affected state and public participation in review and permit proceedings will be provided for in accordance with procedures established in Section 6.0 of this Plan unless otherwise provided for in this Section.

11.4 Applications

(1) Application Submittals

All applications submitted to the Air Quality Program shall be provided in a format acceptable to the Air Quality Program. At a minimum, the application must include:

- (a) identifying information, including owner and/or operator name and address, plant name and address;
- (b) a location map with the site marked on it if the application is for a new facility;
- (c) a facility description of the operations carried out at the facility;

- (d) a listing of the Standard Industrial Classification Plans (SIC) which correspond to the primary operations carried out at facility;
- (e) a list of Criteria and Hazardous Air Pollutants emitted at the facility, including quantity and rate of emissions; the emissions shall be based upon actual test data or in the absence of such data upon estimations acceptable to the Air Quality Program.
- (f) a listing of the applicable Tribal requirements in this Plan;
- (g) a listing of the applicable Federal requirements;
- (h) proposed start-up date or phased dates when applicable;
- (i) revisions to the installation/construction, if any, that differed from the construction design and plan given in the permit application material, data and specifications.

(2) Application Fees

An application will be assessed a one-time fee that must accompany the application. Applications received without appropriate fees are incomplete. Fees must be paid by check or money order made payable to *St. Regis Mohawk Tribe* in accordance with the following fee schedule:

(a) Construction permit application fees.

- (i) Emissions of any regulated air pollutant over 40 up to and including 99 tons per year - \$500
- (ii) Emissions of any regulated air pollutant 5 up to and including 40 tons per year - \$300
- (iii) Emissions of any air pollutant applicable to Sections 9.6 and 9.7 - \$300
- (iv) Extension of time and transfer of ownership - no fee

(b) Operating permit application fees.

- (i) Minor permit - \$300
- (ii) Modification of permit - \$200
- (iii) Relocation - \$100

11.5 Review

The Air Quality Program will make a determination of facility status within 60 days of receipt of a complete application. The Air Quality Program will publish the notice of complete application in accordance with Section 6.2.a.

11.6 Renewal

Renewal of minor source permits shall occur every 5 years from the date of original issuance. Owners or operators of affected facilities must submit their application no later than 180 days before the date of expiration.

11.7 Change in Ownership.

A minor source permit is valid only for the emission unit(s), owner and/or operator, facility, mode of operation and special conditions stated in the application, or permit. The owner and/or

operator can transfer the permit to a new owner and/or operator if the mode of operation and emissions do not change.

11.8 Unavoidable Noncompliance and Violations.

At the discretion of the Air Quality Program, a violation of any applicable emission standard for necessary scheduled equipment maintenance, start-up/shutdown conditions and malfunctions or upsets may be excused if such violations are unavoidable. The following actions and record keeping and reporting requirements must be adhered to in such circumstances:

- (1) The facility owner and/or operator shall compile and maintain records of all equipment maintenance or start-up/shutdown activities when they can be expected to result in an exceedance of any applicable emission standard, and shall submit a report of such activities to the Air Quality Program. Such reports shall describe why the violation was unavoidable and shall include the time, frequency and duration of the maintenance and/or start-up/shutdown activities and the identification of air contaminants, and the estimated emission rates. If a facility owner and/or operator is subject to continuous stack monitoring and quarterly reporting requirements, he need not submit reports for equipment maintenance or start-up/shutdown for the facility.
- (2) In the event that emissions of air contaminants in excess of any emission standard in this Plan occur due to a malfunction, the facility owner and/or operator shall report such malfunction by telephone to the Air Quality Program as soon as possible during normal working hours, but in any event not later than two working days after becoming aware that the malfunction occurred. Within 30 days thereafter, the facility owner and/or operator shall submit a written report to the Air Quality Program describing the malfunction, the corrective action taken, identification of air contaminants, and an estimate of the emission rates.
- (3) The Air Quality Program may also require the owner and/or operator to include in reports described under (1) and (2) above an estimate of the maximum ground level concentration of each air contaminant emitted and the effect of such emissions depending on the deviation of the malfunction and the air contaminants emitted.
- (4) In the event of maintenance, start-up/shutdown or malfunction conditions which result in emissions exceeding any applicable emission standard, the facility owner and/or operator shall take appropriate action to prevent emissions which will result in contravention of any applicable ambient air quality standard. RACT, as determined by the Air Quality Program, shall be applied during any maintenance, start-up/shutdown or malfunction condition subject to this Section.

11.9 Emergency Defense.

An emergency constitutes an affirmative defense to an action brought for noncompliance with emission limitations or permit conditions for all facilities within the exterior boundaries of the SRMT.

- (1) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An emergency occurred and that the facility owner and/or operator can identify the cause(s) of the emergency;

(b) The equipment at the permitted facility causing the emergency was at the time being properly operated;

(c) During the period of the emergency the facility owner and/or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; or

(d) The facility owner and/or operator notified the Air Quality Program within two working days after the event occurred. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(2) In any enforcement proceeding, the facility owner and/or operator seeking to establish the occurrence of an emergency has the burden of proof.

11.10 Prohibition of Reintroduction of Collected Contaminants to the Air.

No person shall unnecessarily remove, handle, or cause to be handled, collected air contaminants from an air cleaning device for recycling, salvage or disposal in a manner that would reintroduce them to the outdoor atmosphere.

Section 12.0 Permits for Minor Facilities

12.1 Purpose

12.2 Applicability

12.3 Construction Permits

12.4 Operating Permits

12.5 Monitoring, Record Keeping, Reporting

12.1 Purpose

The purpose of this Section is to regulate the operation and modification of new and existing stationary sources, area sources and devices in order to achieve and maintain the ambient air quality standards established pursuant to Section 109 and 112 of the CAA and Section 9 of this Plan.

12.2 Applicability

(1) Except as provided in this section, no person may commence construction or modification of any minor facility, may operate any new minor facility or may relocate any minor portable source without obtaining a permit from the Air Quality Program.

(2) Sources that meet the following criteria are required to register with the Air Quality Program, as specified in this paragraph:

(a) Facilities with existing stationary sources that are in industrial categories to which a New Source Performance Standard (NSPS) applies, with potential emissions of regulated contaminants below the applicability thresholds of 40 CFR Section 60,

(b) Facilities with existing stationary sources, which emit any contaminant listed as a hazardous air pollutant under Section 112 of the CAA with a potential to emit below the applicability thresholds of 40 CFR Section 61 and 40 CFR Section 63

or which have been deferred from the requirement for obtaining a Title V permit pursuant to 40 CFR Section 71,

(c) Any stationary source, which has its potential to emit capped by rule pursuant to Subsection 13.0 of this Plan.

(3) De minimis facilities, as defined in Section 5.0, are exempted from the permitting requirements of this Section and Section 13.0. De minimis facilities remain subject only to the following air quality rules:

(a) Section 15.0 Open Burning

(4) The issuance of a permit does not prevent the future adoption by the Air Quality Program of pollution control rules, standards or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards or orders against the permittee.

12.3 Construction permits

(1) No person shall cause or allow the construction or installation of any new minor facility other than a de minimis facility as defined in Section 5.0 without first obtaining an air quality construction permit. A construction permit is also required for any modification that would cause an existing facility to no longer qualify for de minimis status or its current permit category. The Air Quality Program will notify the owner/operator on the acceptability of the application within 30 days of receipt.

(2) The proposed facility or activity will not cause any National Ambient Air Quality Standard (NAAQS) or standard pursuant to Section 9.0 of this Plan, in any attainment area to be exceeded. The owner or operator will meet any applicable ambient air quality standards and all applicable regulations.

(3) Air quality modeling is required, in accordance with 40 CFR Part 51 Appendix W, for where the proposed facility or activity will emit more than:

20 tpy of PM 10

40 tpy of SO₂

40 tpy of NO_x

40 tpy of Ozone

Permits shall be issued if the Air Quality Program determines that RACT will be applied and the applicant has adequately demonstrated that reasonable further progress toward the attainment of the standards will not be impaired.

(4) Permits are issued based on the production/process rate requested in the permit application. The emission rate associated with the requested production/process rate is a permit condition. The Air Quality Program may modify the production/process rate, hours of operation or other requested permit conditions in order to create Tribe-only or federally and practically enforceable permit conditions.