(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 NOx

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. (5) For where the emission would cause or contribute to ambient concentrations which exceed a National Ambient Air Quality Standard or standard pursuant to Section 9.0 of this Plan, in designated non-attainment areas, 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 NAAQS will not be impaired.

(6) A violation by the owner or operator of the limitations or conditions contained in the construction permit shall subject the owner or operator to any or all enforcement penalties, including permit revocation, available under this TIP. No operating permit will be issued until the violation has been resolved to the satisfaction of the Air Quality Program.

(7)A duly issued permit to construct or modify will terminate and become null and void if the construction is not commenced within 18 months of the permit issuance date, or if work is suspended for more than 18 months after it has commenced.

12.4 Operating permits

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(1)No person shall cause or authorize the operation of a new or modified minor facility for more than a 60-day period without applying for a minor permit to operate. Owners and operators of registered facilities must notify the Air Quality Program 30 days in advance of undertaking modifications to the facility that will make the facility subject to additional tribal or federal requirements.

(2)Emission limitations established and made a part of the construction permit are incorporated into and become enforceable limitations of the subsequently issued operating permit. Permit limitations in adjustment of or in addition to the facility's construction permit limitations may be made a condition of the facility's operating permit issuance.

12.5 Monitoring, Record Keeping, Reporting

(1) Monitoring requirements must specify the type, interval, and frequency of monitoring activities that are sufficient to yield representative data to determine whether there is compliance with the terms and conditions of the permit or compliance with Tribal and federal pollution control statutes and rules. As appropriate, the permit must contain requirements for the proper use, maintenance, and installation of monitoring equipment or methods. The permit must require the permittee to keep accurate records of monitoring activities and to submit to the Air Quality Program periodic reports of monitoring results required by the permit and, as requested by the Air Quality Program, the results of other monitoring undertaken by the permittee that are related to compliance with the terms and conditions of the permit or compliance with Tribal and federal pollution control statutes and rules.

(2) The permittee shall retain the following items for at least five years from the date of the sample, measurement, report, certification, or application, after which time this period must be automatically extended during the course of an unresolved enforcement action or at the request of the Air Quality Program:

(a) copies of all reports required by the conditions of the permit;

(b) calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation;

(c) records of the date, exact location, and time of monitoring and testing which is related to compliance with the terms and conditions of the permit or compliance with Tribal and federal pollution control statutes and rules, the name of the individual who performed the sampling or measurements, the date the analysis was performed, the name of the individual who performed the analysis, the analytical techniques or methods used, and the results of the analysis;

- (3) The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.
- (4) The permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible.
- (5) The permit shall require the permittee to submit to the Air Quality Program the reports described in 12.5 (1) to 12.5 (4) by March 1 of each year.

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Section 13.0 Synthetic Minor Facilities 13.1 Purpose 13.2 Request for Synthetic Minor Status 13.3 Record Keeping 13.4 Compliance 13.5 Renewal

13.1 Purpose

This Section authorizes the owners or operators of specified stationary sources that would otherwise be major sources to request and accept Tribally and federally enforceable emission limits sufficient to allow the source to be considered "synthetic minor sources". A synthetic minor source is not subject to Title V-Federal Operating Permit Program, unless it is subject to that rule for any reason other than being a major source. In addition, a synthetic minor source is subject to all applicable Tribal rules, regulations and other requirements.

13.2 Request for Synthetic Minor Status: