



## **United States Environmental Protection Agency General Permit for New or Modified Minor Sources of Air Pollution in Indian Country**

<http://www.epa.gov/air/tribal/tribalnsr.html>

### **Request for Coverage under the General Permit for New or Modified True Minor Source Gasoline Dispensing Facilities in Indian Country**

Last Modified: November 14, 2013

Version 1.0

This Request for Coverage under the General Permit for True Minor Source Gasoline Dispensing Facilities applies to the construction of new, true minor source gasoline dispensing facilities or the modification of existing, true minor source gasoline dispensing facilities in Indian Country that dispense, as a sole source, greater than 4,000,000 gallons of gasoline in National Ambient Air Quality Standard (NAAQS) ozone attainment areas, or dispense, as a sole source, greater than 2,100,000 gallons of gasoline annually in NAAQS ozone nonattainment areas. A gasoline dispensing facility is any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, nonroad vehicle or equipment, including a nonroad vehicle or nonroad engine used solely for competition.

#### **You qualify to submit a Request for Coverage under the General Permit if you meet all of the following criteria:**

- You plan to construct a true minor source gasoline dispensing facility that dispenses gasoline for resale or non-resale purposes OR you plan to modify an existing, true minor source gasoline dispensing facility that dispenses gasoline for resale or non-resale purposes;
- Your new or modified true minor source gasoline dispensing facility is located within Indian country;
- Your facility has a potential to emit (PTE) less than the New Source Review (NSR) major source thresholds;
- If located in a serious, severe or extreme ozone nonattainment area, after the proposed construction or modification project, your facility is projected to dispense less than 8,000,000 gallons of fuel per year based on a 12-month rolling total;
- If located in an attainment area for ozone, after the proposed construction or modification project, your facility is projected to dispense more than 4,000,000 gallons of fuel over a consecutive 12 month period; and
- If located in an ozone nonattainment area, after the proposed construction or modification project, your facility is projected to dispense more than 2,100,000 gallons of fuel over a consecutive 12 month period;
- You demonstrate that you meet one of the criteria listed in Appendix A with respect to the protection of any and all species that are federally-listed as endangered or threatened under the Endangered Species Act (ESA) or of habitat that is federally-designated as "critical habitat" under the ESA; and
- You have followed the screening process in Appendix B to determine if the construction, modification or operation of your new or modified minor source of air pollutants has the potential to cause effects to historic properties (pursuant to the National Historic Preservation Act (NHPA)), and whether or not you need to contact the appropriate state or tribal representative for further information.

## More Information

Information on the definition of a “modification” and “PTE” can be found at 40 CFR 49.152(d) and in the “Instructions” document. Additional information on the applicability of the Indian Country NSR rule can be found at 40 CFR 49.153.

Information on the ozone attainment status of the area where your facility is located can be found at: <http://www.epa.gov/airquality/greenbook/>. You may also contact your reviewing authority for information on the area’s attainment status.

The reviewing authority retains discretion to deny coverage under a general permit and require a source-specific permit even if the above criteria are met.

## Instructions

**Step 1:** Complete all sections of the Request for Coverage under the General Permit. If you have questions, please contact the reviewing authority.

**Step 2:** Certify that your existing or proposed facility is/will be in compliance with the applicable requirements as stated in 40 CFR 49.162.

### After you submit the Request for Coverage under the General Permit to the Reviewing Authority:

- You may not commence construction/modification until you receive a response from the reviewing authority of the final decision on your application for coverage under this general permit.
- Your reviewing authority will act on your coverage under the general permit as expeditiously as possible, and will notify you if more information is needed in writing within **15 days** from receipt of your application. The reviewing authority will grant or deny coverage under a general permit no later than 45 days after the date the application is received, comments are reviewed, and all additional information necessary to make an informed decision has been provided.
- Your reviewing authority will send you a letter notifying you of the approval or denial of your coverage under this general permit. Such a letter is a final permit action for purposes of judicial review only for the issue of whether your source qualifies for this general permit.

Applicants are welcome to send comments on the U.S. Environmental Protection Agency’s (EPA’s) need for the information in this application, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.



# Request for Coverage under the General Permit for New or Modified True Minor Source Gasoline Dispensing Facilities in Indian Country

Version 1.0

**Prior to construction or modification, complete this application and submit it to your reviewing authority.**

<http://www.epa.gov/air/tribal/tribalnsr.html>.

For questions regarding this application please contact your reviewing authority.

For instructions on completing this application please see the document "Instructions for Request for Coverage under the General Permit for New or Modified True Minor Source Gasoline Dispensing Facilities in Indian Country."

## Section 1: Contact Information

Request for Coverage: Gasoline Dispensing Facilities  
Version 1.0

## Section 2: Facility and Technical Information

12. This application is for:

☐ New retail gasoline dispensing facility (please describe the proposed new source).

---

---

☐ New Non-retail gasoline dispensing facility (please describe the proposed new source).

---

---

☐ Modification of an existing gasoline dispensing facility. Please describe the modification below. The definition of "modification" can be found at 40 CFR 49.152(d), and in the "Instructions" document for requesting coverage under this general permit.

---

---

13. North American Industry Classification System/Standard Industrial Classification Code and/or description for the facility:

---

---

14. Is your new or modified facility located in an ozone nonattainment area? Information on the ozone attainment status of the area where your facility is located can be found at:

<http://www.epa.gov/airquality/greenbook/>.

☐ Yes

☐ No

If yes, specify the classification of the ozone nonattainment area:

☐ Marginal

☐ Moderate

☐ Serious

☐ Severe

☐ Extreme

15. Is the potential to emit (PTE) of your new facility, or the emissions increase from your modified existing facility, equal to or above the applicable minor NSR thresholds listed below for ANY of the listed pollutants, both in tons per year (tpy)? Emissions from your facility may be calculated using the PTE calculator available online at: <http://www.epa.gov/air/tribal/tribalnsr.html>. Be sure to include all new, modified, or existing emission units when determining PTE.

Pollutant	Attainment Area	Nonattainment Area
Carbon Monoxide (CO)	10 tpy	5 tpy
Particulate Matter (PM)	10 tpy	5 tpy
Particulate Matter (PM <sub>10</sub> )	5 tpy	1 tpy
Particulate Matter (PM <sub>2.5</sub> )	3 tpy	0.6 tpy
Sulfur Dioxide (SO <sub>2</sub> )	10 tpy	5 tpy

Pollutant	Attainment Area	Nonattainment Area
Nitrogen Oxides (NO <sub>x</sub> )	10 tpy	5 tpy
Carbon Monoxide (CO)	5 tpy	2 tpy

☐ Yes ☐ No

16. If located in an attainment area, is the PTE of your facility less than 250 tpy for PM, PM<sub>10</sub>, PM<sub>2.5</sub>, VOC, NO<sub>x</sub>, CO, and SO<sub>2</sub>? Be sure to include all existing, new, and modified emission units.

☐ Yes ☐ No

If you answered '**No**,' your source does not qualify for the minor NSR program. Please contact your reviewing authority to apply for a site-specific permit. If you answered '**Yes**,' continue on to the next question.

17. If located in a nonattainment area, is the PTE of your facility for the particular nonattainment pollutant less than the NSR major source thresholds below for ALL pollutants? Be sure to include all existing, new, and modified emission units.

Pollutant	Nonattainment Classification	NSR Major Source Threshold
Ozone	Marginal	100 tpy of VOC or NO <sub>x</sub>
	Moderate	100 tpy of VOC or NO <sub>x</sub>
	Serious	50 tpy of VOC or NO <sub>x</sub>
	Severe	25 tpy of VOC or NO <sub>x</sub>
	Extreme	10 tpy of VOC or NO <sub>x</sub>
PM <sub>10</sub>	Moderate	100 tpy
	Serious	70 tpy
CO	Moderate	100 tpy
	Serious	50 tpy
SO <sub>2</sub> , NO <sub>2</sub> , PM <sub>2.5</sub>	No nonattainment classification	100 tpy

☐ Yes ☐ No ☐ N/A - Not located in any nonattainment area

If you answered '**No**,' your source does not qualify for the minor NSR program. Please contact your reviewing authority to apply for a site-specific permit. If you answered '**Yes**' or '**N/A**,' continue on to the next question.

18. Do you agree to comply with all requirements of the General Permit as stated in 40 CFR 49.162?

☐ Yes ☐ No

### Section 3: Information on Compliance with Federal Statutes Necessary for Requesting Coverage under the General Permit

#### 19. Endangered Species Act

Have you demonstrated that you meet one of the criteria listed in Appendix A with respect to the protection of any and all species that are federally-listed as endangered or threatened under the ESA or of habitat that is federally-designated as "critical habitat" under the ESA? If no, you cannot request coverage under this permit.

☐ Yes    ☐ No

If yes, then you need to provide the appropriate documentation to the EPA to qualify for coverage under this permit. Please indicate under which criterion in Appendix A you are satisfying this requirement:

☐ A    ☐ B    ☐ C    ☐ D    ☐ E

#### 20. National Historic Preservation Act

Have you followed the screening process in Appendix B to determine if the construction, modification or operation of your new or modified true minor source of air pollutants has the potential to cause effects to historic properties (pursuant to the NHPA), and whether you need to contact the appropriate state or tribal representative for further information? If no, you cannot request coverage under this permit.

☐ Yes    ☐ No

If yes, then provide the appropriate documentation to the EPA to qualify for coverage under this permit.

#### Applicant's Statement (to be signed by the applicant)

I certify that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

Name: \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature) (Print or Type)

Title: \_\_\_\_\_

## Appendix A - Endangered Species Act Requirements

The purpose of this appendix is to assist you in complying with the requirements of your request for coverage under the General Permit for True Minor Source Gasoline Dispensing Facilities in Indian Country. In order to be eligible for coverage under this permit, you must demonstrate that you meet one of the criteria listed in this appendix with respect to the protection of any and all species that are federally-listed as endangered or threatened under the ESA or of habitat that is federally-designated as “critical habitat” under the ESA.

This appendix provides you information on the following:

- **Section 1.0:** ESA Eligibility Criteria and
- **Section 2.0:** Guidance for Determining Which ESA Criteria Applies.

### 1.0 ESA Eligibility Criteria

You must certify in your request for coverage under the general permit that you meet one of the eligibility criteria listed below in order to be eligible for coverage under the general permit. You must also specify in your request for coverage the basis for your selection of the applicable eligibility criterion and provide documentation supporting the criterion selected with your request for coverage under the general permit. If you do not meet any of these ESA eligibility criteria, you will not be eligible for coverage under this permit and you must apply for a site-specific permit.

Note: (1) Regardless of the criterion selected, your request for coverage must provide sufficient documentation to support your determination that you satisfy the requirements of the particular criterion you have selected. (2) While coordination between you and the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS; together, the “Services”) is not necessarily required in all cases, the EPA encourages you to coordinate with the Services and to do so early in the planning process prior to submitting your request for coverage.

#### Criterion A:

No federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur within the action area.<sup>1</sup>

#### Criterion B:

Federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur within the action area of your source and the construction and operation of your new minor source or construction and operation of the modification to your existing minor source is not likely to adversely affect listed threatened or endangered species or critical habitat. This determination may include consideration of any air pollution controls or other changes to the construction and/or operation of your new or modified source that you will adopt to ensure that construction, modification or operation of your new or modified source is not likely to adversely affect listed species and critical habitat. To make this certification, you must include the following in your request for coverage: (1) identify any federally listed species and/or designated habitat located within the action area of your source; (2) the distance between your site and the

---

<sup>1</sup> *Action area* means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action [50 CFR 402.02].

listed species or designated critical habitat (in miles); and (3) any other information necessary (e.g., a map) to show that the construction/ modification and operation of your new or modified source are not likely to cause any adverse effects to the listed threatened or endangered species or their critical habitat.

#### **Criterion C:**

Coordination between you and the Services has been concluded. The coordination must have addressed the effects of your new or modified true minor source's construction/modification and operation on federally-listed threatened or endangered species and federally-designated critical habitat, and must have resulted in a written concurrence from the relevant Service(s) that your new or modified true minor source's construction/modification and operation are not likely to adversely affect listed species or critical habitat. You must include copies of the correspondence between yourself and the Services with your request for coverage under the general permit.

#### **Criterion D:**

Consultation between another Federal Agency and the FWS and/or the NMFS under section 7 of the ESA has been concluded. The consultation must have addressed the effects of your minor source's construction/modification and operation on federally-listed threatened or endangered species and federally-designated critical habitat. The result of this consultation must be either:

1. A biological opinion that concludes that the action in question (taking into account the effects of your source's construction/modification and operation) is not likely to jeopardize the continued existence of listed species, or to result in the destruction or adverse modification of critical habitat; or
2. Written concurrence from the applicable Service(s) with a finding that the source's construction/modification and operation are not likely to adversely affect federally-listed species or federally-designated habitat.

You must include copies of the correspondence between yourself and the Services in your request for coverage under the general permit.

#### **Criterion E:**

Your construction/modification and operation activities are authorized through the issuance of an incidental take permit under section 10 of the ESA, and this authorization addresses the effects of the source on federally-listed species and federally-designated critical habitat. You must include copies of the incidental take permit and associated documentation and correspondence between yourself and the Services with your request for coverage under the general permit.

You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting one of the eligibility criteria (A-E) in this section to remain eligible for coverage under this permit. Documentation of these requirements must be kept as part of your permit application and shall be maintained by the permittee for the duration of time the affected emissions unit(s) is (are) covered under the permit.

## **2.0 Determining Which Criterion Applies**

To qualify for this permit, you need to meet one of the five criteria listed above. You must follow the procedures in Steps 1 through 4 below to determine the ESA criterion, if any, under which your project is eligible for permit coverage.



## 2.1 Step 1

### **Determine if Listed Threatened or Endangered Species or their Designated Critical Habitat(s) are Likely to Occur within the Action Area of your Minor Source.**

You must determine, to the best of your knowledge, whether species federally listed as either threatened or endangered, or their critical habitat(s), are located within the action area of your minor source.<sup>2</sup> To make this determination, you should first determine if listed species and/or critical habitat are expected to exist in your county or township or nearby counties or townships to determine if species/habitat in those areas could potentially be affected by the construction/modification or operation of your new or modified source. The local offices of the FWS, NMFS, and State or Tribal Heritage Centers often maintain lists of federally listed endangered or threatened species on their internet sites. For FWS terrestrial and aquatic species information, you can use the FWS on-line mapping tool, the Information, Planning, and Consultation System, located at <http://www.fws.gov/ipac/>.

Note: To determine the field office that corresponds to your project site, visit <http://www.fws.gov/endangered/regions/index.html> and <http://www.nmfs.noaa.gov/> (under the left tab for “Regions”).

In most cases, species and/or critical habitat lists allow you to determine if any such species or habitat exists in your county or township. You can also find critical habitat designations and associated requirements at 50 CFR Parts 17 and 226 (see <http://www.access.gpo.gov>). You may also use the FWS Critical Habitat Portal (see <http://criticalhabitat.fws.gov/crithab/>).

- ***If there are listed species and/or critical habitat in your county or township (or nearby areas in which species/habitat could potentially be affected by the construction/modification of your new or modified source),*** you should contact your local FWS, NMFS, or State or Tribal Heritage Center to determine if the listed species are known to exist within the action area of your minor source and if any designated critical habitat areas overlap the action area of your minor source.
  - o If your local FWS, NMFS, or State or Tribal Heritage Center indicates that these species and/or critical habitat could exist within the action area of your minor source, you must do one of the following:
    - ☐ Conduct visual inspections. This method may be particularly suitable for sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat.
    - ☐ Conduct a formal biological survey. In some cases, particularly for larger sites, biological surveys may be an appropriate way to assess whether species are located within the action area of your minor source and whether there are likely to be adverse effects to such species. Biological surveys are frequently performed by environmental consulting firms. A biological survey may in some cases be useful to conduct in conjunction with Steps 2, 3, or 4 of these instructions.
    - ☐ Follow the instructions in Steps 2 – 4 below, as applicable. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, to meet the eligibility requirements of this permit the measures needed to protect critical habitat may be

---

<sup>2</sup> For definitions of terms that you might encounter when hearing or reading about the endangered species program, go to: <http://www.fws.gov/midwest/endangered/glossary/index.html> and <http://www.fws.gov/northeast/nyfo/es/actionarea.htm>.

separate from those needed to protect listed species.

- ***If there are no listed species in your county or township (or nearby areas in which species/habitat could potentially be affected by the construction/modification of your new or modified source) and no critical habitat areas in your action area***, you may select criterion A as the ESA criterion for which your project is eligible in your request for coverage under the general permit. You must also provide a description of the basis for the criterion selected on your request for coverage form and provide documentation supporting the criterion selected.

## 2.2 Step 2

### **Determine if the Construction/Modification or Operation of Your New or Modified Minor Source is Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat**

If in Step 1 you determine, based on communication with your local FWS, NMFS, or State or Tribal Heritage Center, or otherwise, that listed species and/or critical habitat could exist within the action area of your new or modified minor source, you must next assess whether the construction/modification or operation of your new or modified minor source is likely to adversely affect listed threatened or endangered species or designated critical habitat.

Potential adverse effects from construction/ modification and operation activities include direct and indirect effects and could include, but are not limited to, the following:

- ***Habitat Disturbance.*** Surface disturbance activities such as excavation, site development, grading, and associated light and noise may adversely affect listed species or their habitat.
- ***Operation of the Source.*** Source operations could result in additional traffic, noise and light that could affect species or habitat.
- ***Water-Related Impacts.*** Changes in water usage or water discharges may affect listed species or their habitat.
- ***Air Emission Impacts.*** Increases in emission of certain pollutants may in certain cases affect vegetation growth patterns which can affect listed species or their habitat.

The scope of effects to consider will vary with each site and project. If you are having difficulty determining whether your project is likely to adversely affect listed species or critical habitat, or one of the Services has already raised concerns to you, you should contact the appropriate office of the FWS, NMFS or Natural Heritage Center for assistance.

- ***If adverse effects to listed threatened or endangered species or their critical habitat are not likely***, then you may select criterion B as the ESA criterion for which your project is eligible in request for coverage under the general permit. You must provide the following specific information with your request for coverage form:
  - 1 . The federally listed species and/or designated habitat are located within the action area of your minor source;
  - 2 . The distance between your site and the listed species or designated critical habitat (in miles); and
  - 3 . Any other information necessary to show that the air emissions from your source are not likely to cause any adverse effects to the listed threatened or endangered species or their critical habitat.
- ***If adverse effects to listed threatened or endangered species or their critical habitat are likely***, you must follow Step 3 below.

## 2.3 Step 3

### Determine if Measures Can Be Implemented to Avoid Adverse Effects

If you make a preliminary determination in Step 2 that adverse effects from the construction/modification or operation of your new or modified minor source are likely to occur, you can still receive coverage under eligibility criterion B of this permit if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for coverage under the permit.

These measures may involve relatively simple changes to construction activities such as re-routing construction to bypass an area where species are located, relocating source activities, or modifying the “footprint” of the site. If you are unable to determine which measures to implement to avoid the likelihood of adverse effects, you must coordinate with, or enter into consultation with, the FWS and/or NMFS, in which case you would not be eligible for coverage under eligibility criterion B, but may instead be eligible for coverage under eligibility criterion C, D, or E (described in more detail in Step 4).

- ***If you are able to implement appropriate measures to avoid the likelihood of adverse effects***, then you may select criterion B as the criterion for which your project is eligible in your requesting coverage under the general permit. The measures you adopt to avoid or eliminate adverse effects must be implemented for the duration of the construction/modification and operation of your new or modified minor source and your coverage under this permit. You must also provide a description of the basis for the criterion selected, and the following specific information on your request for coverage form: ( 1) the federally listed species and/or designated habitat that are located within the action area of your minor source; ( 2) the distance between your source and the listed species or designated critical habitat (in miles); and (3) what steps were or will be taken to avoid the likelihood of adverse effects
- ***If you cannot determine which measures to implement to avoid the likelihood of adverse effects***, you must follow the procedures in Step 4.

## 2.4 Step 4

### Determine if the Eligibility Requirements of Criterion C, D, or E Can Be Met

If in Step 3 you cannot ascertain which measures to implement to avoid the likelihood of adverse effects, you must contact the FWS and/or NMFS. You may still be eligible for coverage under this permit if any likely adverse effects can be addressed through meeting criterion C, D, or E.

- **Criterion C:** You have coordinated with either of the Services and have addressed the effects of the construction/modification and operation of your new or modified minor source on federally-listed threatened or endangered species and federally-designated critical habitat, which resulted in a written concurrence from the relevant Service(s) that the construction/modification or operation of your new or modified minor source is not likely to adversely affect listed species or critical habitat.

***If you have met the requirements of criterion C***, then you may select criterion C as the criterion for which your project is eligible for request for coverage under the general permit. As part of your request for coverage, you must provide a description of the basis for the criterion selected with your request for coverage form and must include copies of the correspondence between you and the applicable Service.

- **Criterion D:** Formal or informal ESA section 7 consultation is performed with the FWS and/or NMFS and that consultation addresses the effects of the construction/modification or operation of your minor source on federally-listed and threatened species and designated critical habitat. In order to be eligible for coverage under this permit, consultation must result in a “no jeopardy and no destruction/adverse modification opinion” or a written concurrence by the Service(s) on a finding that the construction/modification or operation of your new or modified minor source are not likely to adversely affect listed species or critical habitat. (For more information on consultation, see 50 CFR Part 402). If you receive a “jeopardy or destruction/adverse modification opinion,” you may continue to work with the FWS and/or NMFS and your permitting authority to modify your project so that it will not jeopardize listed species or result in the destruction or adverse modification of designated critical habitat.

Note that most consultations are accomplished informally. When conducting informal ESA section 7 consultation as a non-federal representative, you must follow the procedures found in 50 CFR Part 402 of the ESA regulations. You must also notify FWS and/or NMFS of your intention and agreement to conduct consultation as a non-federal representative.

Your request for coverage under the general permit is not a federal action that triggers ESA section 7. However, consultation may occur in the context of another federal action for the same project (e.g., where ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or for some other federal permit or permission). As noted above, operators may, if they wish, initiate consultation with the Services at Step 3.

Whether ESA section 7 consultation must be performed with the FWS, NMFS, or both Services depends on the listed species that may be affected by the construction/operational activity. In general, NMFS has jurisdiction over marine, estuarine, and anadromous fish species. Operators should also be aware that while formal section 7 consultation provides protection from incidental takings liability, informal consultation does not.

***If you have met the requirements of criterion D,*** you may select criterion D as the criterion for which your project is eligible in your requesting of coverage under the general permit. As part of your request for coverage, you must provide a description of the basis for the criterion selected and must include copies of the documentation demonstrating such eligibility, including correspondence and related ESA consultation documentation between yourself, the Federal agency or agencies that requested section 7 consultation and the Services.

- **Criterion E:** Your construction activities are authorized through the issuance of an incidental take permit under section 10 of the ESA, and that authorization addresses the effects of the construction/modification and/or operation of your new or modified source on federally-listed species and designated critical habitat. You must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR §17.22(b)(1) for FWS and §222.22 for NMFS). Application instructions for section 10 permits for FWS and NMFS can be obtained by accessing the FWS and NMFS websites (<http://www.fws.gov> and <http://www.nmfs.noaa.gov>) or by contacting the appropriate FWS and NMFS regional office.

***If you have met the requirements of criterion E,*** you may select criterion E as the criterion for which your project is eligible in your requesting of coverage under the general permit. As part of your request for coverage, you must provide a description of the basis for the criterion selected and must include copies of the applicable documentation demonstrating such eligibility including correspondence between yourself and the Services.

## Appendix B – Historic Property Screening Process

### 1.0 Background

Section 106 of the NHPA requires Federal agencies to take into account the effects of Federal “undertakings,” such as the General Permit for True Minor Source Gasoline Dispensing Facilities in Indian Country, on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places.

To address any issues relating to historic properties in connection with the issuance of this permit, the EPA has developed the screening process in this appendix to enable source owners/operators to: (1) appropriately consider the potential impacts, if any, resulting from the construction, modification, and/or operation of a new or modified emission source on historic properties and, (2) if applicable, determine whether actions can be taken to mitigate any such impacts. Although each decision to allow coverage of individual minor sources under this permit does not constitute a separate Federal undertaking, the screening process in this appendix provides an appropriate site-specific means of addressing historic property issues in connection with the EPA’s issuance of the permit.

#### Key Terms

**Historic property**- prehistoric or historic districts, sites, buildings, structures, or objects that are included in or eligible for inclusion in the National Register of Historic Places, including artifacts, records, and remains that are related to and located within such properties

**SHPO** – The State Historic Preservation Officer for a particular state

**THPO or Tribal representative** – The Tribal Historic Preservation Officer for a particular Tribe or, if there is no THPO, the representative designated by such Tribe for NHPA purposes

### 2.0 Instructions for Source Owners/Operators

You are required to follow the screening process in this appendix to determine if the construction, modification or operation of a new or modified minor source of air pollutants on your site has the potential to cause effects to historic properties, and whether or not you need to contact your State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or other tribal representative for further information. You may not submit your request for coverage under the general permit until you have completed this screening process. The following four steps describe how applicants can meet the historic property requirements under this permit.

#### 2.1 Step 1

**Have prior professional cultural resource surveys or other evaluations determined whether historic properties exist in the area of your proposed source? Or, have prior earth disturbances precluded the existence of historic properties in the area of your proposed source?**

If it has already been determined that no historic properties exist in the area of your proposed source based on available information, including information that may be provided by your applicable SHPO, THPO, or other tribal representative, then you may indicate this on your request for coverage under the general permit, and no further screening steps are necessary.

Similarly, if earth disturbances that have occurred prior to your project have eliminated the possibility that historic properties exist on your site or in the area affected by your new or modified minor source, you may indicate this on your request for coverage, and no further screening steps are necessary.

After submitting your request for coverage under the general permit, and during the 30-day period after submitting your request for coverage under the general permit, the SHPO, THPO, or other tribal representative may request that the EPA deny coverage under this permit based on concerns about potential adverse impacts to historic properties. The EPA will evaluate any such request and notify you if any additional information is needed to address adverse impacts to historic properties before continuing review of your request for coverage under the general permit.

## 2.2 Step 2

**If you are constructing, or modifying a minor source of air pollutants, as defined in 40 CFR § 49.152, you must determine if the construction, modification or operation of the minor source will have an effect on historic properties.**

If your answer to the questions in Step 1 is “no,” then you must assess whether the activities related to the construction, modification or operation of your new or modified minor source will have an effect on historic properties. Activities that could have an adverse effect on historic properties could include, for example:

- Excavations;
- Demolitions of existing buildings;
- Construction of foundations (e.g., for buildings, tanks or stacks);
- Installations of underground tanks;
- Addition of impervious surfaces; and
- Increases in truck traffic during excavation, demolition, or construction.

*Note: This list is not intended to be exhaustive. Other activities that are not on this list may involve earth-disturbing activities and must also be examined for their potential to affect historic properties. For more information, go to the National Park Service, National Register of Historic Places database found at <http://www.nps.gov/history/nr/research/index.htm>.*

The assessment may be based on a site map of your source and an analysis of historical sources, knowledge of the area, an assessment of the types of activities you are engaging in, considerations of any controls and/or management practices you will adopt to ensure that your activities will not have an effect on historic properties, and any other relevant factors.

If you determine based on this assessment that the activities related to the construction, modification or operation of your new or modified minor source will not cause effects to historic properties, you may indicate this on your request for coverage under the general permit, and document the basis for your determination in your request for coverage and no further screening steps are necessary.

After submitting your request for coverage, and during the 30 days after the receipt of your request, the SHPO, THPO, or other tribal representative may request that the EPA delay your coverage under the permit based on concerns about potential adverse impacts to historic properties. The EPA will evaluate any such request and notify you if any additional information is needed to address adverse impacts to historic properties before continuing review of your request for coverage under the general permit.

If you are installing or modifying equipment that has the potential to have an adverse effect on historic properties, then you must proceed to Step 3.

## 2.3 Step 3

**If you are constructing or modifying a minor source and you have not satisfied the conditions in Steps 1-2, you must contact and consult with the appropriate historic preservation authorities.**

Where you are constructing or modifying a minor source and you cannot determine in Step 2 that this activity will not have effects on historic properties, then you must contact the relevant SHPO, THPO, or other tribal representative to request their views as to the likelihood that historic properties may be adversely affected by the construction, modification or operation of your new or modified minor source.

*Note: Addresses for SHPOs and THPOs may be found on the Advisory Council on Historic Preservation's (ACHP's) website (<http://www.achp.gov/programs.html>). In instances where a tribe does not have a THPO, you should contact the appropriate Tribal government office designated by the tribe for this purpose when responding to this permit eligibility condition.*

You must submit the following minimum information in order to properly initiate your request for information:

1. Project name (i.e., the name or title most commonly associated with your project);
2. A narrative description of the project;
3. Name, address, phone and fax number, and email address (if available) of the operator;
4. Most recent U.S. Geological Survey map section (7.5 minute quadrangle) showing actual project location and boundaries clearly indicated; and
5. Sections of site map that show locations where activities might cause an adverse effect on historic properties.

Without submitting this minimum information, your request cannot be considered. You will need to provide the SHPO, THPO, or other tribal representative a minimum of 15 calendar days after they receive these materials to respond to your request for information about your project. You are advised to get a receipt from the post office or other carrier confirming the date on which your letter was received.

If you do not receive a response within 15 calendar days after receipt by the SHPO, THPO, or other tribal representative of your request, then you may indicate this on your request for coverage under the general permit, and no further screening steps are necessary. Or, if the applicable SHPO, THPO, or other tribal representative responds to your request with an indication that no historic properties will be adversely affected by the construction or modification of your minor source, then you may indicate this on your request for coverage, and include a copy of the response and no further screening steps are necessary. After submitting your request for coverage, and during the 30-days following the receipt of your request for coverage, the SHPO, THPO, or other tribal representative may request that the EPA place a hold on authorization based on concerns about potential adverse impacts to historic properties. The EPA will evaluate any such request and notify you if any additional information is needed to address adverse impacts to historic properties before continuing review of your request for coverage under the general permit.

If within 15 calendar days of receipt of your request the applicable SHPO, THPO, or other tribal representative responds with a request for additional information or for further consultation regarding appropriate measures for treatment or mitigation of effects on historic properties caused by the construction, modification or operation of your minor source, you must comply with this request and proceed to Step 4.

## 2.4 Step 4

### **Consultation with your applicable SHPO, THPO, or other tribal representative.**

If, following your discussions with the appropriate historic preservation authorities in Step 5, the applicable SHPO, THPO, or other tribal representative requests additional information or further consultation, you must respond with such information or consult to determine impacts and appropriate measures to mitigate such impacts to historic properties that may be caused by the construction, modification or operation of your new or modified minor source site. If as a result of your discussions with the applicable SHPO, THPO, or tribal representative, you enter into, and comply with, a written agreement regarding treatment and/or mitigation of impacts on your site, then you may indicate this on your request for coverage and include a copy of the written agreement, and no further screening steps are necessary.

If, however, agreement on an appropriate treatment or mitigation plan cannot be reached between you and the SHPO, THPO, or other tribal representative within 30 days of your response to the SHPO, THPO, or other tribal representative's request for additional information or further consultation, you may submit your request for coverage, but you must indicate that you have not negotiated measures to avoid or mitigate such effects. You must also include with your request for coverage under the general permit the following documentation:

1. Copies of any written correspondence between you and the SHPO, THPO, or other tribal representative; and
2. A description of any significant remaining disagreements as to mitigation measures between you and the SHPO, THPO, or other tribal representative.

After submitting your request for coverage under the general permit, and during the 30-day period after the receipt of your request for coverage under the general permit, the SHPO, THPO, ACHP or other tribal representative may request that the EPA place a hold on authorization based upon concerns regarding potential adverse effects to historic properties. The EPA, in coordination with the SHPO, THPO, ACHP or other tribal representative, will evaluate any such request and notify you if any additional measures to address potential adverse effects to historic properties are necessary.