Air Pollution Control
Title V Permit to Operate
Statement of Basis for Final Permit No. V-SLS-0001-03.00
July 2010

Sioux Manufacturing Corporation
Kevlar Coating Plant
Spirit Lake (Fort Totten) Reservation
Benson County, North Dakota

1. Facility Information

a. Location

Sioux Manufacturing Corporation (SMC), owned and operated by the Spirit Lake Nation, is located in Benson County in northeastern North Dakota, within the Spirit Lake Indian Reservation. The plant mailing address is:

Sioux Manufacturing Corporation
P.O. Box 400
Fort Totten, ND 58335

b. Company contacts

Facility contact: Mr. Dana Grow, Ph.D., Manager, Research and Development
Sioux Manufacturing Corporation
P.O. Box 400
Fort Totten, ND 58335
701-766-4211

Responsible official: Mr. Carl McKay, CEO and President
Sioux Manufacturing Corporation
P.O. Box 400
Fort Totten, ND 58335
701-766-4211

Tribal contact: Silas Ironheart, Environmental Director
Spirit Lake Nation
P.O. Box 99
Fort Totten, ND 58335
701-766-1259

c. Process description

SMC is a Kevlar Coating Plant owned and operated by the Spirit Lake Nation. The facility has been in operation since 1973 and has been producing items for the military for over 25 years. For the first 15 years or so, the primary product was camouflage netting systems. Later contracts included production of bulletproof helmets for the Army and bulletproof spall liners for military vehicles. SMC now also produces aircraft armor, body armor and ablative tile used to protect the missile launchers of US Navy cruisers and destroyers.

In 1984, SMC added a gravure surface coating line to coat fabrics such as Kevlar, S-2 Glass, and Spectra cloth. These fabrics are woven on Sulzer and Dornier Looms in widths from 21 to 130 inches. Annual production is in excess of 1,000,000 yards of cloth per year. Broad-goods up to 90 inches wide can be coated at a speed of up to 50 feet per minute. The gravure coating process is a two-station continuous process. Loading and unloading is accomplished "on the fly" with the use of festoons for accumulators at each end of the coating line. In the coating process, one side of the cloth is coated and dried in a gas-fired oven and is then coated again and dried in a second oven. The cloth is then brought to the front of the line and coated on the other side so that two passes are necessary to coat both sides. The second pass is then dried again. Solvent solutions are used for applying the phenolic resins toughened with polyvinyl butyral (PVB) to the fabric.

The coated cloth is taken to a slitter/sheeter and cut to smaller rolls before patterns are cut using dies (patterns) mounted in a press, or multiple sheets are molded at high temperatures and pressures using a press and then cut with water jets. Many of the parts produced from this process are painted in a final step or sand-blasted to enhance future bonding requirements.

Other operations associated with the facility are:
1. Weaving using twisters, warpers, beamers, and looms;
2. Molding using a press and autoclave;
3. Cutting using saws and water jets;
4. Painting in an in-house paint booth; and
5. Sand-blasting.

d. Permitting history

Previous to the promulgation of the Federal Title V Operating Permit Program (Part 71) under 40 CFR part 71 in February 0f 1999, SMC was issued a minor source permit by the State of North Dakota. Although the Department did at one time issue a minor source permit to operate to SMC, the permit was issued at the request of SMC and the Department never had authority to enforce the requirements of the permit or any requirements of the North Dakota Air Pollution Control Rules at the facility. Upon promulgation of the part 71 program, SMC submitted an application to EPA for a part 71 permit. While processing the draft part 71 permit, EPA determined that Prevention of Significant Deterioration (PSD) rules applied to SMC's Kevlar coating lines. SMC began working with the Spirit Lake Tribe EPA, EPA Region 8, and SMC's technical contractors to identify and implement the PSD requirements.

The final PSD Permit for modifications to the coating line (installation of an emission capture system and a thermal oxidizer to control VOC emissions) was issued on May 3, 2006. This action incorporates the final requirements from the PSD permit.

The construction history and potential emissions estimates for SMC are listed in Table 1.

Table 1 - Construction History and Potential Emission Estimates
Sioux Manufacturing Corporation

SMC Construction History and Potential Emission Estimates

Construction Time line		Estimated Potential Emissions in tons per year * Hazardous Air Pollutant											
	Emitting Units	NOx	SO_2	CO	PM	Lead	VOC	MIBK*	Xylene*	Methyl Alcohol*	Phenol *	Other HAP (see list below)	Total HAP
1973 - 1983 Production was solely devoted to camouflage netting systems.													
1973 - Installation of Paint Booth	PB1	0.00	0.00	0.0	0.00	0.00	4.45	1.90	0.12	0.00	0.00	0.13	2.15
1973 Total		**0.00**	**0.00**	**0.0**	**0.00**	**0.00**	**4.45**	**1.90**	**0.12**	**0.00**	**0.00**	**0.13**	**2.15**
Cumulative Total		**0.00**	**0.00**	**0.0**	**0.00**	**0.00**	**4.45**	**1.90**	**0.12**	**0.00**	**0.00**	**0.13**	**2.15**
1981 Began development of helmet production.													
1981 - Installed Air Make-up	AM1	0.69	0.00	0.58	0.05	0.00	0.04	0.00	0.00	0.00	0.00	0.01	0.01
Handlers	AM2	0.67	0.00	0.56	0.05	0.00	0.04	0.00	0.00	0.00	0.00	0.01	0.01
1981 - Installed Press Boiler	AM3	0.67	0.00	0.56	0.05	0.00	0.04	0.00	0.00	0.00	0.00	0.01	0.01
	AM4	0.67	0.00	0.56	0.05	0.00	0.04	0.00	0.00	0.00	0.00	0.01	0.01
	AM5	0.67	0.00	0.56	0.05	0.00	0.04	0.00	0.00	0.00	0.00	0.01	0.01
	PPB1	0.67	0.00	0.57	0.05	0.00	0.04	0.00	0.00	0.00	0.00	0.01	0.01
1981 Total		**4.04**	**0.00**	**3.39**	**0.30**	**0.00**	**0.24**	**0.00**	**0.00**	**0.00**	**0.00**	**0.06**	**0.06**
Cumulative Total		**4.04**	**0.00**	**3.39**	**0.30**	**0.00**	**4.69**	**1.90**	**0.12**	**0.00**	**0.00**	**0.19**	**2.21**
1986 Began production of Spall Liners (no capital expenditure to surface coating line).													

SMC Construction History and Potential Emission Estimates

Construction Time line		**Estimated Potential Emissions in tons per year** * Hazardous Air Pollutant											
	Emitting Units	NOx	SO_2	CO	PM	Lead	VOC	MIBK*	Xylene*	Methyl Alcohol*	Phenol *	Other HAP (see list below)	Total HAP
1984 - Installed Weaving Equipment	SCL1-drying oven	2.15	0.01	1.80	0.16	0.00	0.12	0.00	0.00	0.00	0.00	0.04	0.04
	SCL2-drying oven	2.15	0.01	1.80	0.16	0.00	0.12	0.00	0.00	0.00	0.00	0.04	0.04
1984 - Installed Surface Coating Line	SCL3-dip tanks, flash off, mixing room stacks (MX1)	0.00	0.00	0.00	0.00	0.00	628.55	0.00	0.00	25.77	9.82	0.98	36.57
Note: VOC and HAP Emissions due to solvents from the tanks, the mixing room, and the drying ovens included in SCL3	ST1- MEK Tank	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	ST2- IPA Tank	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Weaving Equip	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1984 Total		**4.30**	**0.02**	**3.60**	**0.32**	**0.00**	**628.79**	**0.00**	**0.00**	**25.77**	**9.82**	**1.06**	**36.65**
Cumulative Total		**8.34**	**0.02**	**6.99**	**0.62**	**0.00**	**633.48**	**1.90**	**0.12**	**25.77**	**9.82**	**1.25**	**38.86**
1986 - Increased production (no capital expenditures)													
1986 - Installed Production Press	SJ1	0.09	0.00	0.07	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1986 - Installed Scouring Jig Hot water Heaters	SJ2	0.08	0.00	0.06	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1986 - Installed Air Make-up handler	AM6	1.51	0.01	1.27	0.11	0.00	0.08	0.00	0.00	0.00	0.00	0.01	0.03
1986 Total		**1.68**	**0.01**	**1.39**	**0.13**	**0.00**	**0.08**	**0.00**	**0.00**	**0.00**	**0.00**	**0.01**	**0.03**
Cumulative Total		**10.02**	**0.03**	**8.38**	**0.75**	**0.00**	**633.56**	**1.90**	**0.12**	**25.77**	**9.82**	**1.26**	**38.89**

SMC Construction History and Potential Emission Estimates

Construction Time line		**Estimated Potential Emissions in tons per year** * Hazardous Air Pollutant											
	Emitting Units	NOx	SO_2	CO	PM	Lead	VOC	MIBK*	Xylene*	Methyl Alcohol*	Phenol *	Other HAP (see list below)	Total HAP
1990 - Installed 2 electric Autoclaves for advanced composite work	not emission units	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1990 Total **Cumulative Total**		**0.00** **10.02**	**0.00** **0.03**	**0.00** **8.38**	**0.00** **0.75**	**0.00** **0.00**	**0.00** **633.56**	**0.00** **1.90**	**0.00** **0.12**	**0.00** **25.77**	**0.00** **9.82**	**0.00** **1.26**	**0.00** **38.89**
1991 Development of dip coating line (Fabric cleaning prior to surface coating. No solvent based emissions).													
1995 - Installed Draping Oven 1995 - Installed Hot water Heater	DO1 A/1	0.43 0.30	0.00 0.00	0.36 0.25	0.03 0.02	0.00 0.00	0.02 0.02	0.00 0.00	0.00 0.00	0.00 0.00	0.00 0.00	0.01 0.01	0.01 0.01
1995 Total **Cumulative Total**		**0.73** **10.75**	**0.00** **0.02**	**0.61** **8.99**	**0.05** **0.80**	**0.00** **0.00**	**0.04** **633.60**	**0.00** **1.90**	**0.00** **0.12**	**0.00** **25.77**	**0.00** **9.82**	**0.02** **1.28**	**0.02** **38.91**
1997 Dip coating line made operational for waterproofing (no solvent based emissions).													
1997 - Installed 4 drying ovens on Dip Coating Line to dry water washed fabric	DCL1 DCL2 DCL3 DCL4	1.03 1.03 1.03 1.03	0.01 0.01 0.01 0.01	0.87 0.87 0.87 0.87	0.08 0.08 0.08 0.08	0.00 0.00 0.00 0.00	0.06 0.06 0.06 0.06	0.00 0.00 0.00 0.00	0.00 0.00 0.00 0.00	0.00 0.00 0.00 0.00	0.00 0.00 0.00 0.00	0.02 0.02 0.02 0.02	0.02 0.02 0.02 0.02
1997 Total **Cumulative Total**		**4.12** **14.87**	**0.04** **0.06**	**3.48** **12.47**	**0.32** **1.12**	**0.00** **0.00**	**0.24** **633.84**	**0.00** **1.90**	**0.00** **0.12**	**0.00** **25.77**	**0.00** **9.82**	**0.08** **1.36**	**0.08** **38.99**

SMC Construction History and Potential Emission Estimates

Construction Time line		**Estimated Potential Emissions in tons per year** * Hazardous Air Pollutant											
	Emitting Units	NOx	SO_2	CO	PM	Lead	VOC	MIBK*	Xylene*	Methyl Alcohol*	Phenol *	Other HAP (see list below)	Total HAP
2000 Replaced underground solvent storage tanks.													
2000 - Replaced 5000 gal MEK storage tank	ST1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2000 - Replaced 5000 gal IPA storage tank Assuming emissions are the same as the original tanks	ST2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2000 Total **Cumulative Total**		**0.00** **14.87**	**0.00** **0.06**	**0.00** **12.47**	**0.00** **1.12**	**0.00** **0.00**	**0.00** **633.84**	**0.00** **1.90**	**0.00** **0.12**	**0.00** **25.77**	**0.00** **9.82**	**0.00** **1.36**	**0.00** **38.99**
2006 Installation of an emission capture system and catalytic oxidizer for the coating line													
2006 Installed emission control equipment. At least 97% reduction of VOCs.	VCE1	0.00	0.00	0.00	0.00	0.00	-609.69	0.00	0.00	-25.00	-9.53	-0.95	-35.47
2006 Total **Cumulative Total**		**0.00** **14.87**	**0.00** **0.06**	**0.00** **12.47**	**0.00** **1.12**	**0.00** **0.00**	**-609.69** **24.15**	**0.00** **1.90**	**0.00** **0.12**	**-25.00** **0.77**	**-9.53** **0.29**	**-0.95** **1.27**	**-35.47** **3.52**

To see current Potential to Emit in tons per year, go to Table 4 – Potential to Emit in Tons Per Year Sioux Manufacturing Corporation

e. List of all units and emission-generating activities

In the part 71 permit application for the Kevlar Coating Plant, SMC provided the information shown in Tables 2 and 3 below.

Table 2 - Emission Units
Sioux Manufacturing Corporation

Emission Unit ID	Description	Control Equipment
VCE1	**VOC Control Equipment** Emissions Capture System for surface coating line and associated equipment, Capture System Bypass Line, Catalytic Oxidizer, and Continuous Parameter Monitoring System (CPMS). Installed 2006	N/A
SCL1 SCL2	**Two Surface Coating Line Heaters**: Maniflex heating ovens, model number MX-50P; Natural gas and propane fired; Maximum design heat input of 5.0 MMBtu/hr each. Installed August 1, 1984 Installed August 1, 1984	VOC Control Equipment (VCE1)
SCL3	**Surface Coating Line**: Menzel rotogravure applicator, model number 90 CR; Coating area; Hot air drying method with two dryers (SCL1, SCL2) Installed April 1, 1984	VOC Control Equipment (VCE1)
MX1	**Mixing Room** Installed April 1, 1984	VOC Control Equipment (VCE1)
PB1	**Paint Booth**: DeVilbiss booth, serial number 1905; Used to coat composite Kevlar panels using hand sprayers; Air drying method (no ovens). Installed March 1, 2003	None

Part 71 allows sources to separately list in the permit application units or activities that qualify as "insignificant" based on potential emissions below 2 tons per year (tpy) for all regulated pollutants that are not listed as hazardous air pollutants (HAPs) under section 112(b) of the Clean Air Act (CAA) and below 1000 lb/year or the de minimis level established under

section 112(g) of the CAA, whichever is lower, for HAPs. However, the application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the fee. Units that qualify as "insignificant" for the purposes of the part 71 application are in no way exempt from applicable requirements or any requirements of the part 71 permit.

SMC stated in the part 71 permit application that the emission units in Table 3, below, are insignificant. The application provided emission calculations using AP-42 emission factors. This supporting data justifies the source's claim that these units qualify as insignificant.

Table 3 - Insignificant Activities/Emitting Units
Sioux Manufacturing Corporation

Activity/ Emission Unit ID	Description
	4 - 2.4 MMBtu/hr, natural gas fired Marshal & Williams heaters. Zone heaters for the Dip Coating Line.
DCL1	Installed 1997
DCL2	Installed 1997
DCL3	Installed 1997
DCL4	Installed 1997
AL1	0.7 MMBtu/hr, natural gas fired Columbia hot water boiler. Installed 1995.
PPB1	1.57 MMBtu/hr, natural gas fired Press boiler. Installed 1995.
	2 - natural gas fired hot water heaters for pre-treating fabric.
SJ1	0.20 MMBtu/hr Installed 1988
SJ2	0.18 MMBtu/hr Installed 1988
DO1	1.00 MMBtu/hr, natural gas fired draping oven. Installed 1995.
	6 - natural gas fired Flexair heaters for coating line air make-up unit.
AM1	1.61 MMBtu/hr Installed 1981
AM2	1.56 MMBtu/hr Installed 1981
AM3	1.56 MMBtu/hr Installed 1981
AM4	1.56 MMBtu/hr Installed 1981
AM5	1.56 MMBtu/hr Installed 1981
AM6	3.52 MMBtu/hr Installed 1981
PRO1	18,000 gallon pressurized horizontal propane tank. Installed 2003.
ST1	6,000 gallon methyl ethyl ketone tank. Installed 2000.
ST2	6,000 gallon isopropyl alcohol tank. Installed 2000.

f. Potential to emit

Table 4 below shows potential to emit (PTE) data for the Kevlar Coating Plant. Under 40 CFR 52.21, PTE is defined as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation, or the effect it would have on emissions, is federally enforceable.

The PTE for the Kevlar Coating Plant without enforceable controls is as follows:

Regulated Air Pollutants	**PTE (tpy)**	**Regulated Air Pollutants**	**PTE (tpy)**
nitrogen oxides (NO_x)	15	carbon monoxide (CO)	12
volatile organic compounds (VOC)	634	small particulates (PM_{10})	1
lead	0	sulfur dioxide (SO_2)	0.1
total HAP	39		
largest single HAP (Methyl Alcohol)	26		

The issuance of the May 3, 2006 PSD permit for SMC required installation of the emission capture system and enforceable control of VOCs. In addition, compliance with the MACT standard 40 CFR part 63, subpart OOOO provides enforceable controls for total HAPs including methyl alcohol. The PTE for the Kevlar Coating Plant after installation of the emission capture system is as follows:

Regulated Air Pollutants	**PTE (tpy)**	**Regulated Air Pollutants**	**PTE (tpy)**
nitrogen oxides (NO_x)	15	carbon monoxide (CO)	12
volatile organic compounds (VOC)	24	small particulates (PM_{10})	1
lead	0	sulfur dioxide (SO_2)	0.1
total HAP	3.5		
largest single HAP (Methyl Isobutyl Ketone - MIBK)	1.9		

Table 4 - Potential to Emit
Sioux Manufacturing Corporation

Emission Unit ID	Regulated Air Pollutants (tpy)						
	NO_X	VOC	SO_2	PM_{10}	CO	Lead	HAP
SCL1	2.15	0.12	0.013	0.16	1.8	1.1E-5	0.04
SCL2	2.15	0.12	0.013	0.16	1.8	1.1E-5	0.04
SCL3	0	18.86	0	0	0	0	1.10
PB1	0	4.45	0	0	0	0	2.15
Insignificant Activities/Units	10.57	0.58	0.064	0.81	8.89	5.2E-5	0.20
TOTAL	15	24	0.1	1	12	7.4E-5	3.5

In their application for the Kevlar Coating Plant, SMC speciated volatile organic compound (VOC) emissions into the respective hazardous air pollutants (HAPs). This information is provided in Table 5.

Table 5 - Hazardous Air Pollutant Potential Emission
Sioux Manufacturing Corporation

Hazardous Air Pollutant	Emission Unit ID					
	SCL1	SCL2	SCL3	PB1	Insignificant Activities/Units	**TOTAL**
Methyl Alcohol	0	0	0.77	0	0	0.77
Phenol	0	0	0.29	0	0	0.29
Methyl Isobutyl Ketone (MIBK)	0	0	0	1.90	0	1.90
Formaldehyde	1.6E-3	1.6E-3	0	0	7.9E-3	0.01
Xylene	0	0	0	0.12	0	0.12
Toluene	7.3E-5	7.3E-5	0	0.09	3.6E-4	0.09
Ethyl Benzene	0	0	0	0.04	0	0.04
2-methylnaphthalene	5.2E-7	5.2E-7	0	0	2.5E-6	3.5E-6
3-methylchloranthrene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
7,12-dimethylbenz(a)anthracene	3.4E-7	3.4E-7	0	0	1.7E-6	2.4E-6

Hazardous Air Pollutant	Emission Unit ID					
	SCL1	SCL2	SCL3	PB1	Insignificant Activities/Units	**TOTAL**
Acenaphthene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
Acenaphthylene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
Anthracene	5.2E-8	5.2E-8	0	0	2.5E-7	3.5E-7
Benz(a)anthracene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
Benzene	4.5E-5	4.5E-5	0	0	2.8E-4	3.7E-4
Benzo(a)pyrene	2.6E-8	2.6E-8	0	0	1.3E-7	1.8E-7
Benzo(b)fluoranthene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
Benzo(g,h,i)perylene	2.6E-8	2.6E-8	0	0	1.3E-7	1.8E-7
Benzo(k)flouranthene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
Chrysene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
Dibenzo(a,h)anthracene	2.6E-8	2.6E-8	0	0	1.3E-7	1.8E-7
Dichlorobenzene	2.6E-5	2.6E-5	0	0	1.3E-4	1.8E-4
Fluoranthene	6.4E-8	6.4E-8	0	0	3.2E-7	4.5E-7
Fluorene	6.0E-8	6.0E-8	0	0	3.0E-7	4.2E-7
Hexane	3.9E-2	3.9E-2	0	0	0.19	0.27
Indeno(1,2,3-cd)pyrene	3.9E-8	3.9E-8	0	0	1.9E-7	2.7E-7
Naphthalene	1.3E-5	1.3E-5	0	0	6.4E-5	9.0E-5
Phenanathrene	3.7E-7	3.7E-7	0	0	1.8E-6	2.5E-6
Pyrene	1.1E-7	1.1E-7	0	0	5.3E-7	7.5E-7
TOTAL	0.04	0.04	1.10	2.15	0.20	3.52

2. Tribe Information

a. Indian country

SMC, owned and operated by the Spirit Lake Nation, is located within the exterior boundaries of the Spirit Lake Indian Reservation and is thus within Indian country as defined at 18 U.S.C. §1151. The Spirit Lake Sioux Tribe does not have a federally-approved part 71 operating permit program nor does EPA's approval of the State of North Dakota's part 70

program extend to Indian country. Thus, EPA is the appropriate governmental entity to issue a permit to this facility.

b. The Reservation

The Spirit Lake Indian Reservation is located in the Northeast quadrant of North Dakota and includes 368,720 acres on and around Devils Lake. The Tribe has lost approximately 15,000 acres of farmland due to flooding as the Lake's level continues to rise. The Tribal population is 6,339 and enrollment is 5,086. The Tribe operates SMC with defense contracts; a casino; game preserve; and they lease farmland for grain production.

c. Tribal government

The Tribal Council consists of six members, including a Chairman and Secretary elected by the Tribe, and one representative from each of the four districts. Members serve four-year terms and the Vice-Chairman is appointed from within the council.

d. Local air quality and attainment status:

Northeastern North Dakota, including the Spirit Lake Reservation, either attains the national ambient air quality standard for all criteria pollutants or is "unclassified." An area is unclassifiable when there is insufficient monitoring data. The Spirit Lake Nation does not operate an air monitoring network.

3. Applicable Requirements

a. Applicable requirement review

The following discussion addresses applicable requirements, and requirements that may appear to be applicable but are not. All applicable and non-applicable requirements addressed here are included in the CFR at Title 40.

Chemical Accident Prevention Program

The goal of the Chemical Accident Prevention and Risk Management Program is to prevent accidental releases of substances that can cause serious harm to the public and the environment from short-term exposures and to mitigate the severity of releases that do occur. The 1990 Amendments to the CAA require EPA to issue a rule specifying the types of actions to be taken by facilities to prevent accidental releases of such hazardous chemicals into the atmosphere and reduce their potential impact on the public and the environment. This is the 40 CFR part 68 rule (part 68). In general, part 68 requires that facilities subject to the rule:

1. Develop and implement a risk management program and maintain documentation of the program at the site. The risk management program should include an analysis of the potential offsite consequences of an accidental release, a five-year accident history, a release prevention program, and an emergency response program.

2. Develop and submit a risk management plan (RMP), which includes registration information, to EPA no later than June 21, 1999, or the date on which the facility first has more than a threshold quantity in a process, whichever is later. The RMP provides a summary of the risk management program and should be available to federal, state, and local government agencies.

3. Continue to implement the risk management program and update their RMPs periodically or when processes change, as required by the rule.

This rule applies to any source that has more than a threshold quantity of a regulated substance as identified at 40 CFR 68.130. Propane is a regulated flammable substance under this rule and SMC's 18,000 gallon propane tank exceeds the 10,000 pound propane threshold. However, SMC uses the propane as fuel and the rule contains an exclusion for flammable substances when used as a fuel (40 CFR 68.126).

The Kevlar Coating Plant currently has no other regulated substances above the threshold quantities. Therefore, it is not subject to the requirement to develop and submit a risk management plan. However, SMC has an ongoing responsibility to submit this plan if the source has a listed substance in quantities over the threshold amount or if the source ever increases the amount of any regulated substance above the threshold quantity.

Stratospheric Ozone and Climate Protection - Subpart F

As part of the United States' commitment to implementing the Montreal Protocol, the U.S. Congress amended America's CAA, adding provisions (under title VI) for protection of the ozone layer. Under the CAA, EPA has created several regulatory programs to address numerous issues, including:

1. Ending the production of ozone-depleting substances.

2. Ensuring that refrigerants and halon fire extinguishing agents are recycled properly.

3. Identifying safe and effective alternatives to ozone-depleting substances.

4. Banning the release of ozone-depleting refrigerants during the service, maintenance, and disposal of air conditioners and other refrigeration equipment.

5. Requiring that manufacturers label products either containing or made with the most harmful ozone depleting substances.

Regulations promulgated by EPA to protect the ozone layer are in title 40, part 82 of the Code of Federal Regulations (part 82).

Most air-conditioning and refrigeration appliances not regulated as motor vehicle air conditioners are regulated under this program (section 608 of the CAA). Service practices, refrigerant reclamation, technician certification, and other requirements are covered by this program. In addition, halon fire suppression system installation and certain emissions of halons are covered by this program.

SMC has air conditioning units that contain an ozone depleting substance (chlorofluorocarbons or CFCs), and therefore, must comply with the standards of part 82, subpart F for recycling and emissions reduction if they service, maintain, or repair the air conditioning unit in any way or if they dispose of the unit.

National Emissions Standards for Hazardous Air Pollutants (NESHAP)

40 CFR Part 63, Subpart A: General Provisions. Part 63 contains national emission standards for HAPs that regulate specific categories of sources that emit one or more regulated HAPs under the CAA. The general provisions under subpart A apply to sources that are subject to the specific subparts of part 63. The PSD permit issued May 3, 2006 also requires SMC to comply with the General Provisions of 40 CFR part 63 as specified in Table 3 of 40 CFR 63.4371 and identified below.

Citation
§63.1(a)(1)-(12) .....General Applicability
§63.1(b)(1)-(3) ..... Initial Applicability Determination
§63.1(c)(1) ..... Applicability After Standard Established
§63.1(c)(2)-(3) ..... Applicability of Permit Program for Area Sources
§63.1(c)(4)-(5) ..... Extensions and Notifications
§63.1(e) ..... Applicability of Permit Program Before Relevant Standard is Set
§63.2 ..... Definitions
§63.3(a)-(c) ..... Units and Abbreviations
§63.4(a)(1)-(5) ..... Prohibited Activities
§63.4(b)-(c) ..... Circumvention/Severability
§63.5(a) ..... Construction/Reconstruction
§63.5(b)(1)-(6) ..... Requirements for Existing, Newly Constructed, and Reconstructed Sources
§63.5(d) ..... Application for Approval of Construction/Reconstruction
§63.5(e) ..... Approval of Construction/Reconstruction
§63.5(f) ..... Approval of Construction/Reconstruction Based on Prior State Review
§63.6(a) ..... Compliance With Standards and Maintenance Requirements - Applicability
§63.6(b)(1)-(7) .....Compliance Dates for New and Reconstructed Sources

§63.6(c)(1)-(5) ..... Compliance Dates for Existing Sources
§63.6(e)(1)-(2)..... Operation and Maintenance
§63.6(e)(3) ..... Startup, Shutdown, and Malfunction Plan
§63.6(f)(1) ..... Compliance Except During Startup, Shutdown, and Malfunction
§63.6(f)(2)-(3) ..... Methods for Determining Compliance
§63.6(g)(1)-(3) ..... Use of an Alternative Standard
§63.6(i)(1)-(16) ..... Extension of Compliance
§63.6(j) ..... Presidential Compliance Exemption
§63.7(a)(1) ..... Performance Test Requirements - Applicability
§63.7(a)(2) ..... Performance Test Requirements - Dates
§63.7(a)(3) ..... Performance Tests Required by the Administrator
§63.7(b)-(e) ..... Performance Test Requirements - Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test
§63.7(f) ..... Performance Test Requirements - Use of Alternative Test Method
§63.7(g)-(h) ..... Performance Test Requirements-Data Analysis, Record keeping, Waiver of Test
§63.8(a)(1)-(3) .....Monitoring Requirements - Applicability
§63.8(b) .....Conduct of Monitoring
§63.8(c)(1)-(3) .....Continuous Monitoring Systems (CMS) Operation and Maintenance
§63.8(c)(7)-(8) .....CMS Out of Control Periods and Reporting
§63.8(f)(1)-(5) .....Use of an Alternative Monitoring Method
§63.9(a) ..... Applicability and General Information
§63.9(c) ..... Request for Extension of Compliance
§63.9(d) ..... Notification that Source is Subject to Special Compliance Requirements
§63.9(e) ..... Notification of Performance Test
§63.9(h) ..... Notification of Compliance Status
§63.9(i) .....Adjustment of Submittal Deadlines
§63.9(j) .....Change in Previous Information
§63.10(a) ..... Record keeping/Reporting - Applicability and General Information
§63.10(b)(1) .....General Record keeping Requirements
§63.10(b)(2)(i)-(v) …...Record keeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS
§63.10(b)(2)(vi)-(xi)
§63.10(b)(2)(xii) .....Records
§63.10(b)(2)(xiv)
§63.10(b)(3) ..... Record keeping Requirements for Applicability Determinations
§63.10(c)(1)-(6) ..... Additional Record keeping Requirements for Sources with CMS
§63.10(c)(9)-(15)
§63.10(d)(1) ..... General Reporting Requirements
§63.10(d)(2) ..... Report of Performance Test Results
§63.10(d)(4) ..... Progress Reports for Sources With Compliance Extensions
§63.10(d)(5) ..... Startup, Shutdown, and Malfunction Reports
§63.10(f) ..... Record keeping/Reporting Waiver
§63.12 ..... State Authority and Delegations
§63.13 ..... Addresses
§63.14 ..... Incorporation by Reference
§63.15 ..... Availability of Information/Confidentiality

40 CFR Part 63, Subpart OOOO: National Emission Standards for Hazardous Air Pollutants from Printing, Coating, and Dyeing of Fabrics and Other Textiles (Coatings MACT). This subpart was promulgated on May 29, 2003 (Federal Register notice number 32172) and applies to any new, reconstructed, or existing facility that is a major source of HAP and engages in printing, coating, slashing, dyeing, or finishing of fabrics or other textiles. This rule applies to SMC because SMC is an existing major HAP fabric coating facility. In addition, SMC is subject to the general provisions of 40 CFR part 63, subpart A as specified in Table 3 of 40 CFR 63.4371.

Affected Sources

The affected sources for the Coatings MACT are the collection of all web-coating equipment used to apply cleaning materials to a substrate to prepare it for coating material application, to apply coating materials to a substrate and to dry or cure the coating materials after application by exposure to heat or radiation, or to clean coating operation equipment. Also affected are all storage containers and mixing vessels in which regulated materials are stored or mixed and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation. In addition, all manual and automated equipment, structures, and devices used to convey, treat, or dispose of wastewater streams or residuals are affected.

HAP Emission Limit Options

The HAP emission limit options for existing affected coating sources are:

1. A 97% overall control efficiency limit (this includes both the capture efficiency and the add-on control efficiency); or
2. 0.12 lb organic HAP per lb of coating solids used during each monthly compliance period; or
3. If using an oxidizer to control organic HAP emissions, operate the oxidizer such that an outlet organic HAP concentration of no greater than 20 parts per million by volume (ppmv) on a dry basis is achieved and the efficiency of the capture system is 100%.

Compliance Options

The final Coatings MACT rule provides several compliance options for achieving the HAP emission limits. The options range from a pollution prevention approach of applying regulated materials that meet the emission rate limits to installing a 100% efficient capture system and oxidizer that reduces organic HAP emissions to no more than 20 ppmv.

Since SMC is required to meet military specifications on their products, the pollution prevention approach is not readily available. EPA discussed this with SMC during a meeting on August 18, 2004. SMC stated verbally that they intend to use a capture system and add-on

control device achieving a 97% overall control efficiency as identified in the HAP emission limit option #1 above.

The final rule also includes general compliance requirements, notification, reporting, and record keeping requirements, performance testing and monitoring requirements, and startup, shutdown, and malfunction plan requirements. Each of five (5) compliance options has requirements specific to that option. However, upon issuance of a PSD permit SMC voluntarily limited their compliance options to meet the PSD BACT requirement of 97% overall control efficiency.

The PSD permit requirements have been streamlined with the Coatings MACT requirements to allow multiple applicable emissions limits and work practices expressed in different forms and averaging times to be reduced to a single set of most-stringent requirements. See Section C - Streamlining Permit Conditions.

New Source Performance Standards (NSPS)

40 CFR Part 60, Subpart A: General Provisions. This subpart applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication of any standard in part 60. The general provisions under subpart A apply to sources that are subject to the specific subparts of part 60.

SMC's Kevlar Coating Plant is not subject to any specific subparts of 40 CFR part 60. Therefore, the general provisions of 40 CFR part 60 do not apply.

40 CFR Part 60, Subpart Kb: Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced After July 23, 1984. This rule applies to storage vessels with a capacity greater than or equal to 40 cubic meters and exempts pressure vessels designed to operate in excess of 204.9 kPa (29.7 psi).

SMC has tanks for storing methyl ethyl ketone (MEK), isopropyl alcohol (IPA), and propane. The tanks for MEK and IPA are 6,000 gallons each and below the size threshold. The propane tank is designed to operate up to 250 psi and is therefore considered an exempt "pressure vessel." Therefore, this rule does not apply to SMC as the facility does not possess qualifying storage vessels.

40 CFR Part 60, Subpart VVV: Standards of Performance for Polymeric Coating of Supporting Substrate Facilities. This rule applies to web coating facilities that apply elastomer or other polymeric material onto a supporting substrate. Typical substrates include: woven, knit, and non-woven textiles, fiberglass, yarn, and cord. Examples of polymeric coatings are natural and synthetic rubber, urethane, polyvinyl chloride, acrylic, epoxy, silicone, phenolic resins, and nitrocellulose. The affected facilities include each coating operation and any onsite coating mix

preparation equipment used to prepare coatings for the polymeric coating of supporting substrates. This subpart applies to any affected facility for which construction, modification, or reconstruction began after April 30, 1987.

SMC coats woven textiles with phenolic resins which have been mixed on-site. Hence, SMC is an affected facility with respect to this rule. However, this standard does not apply as no construction or modification has commenced after April 30, 1987.

New Source Review (NSR):

NSR is a program under the CAA, and has been called the backbone of the CAA because it is the program that ensures that areas that are in violation of health based standards come into compliance with those standards and that air quality in areas that currently meet the health based standards does not get worse.

The NSR program requires new plants, or old plants that make significant modifications, to: (1) obtain a construction permit, (2) install modern pollution control equipment, and (3) perform an air quality analysis. The program referred to as NSR is actually two programs: (1) Non-attainment NSR (NA-NSR), and (2) Prevention of Significant Deterioration (PSD). Both programs require major new or modified sources to obtain a permit and meet certain requirements, but they apply to facilities in different air quality areas.

The PSD program applies in areas that meet the National Ambient Air Quality Standards (NAAQS) for pollutants the facility is going to emit. The NA-NSR program applies in areas that do not meet the NAAQS for pollutants the facility is going to emit. The NAAQS are health based ambient air pollution limits for criteria pollutants set by the EPA. The criteria pollutants are sulfur dioxide (SO_2), nitrogen oxides (NOx), carbon monoxide (CO), ozone (volatile organic compounds (VOC)), particulate matter (PM/PM10/PM2.5), and lead (Pb). The SMC facility is located in an area that is in attainment or unclassifiable for all criteria pollutants.

A major stationary source for purposes of PSD is any source belonging to a list of 28 source categories which emits or has the potential to emit 100 tpy of any pollutant regulated under the CAA or any other source type which emits or has the potential-to-emit such pollutants in amounts equal to or greater than 250 tpy. Furthermore, when a "minor" source, i.e., one that does not meet the definition of "major" source, makes a physical change or change in the method of operation that is by itself a major source (i.e. 100 or 250 tpy, depending on whether it is in one of the 28 listed source categories), that physical or operational change constitutes a major stationary source that is subject to PSD review.

In 1984, as a minor source, SMC added the Kevlar coating line to its operations. The addition of this coating line increased the potential VOC emissions by approximately 622 tpy. The added coating line was therefore a major stationary source by itself. Hence PSD applied and SMC should have undergone PSD review at that time.

Upon promulgation of the Federal Title V Operating Permit Program (Part 71), SMC submitted an application to EPA for a permit. While processing the draft part 71 permit, EPA evaluated the 1984 modification and the applicability of the PSD program and determined that PSD applied at the time the modification occurred, for VOC emission increases. A final PSD permit was issued on May 3, 2006.

The main pollutants of concern with the installation of the surface coating line are the emissions of VOCs and HAPs. VOC pollutants are of regulatory concern primarily because of their role in the atmospheric formation of ozone, a criteria pollutant. As a result, VOC emissions are regulated by PSD and NSPS. HAP emissions are regulated by National Emission Standards for Hazardous Air Pollutants from Printing, Coating, and Dyeing of Fabrics and Other Textiles. No other pollutants regulated by the PSD program are expected to be emitted from the facility in significant amounts.

While the Coatings MACT provided flexible options for complying with the emission standard for hazardous air pollutants, that flexibility was not incorporated into the PSD permit for the control of VOC emissions. SMC was asked to select a single option for controlling VOCs and demonstrating compliance with the PSD permit. In addition, unlike MACT standards promulgated at 40 CFR part 63, PSD permit limits apply at all times including during periods of startup, shutdown, and malfunctions.

The PSD permit requirements have been streamlined with the Coatings MACT requirements to allow multiple applicable emissions limits and work practices expressed in different forms and averaging times to be reduced to a single set of most-stringent requirements. See Section C - Streamlining Permit Conditions.

Compliance Assurance Monitoring (CAM) Rule

Pursuant to 40 CFR 64.2(a), the CAM rule applies to each Pollutant Specific Emission Unit (PSEU) that meets a three-part test. The PSEU must: (1) be subject to an emission limitation or standard; (2) use a control device to achieve compliance; and (3) have pre-control emissions that exceed or are equivalent to the major source threshold.

SMC's Coating Line (SCL3) and dryers (SCL1 and SCL2) share an exhaust stack for which a VOC emission limit has been established through a PSD permit issued on May 3, 2006. In addition, the exhaust stack is equipped with a catalytic oxidizer to achieve compliance with the emission limit and the precontrol emission at the exhaust stack exceeded the major source PSD threshold of 100 tpy for VOCs. Based on section 64.2(a), CAM applies to SCL1, SCL2, and SCL3 for VOC.

However, section 64.2(b) provides exemptions to the CAM rules. Specifically, section 64.2(b)(vi) provides an exemption for emission limitations or standards for which a part 70 or 71 permit specifies a continuous compliance determination method as defined in 64.1. The monitoring requirements established in the PSD permit and carried over into this part 71 permit

constitute a continuous compliance determination method. Therefore, CAM does not apply to this facility.

b. Conclusion

Based on the information provided in SMC's application for the Kevlar Coating Plant, EPA has no evidence that this source is subject to any additional existing applicable federal CAA programs aside from those discussed in this Statement of Basis. Further, the Kevlar Coating Plant is not subject to any implementation plan such as exist within state jurisdictions.

EPA recognizes that, in some cases, sources of air pollution located in Indian country are subject to fewer requirements than similar sources located on land under the jurisdiction of a state or local air pollution control agency. To address this regulatory gap, EPA is in the process of developing national regulatory programs for preconstruction review of major sources in non-attainment areas and of minor sources in both attainment and non-attainment areas. These programs will establish, where appropriate, control requirements for sources that would be incorporated into part 71 permits. To establish additional applicable, federally enforceable emission limits, EPA Regional Offices will, as necessary and appropriate, promulgate Federal Implementation Plans (FIPs) that will establish Federal requirements for sources in specific areas. EPA will establish priorities for its direct Federal implementation activities by addressing, as its highest priority, the most serious threats to public health and the environment in Indian country that are not otherwise being adequately addressed. Further, EPA encourages and will work closely with all tribes wishing to develop Tribal Implementation Plans (TIPs) for approval under the Tribal Authority Rule. EPA intends that its federal regulations created through a FIP will apply only in those situations in which a tribe does not have an approved TIP.

4. Streamlining Permit Conditions

As sources subject to title V identify all applicable requirements for inclusion in part 70 or part 71 permit applications, they may find that multiple applicable requirements affect the same pollutant or performance parameter for a particular emissions unit. Likewise, the requirements of federally-enforceable terms and conditions in preconstruction or operating permits may overlap with the requirements of other federally-enforceable rules and regulations. In these instances, a source may be in compliance with the overall emissions limit of each of the applicable requirements, but be required to comply with a multitude of redundant or conflicting monitoring, reporting, or recordkeeping requirements. Prior to title V there was no federally-enforceable means to resolve this situation.

Streamlining leads to substantial reductions in permitting burdens and improved part 70 and part 71 implementation by allowing multiple applicable emissions limits and work practices expressed in different forms and averaging times to be reduced to a single set of requirements (which can be an alternative to all those requirements being subsumed). It allows various monitoring, recordkeeping, and reporting requirements that are not critical to assuring compliance with the streamlined (most stringent) limit to be subsumed in the permit. Any such

streamlining must provide that compliance with the streamlined limit would assure compliance with all applicable requirements. The basic concept behind streamlining is that, as long as the permit contains the most stringent of the overlapping requirements, the permit will assure compliance with overlapping requirements.

The Agency discussed streamlining applicable requirements in the guidance document "Streamlining Multiple Applicable Requirements on the Same Emissions Units" from "White Paper Number 2 for Improved Implementation of Part 70 Operating Permits Programs" (March 5, 1996). Where EPA is the permitting authority pursuant to part 71 regulations, the Agency will implement White Paper Number 1 and Number 2 to the extent possible and promote similar implementation where EPA delegates responsibility for the part 71 program to a State or Tribe.

a. Enforcement

Upon receiving a part 71 permit, a source implementing the streamlined approach would not be subject to an EPA enforcement action for any failure to meet separate applicable requirements (e.g., emission limits, monitoring, recordkeeping, and reporting) that are subsumed within the streamlined requirement and specified under the permit shield. These requirements would no longer be independently enforceable once the permit has been issued, provided that the source attempts in good faith to implement the monitoring, recordkeeping, and reporting requirements specified in the permit.

However, a source violating a streamlined requirement in the part 71 permit may be subject to enforcement action for violation of one or more of the subsumed requirements to the extent that a violation of the subsumed applicable requirement(s) is documented. If EPA subsequently determines that the permit does not assure compliance with applicable requirements, the permit will be reopened and revised.

b. Permit shield

The permit shield is an effective means to clarify that for applicable requirements listed as subsumed under the streamlined requirements, compliance with the streamlined requirements is also compliance with the subsumed requirements. Such an understanding is essential to support and defend the issuance of any permit which provides for the streamlined treatment of multiple applicable requirements.

c. Legal basis

The legal basis for streamlining multiple applicable requirements relies on section 504(a), which requires that title V permits contain emissions limits/standards and other terms as needed to assure compliance with applicable requirements. This section notably does not require repetition of all terms and conditions of an applicable requirement when another applicable requirement or part 70 permit condition (i.e., streamlined requirement) could be fashioned to otherwise assure compliance with that applicable requirement.

Section 504(f) of the CAA lends additional certainty to permit streamlining. It specifically provides that the permitting authority may authorize that compliance with the permit may be deemed to be compliance with the Act provided that the permit includes all applicable requirements. Thus, this section allows the permitting authority to issue a permit containing a shield which protects a source against a claim that it is violating any applicable requirements listed in the permit shield as being subsumed under the streamlined requirement, provided that the source meets the permit terms and conditions that implement the streamlined requirement.

The part 71 regulations were finalized on July 1, 1996, but they have been amended several times since their promulgation. On October 22, 1997, EPA made changes to the monitoring and compliance certification requirements for part 71 permits as part of its rule on Compliance Assurance Monitoring to include streamlining monitoring and test provisions.

d. Streamlining process

White Paper Number 2 recommends an eight-step process for determining the most stringent applicable requirements. This process is as follows:

Step One - Provide a side-by-side comparison of all requirements included in the streamlining proposal that are currently applicable and effective for the specific emissions units of a source.

Step Two - Determine the most stringent emissions and/or performance standard (or any hybrid or alternative limits as appropriate) consistent with the above streamlining principles and provide the documentation relied upon to make this determination.

Step Three - Propose one set of permit terms and conditions (i.e., the streamlined requirements) to include the most stringent emissions limitations and/or standards, appropriate monitoring and its associated recordkeeping and reporting, and such other conditions as are necessary to assure compliance with all applicable requirements.

Step Four - Certify compliance (applicant only) with applicable requirements.

Step Five - Develop a compliance schedule to implement any new monitoring and/or compliance approach relevant to the streamlined limit if the source is unable to comply with it upon permit issuance.

Step Six - Indicate in the application submittal that streamlining of the listed applicable requirements under a permit shield (where available) is being proposed and propose the establishment of a permit shield which would state that compliance with the streamlined limit assures compliance with the listed applicable requirements.

Step Seven - Evaluate the adequacy of the proposal and its supporting documentation.

Step Eight - Note the use of this process in any required transmittal of a part 70 application, application summary, or revised application to EPA and include the streamlining demonstration and supporting documentation in the public record.

In addition to following the eight-step process recommended in White Paper Number 2, the following question needs to be answered:

"Could the source possibly violate any of the subsumed requirements while still complying with the streamlined permit condition?"

If the answer is "yes," then the conditions cannot be streamlined into one and must each be included as separate permit conditions.

An additional three-step process has been followed to determine if the subsumed requirements assure compliance with all applicable requirements.

Step One - Create a hypothetical situation.

Step Two - Verify the hypothetical situation does not violate the streamlined permit condition.

Step Three - Does the hypothetical situation violate the subsumed requirement?

Information relating to the side-by-side comparison for SMC and White Paper 2 are contained in Appendices A – C to this Statement of Basis.

5. EPA Authority

a. General authority to issue part 71 permits

Title V of the CAA requires that EPA promulgate, administer, and enforce a Federal operating permits program when a state does not submit an approvable program within the time frame set by title V or does not adequately administer and enforce its EPA-approved program. On July 1, 1996 (61 FR 34202), EPA adopted regulations codified at 40 CFR 71 setting forth the procedures and terms under which the Agency would administer a Federal operating permits program. These regulations were updated on February 19, 1999 (64 FR 8247) to incorporate EPA's approach for issuing Federal operating permits to stationary sources in Indian country.

As described in 40 CFR 71.4(a), EPA will implement a part 71 program in areas where a state, local, or tribal agency has not developed an approved part 70 program. Unlike states, Indian tribes are not required to develop operating permits programs, though EPA encourages tribes to do so. See, e.g., Indian Tribes: Air Quality Planning and Management (63 FR 7253,

February 12, 1998) (also known as the "Tribal Authority Rule"). Therefore, within Indian country, EPA will administer and enforce a part 71 federal operating permits program for stationary sources until a tribe receives approval to administer their own operating permits program.

6. Use of All Credible Evidence

Determinations of deviations, continuous or intermittent compliance status, or violations of the permit are not limited to the testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered by the source and EPA in such determinations.

7. Public Participation

a. Public notice

There was a 30-day public comment period for actions pertaining to the draft permit. Public notice was given for the draft permit by mailing a copy of the notice to the permit applicant, the affected state, tribal and local air pollution control agencies, the city and county executives, the state and federal land managers and the local emergency planning authorities which have jurisdiction over the area where the source is located. A copy of the notice was also provided to all persons who have submitted a written request to be included on the mailing list. If you would like to be added to our mailing list to be informed of future actions on these or other Clean Air Act permits issued in Indian country, please send your name and address to:

Victoria Parker-Christensen, Part 71 Permit Contact
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202-1129

Public notice was published in the Devils Lake Journal on April 26, 2010, giving opportunity for public comment on the draft permit and the opportunity to request a public hearing.

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b. Opportunity for comment

Members of the public were given the opportunity to review a copy of the draft permit prepared by EPA, the application, the Statement of Basis for the draft permit, and all supporting materials for the draft permit. Copies of these documents were available at:

Benson County Clerk of Court
Benson County Court House
311 B Avenue South
Minnewaukan, ND 58351

and

Spirit Lake Indian Tribe
Environmental Programs Office
816 3rd Avenue North
Fort Totten, ND 58335

and

US EPA Region 8
Air Program Office
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202-1129

All documents were available for review at the U.S. EPA Region 8 office Monday through Friday from 8:00 a.m. to 4:00 p.m. (excluding federal holidays).

Any interested person could submit written comments on the draft part 71 operating permit during the public comment period to the Part 71 Permit Contact at the address listed above. EPA keeps a record of the commenters and of the issues raised during the public participation process. All comments are considered by EPA in making the final decision on the permit.

Anyone, including the applicant, who believed any condition of the draft permit was inappropriate could raise all reasonable ascertainable issues and submit all arguments supporting their position by the close of the public comment period. Any supporting materials submitted must have been included in full and may not have been incorporated by reference, unless the material was already submitted as part of the administrative record in the same proceeding or consisted of state or federal statutes and regulations, EPA documents of general applicability, or other generally available reference material.

EPA received comments on the draft permit and Statement of Basis during the public comment period from the North Dakota Department of Health, Division of Air Quality. All comments have been considered and answered by EPA in making the final decision on the permit

c. Opportunity to request a hearing

A person could submit a written request for a public hearing to the Part 71 Permit Contact, at the address listed in section 8.a above, by stating the nature of the issues to be raised at the public hearing. No request for a public hearing was received. EPA did not receive any requests for a public hearing during the public comment period.

d. Appeal of permits

Within 30 days after the issuance of a final permit decision, any person who filed comments on the draft permit or participated in the public hearing may petition to the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or participate in the public hearing may petition for administrative review, only if the changes from the draft to the final permit decision or other new grounds were not reasonably foreseeable during the public comment period. The 30 day period to appeal a permit begins with EPA's service of the notice of the final permit decision.

The petition to appeal a permit must include a statement of the reasons supporting the review, a demonstration that any issues were raised during the public comment period, a demonstration that it was impracticable to raise the objections within the public comment period, or that the grounds for such objections arose after such a period. When appropriate, the petition may include a showing that the condition in question is based on a finding of fact or conclusion of law which is clearly erroneous; or, an exercise of discretion, or an important policy consideration that the Environmental Appeals Board should review.

The Environmental Appeals Board will issue an order either granting or denying the petition for review, within a reasonable time following the filing of the petition. Public notice of the grant of review will establish a briefing schedule for the appeal and state that any interested person may file an amicus brief. Notice of denial of review will be sent only to the permit applicant and to the person requesting the review. To the extent review is denied, the conditions of the final permit decision become final agency action.

A motion to reconsider a final order shall be filed within 10 days after the service of the final order. Every motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration shall be directed to the Administrator rather than the Environmental Appeals Board. A motion for reconsideration shall not stay the effective date of the final order unless it is specifically ordered by the Board.

e. Petition to reopen a permit for cause

Any interested person may petition EPA to reopen a permit for cause, and EPA may commence a permit reopening on its own initiative. EPA will only revise, revoke and reissue, or terminate a permit for the reasons specified in 40 CFR 71.7(f) or 71.6(a)(6)(i). All requests must be in writing and must contain facts or reasons supporting the request. If EPA decides the request is not justified, it will send the requester a brief written response giving a reason for the decision. Denial of these requests is not subject to public notice, comment, or hearings.

Denials can be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts.

f. Notice to affected states/tribes

As described in 40 CFR 71.11(d)(3)(i), public notice was given by mailing a copy of the notice to the air pollution control agencies of affected states, tribal and local air pollution control agencies that have jurisdiction over the area in which the source is located, the chief executives of the city and county where the source is located, any comprehensive regional land use planning agency and any state or Federal land manager whose lands may be affected by emissions from the source. The following entities were notified:

Spirit Lake Indian Tribe, Environmental Programs Office
State of North Dakota, Department of Health
Benson County, County Clerk