United States Environmental Protection Agency
Air Quality Permit by Rule for New or Modified True Minor Sources of Air Pollution in Indian Country

https://www.epa.gov/tribal-air/tribal-minor-new-source-review

Procedures to Address Threatened and Endangered Species and Historic Properties for New or Modified True Minor Sources in Indian Country Seeking Air Quality Permits by Rule

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Version 1.0

This document provides procedures for new or modified true minor sources in Indian country seeking a permit by rule to address threatened and endangered species and historic properties. In order to gain coverage under a permit by rule you must address the attached procedures and obtain written confirmation from the U.S. Environmental Protection Agency (EPA) that you have satisfactorily done so.

Instructions

Step 1: Submit the evaluation below to your reviewing authority (and also to the tribe in the area where the source is locating), including providing appropriate documentation (i.e., completing the steps in Appendix A and B of this document and the relevant supporting materials), demonstrating that you (1) meet one of the criteria listed in Appendix A with respect to the protection of any and all species that are federally-listed as threatened or endangered under the Endangered Species Act (ESA) or of habitat that is federally-designated as "critical habitat" under the ESA; and (2) meet one of the criteria listed in Appendix B with respect to the National Historic Preservation Act (NHPA). You must obtain written confirmation from the EPA that the threatened and endangered species and historic property screening procedures processes have been satisfied prior to submitting your Notification of Coverage under the Permit by Rule.

Step 2: After receiving confirmation that you have successfully met the requirements of Step 1, complete all sections of the Notification of Coverage Form under the Permit by Rule. If you have questions, please contact the reviewing authority**.**

Step 3: Certify that your existing or proposed facility is/will be in compliance with the applicable requirements as stated in 40 CFR 49.156(f) and 40 CFR 49.162 to 49.164 and submit a copy of the Notification of Coverage Form to the reviewing authority and to the tribe in the area where the source is locating. Submittal of the Notification of Coverage Form also satisfies the requirement that minor sources in Indian country register with the EPA.

After you submit the Notification of Coverage under the Permit by Rule to the Reviewing Authority:

- You may commence construction of your new source or modification under the Permit by Rule.
- Your reviewing authority may request additional information from you in order to verify you are eligible for the permit by rule.

Summary of Evaluation of Threatened and Endangered Species and Historic Properties for New or Modified True Minor Sources in Indian Country Seeking Air Quality Permits by Rule

Section 1: Contact Information

Business Name:	Site Address:
Send all correspondence regarding this evaluation to (mailing address):	Contact for this notification: Name: Phone: Email:

Section 2: Evaluation of Threatened and Endangered Species and Historic Properties

1. Threatened and Endangered Species

Please indicate under which criterion in Appendix A you satisfy the procedures after evaluating the effects on threatened and endangered species as a result of your construction, modification or operation of your new or modified minor source of air pollutants. Be sure to include all documentation identified in Appendix A with this evaluation.

☐ A ☐ B ☐ C ☐ D ☐ E

2. Historic Properties

Please indicate under which criterion in Appendix B you satisfy after evaluating the effects to historic properties as a result of your construction, modification or operation of your new or modified minor source of air pollutants? Be sure to include all documentation identified in Appendix B with this evaluation.

☐ No historic properties affected ☐ No adverse effects ☐ Adverse effects

Section 3: Signature

Name:_____ Name: _____
(Signature) (Print or Type)

Title:_____ Date:_____

Appendix A – Threatened and Endangered Species Requirements

The purpose of this appendix is to assist you in completing the screening procedure for addressing threatened and endangered species prior to submitting your Notification of Coverage under a permit by rule for new or modified true minor sources in Indian country. In order to be eligible for coverage under a permit by rule, you must demonstrate that you qualify under one of the criteria listed in this appendix with respect to the protection of species that are federally-listed as threatened or endangered 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:** Listed Species Eligibility Criteria and
- **Section 2:** Guidance for Determining Which Listed Species Criterion Applies.

Section 1: Listed Species Eligibility Criteria

To be eligible for coverage under a permit by rule, you must obtain confirmation from the EPA that you completed thescreening procedure and meet one of the eligibility criteria listed below. You must also specify in your submittal the basis for your selection of the applicable eligibility criterion and provide documentation supporting the criterion selected. If you have not obtained confirmation from the EPA regarding listed species eligibility criteria, you will not be eligible for coverage under a permit by rule, and you must apply for a site-specific permit.

Note: (1) Your determination 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 relevant Service(s) and to do so early in the planning process prior to submitting your Notification of Coverage.

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

The following is a summary of the five eligibility criteria. See Section 2 for detailed instructions to determine which criterion applies for your specific action:

Criterion A:

No federally-listed threatened or endangered species or designated critical habitat(s) of such species are likely to occur within the action area for your project.[1]

Criterion B:

Federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur within the actionarea of your source, but the construction and operation of your new minor source or construction and operation of themodification to your existing minor source is not likely to adversely affect listed threatened or endangered species

[1] *Action area* means all areas to be affected directly or indirectly by your project and may be broader than the immediate project area [*See, e.g.*, 50 CFR 402.02].

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 and operation of your new or modified source are not likely to adversely affect listed species or critical habitat. To make this certification, you must include the following in your documentation: (1) identify any federally-listed species and/or designated critical habitat located within the action area of your source; (2) the distance between your site and the listed species or designated critical habitat (in miles); and (3) any other information necessary (e.g., a detailed map of the action area and supporting justification) 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 Service(s) has been concluded or has 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. The coordination must result 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 Service(s) with your submittal.

Criterion D:

Consultation between another Federal Agency and the Service(s) under section 7 of the ESA has been concluded. The consultation must have addressed the effects of your true 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 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 critical habitat.

You must include copies of the relevant documentation cited above in your submittal.

Criterion E:

You have obtained an incidental take permit from the Service(s) under section 10 of the ESA in connection with your construction/modification and operation activities, and this permit addresses the effects of the source on relevant 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 Service(s) with your submittal.

Section 2: Determining Which Criterion Applies

To qualify for a permit by rule, you need to meet one of the five criteria listed above. You must follow the procedures in Steps 1 through 5 below to determine the listed species criterion, if any, under which your project is eligible for permit coverage.

Step 1 - *Determine if Previous or Separate Assessments Have Already Addressed Your Source.*
You should first determine whether you are eligible to select either Criterion *D or E* based on an ESA section 7 consultation previously completed by another Federal Agency (Criterion D) or an ESA section 10 permit (Criterion E) issued by the Service(s) as follows:

Meeting Criterion D: If consultation under section 7 of the ESA has been concluded in connection with another Federal Agency's involvement with your source, you may be eligible to select Criterion D. To be eligible to select Criterion D, you must confirm that all the following are true:

- A consultation between a Federal Agency and the Service(s) under section 7 of the ESA has been concluded. Consultations can be either formal or informal, and would have occurred in connection with a separate action by a separate Federal Agency (e.g., as part of a separate Federal Agency's authorization for you to construct or operate your business in Indian country). The consultation must have addressed the effects of the construction, modification and operation of your new or modified source on all federally-listed threatened or endangered species and all federally-designated critical habitat in your action area. The result of this consultation must be either:
  a. A biological opinion that concludes that the construction, modification and operation of your new or modified source is not likely to jeopardize the continued existence of any listed species, nor result in the destruction or adverse modification of any designated critical habitat. The consultation must have included consideration of the effects of your facility's emissions and other related activities on all listed species and designated critical habitat in your action area; or
  b. Written concurrence (e.g., letter of concurrence) from the applicable Service(s) with a finding that the construction, modification and operation of your new or modified source are not likely to adversely affect listed species or designated critical habitat. The consultation must have included the effects of your facility's emissions and other related activities on all the listed species and designated critical habitat in your action area.
- The consultation remains current, in accordance with 50 CFR § 402.16; or, if re-initiation of consultation is required (e.g., due to a new species listing or critical habitat designation or new information), such reinitiated consultation is concluded, and the result of the consultation is consistent with the statements above. Attach a copy of any consultation re-initiation documentation from the Service(s) or other consulting Federal Agency.

If all of the above are true, you may select Criterion D. You must also provide a description of the basis for the criterion selected. In your submittal you must also provide the Biological Opinion (or Public Consultation Tracking System tracking number) or concurrence letter and any other documentation supporting your determination.

If any of the above is not true, you may not select Criterion D. For example: if the biological opinion or written concurrence from the Service(s) did not include the effects of your source's air emissions or other-related activities as described above; or if the previous consultation covered some but not all of the listed species or critical habitat in your action area; or if the consultation is no longer current (e.g., due to new species listings); then you are not eligible under Criterion D.

Meeting Criterion E: You have obtained an incidental take permit under section 10 of the ESA, and this permit addresses the effects of the construction/modification and operation of your new or modified source on federally-listed species and designated critical habitat in your action area.

You may rely on a section 10 permit that you have previously obtained so long as it addresses the construction/modification and operation of your new or modified source and all federally-listed species and designated critical habitat in your action area. (Note: If you do not hold a section 10 permit already, you can consider obtaining one, however, it may be more efficient to instead meet the requirements for Criterion A, B or

C as described in Steps 2 – 5.)

If you choose to apply for a new section 10 permit, you must follow applicable Service procedures (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 (https://www.fws.gov/permits/instructions/ObtainPermit.html and http://www.nmfs.noaa.gov) or by contacting the appropriate FWS and NMFS regional office.

If the above is true, you may select Criterion E. You must also provide a description of the basis for the criterion selected. In your submittal you must provide a copy of the permit issued by the Service(s).

If the above is not true, you may not select Criterion E at this time and must proceed to Step 2. For example, if a permit has been issued under section 10 of the ESA, but the permit did not consider the effects of the facility's air emissions and/or emission-related activities on all federally-listed species and designated critical habitat on your species list, you are not eligible under Criterion E.

Step 2 - *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 designated critical habitat(s), are located within the action area of your minor source.[2] This is a two-step process. The first step is to determine your action area. When defining the boundaries of your action area, you should take into account the following criteria:

- *Ground disturbance* – Effects during construction, maintenance and operation of the facility should be considered.
- *Changes in water quality/quantity (both surface and groundwater)* – This would include effects that may extend far beyond the footprint of the facility. An example may be stormwater runoff from impervious surfaces (containing sediments or other contaminants) on the site that may reach water bodies (including ditches that empty into water bodies) some distance from a facility. All receiving water bodies that could receive pollutants from the facility's construction, maintenance, or operation should be included in the action area.
- *Air Quality Impacts* – Effects during construction, maintenance and operation of the facility should be considered.
- *Lighting effects* – Effects during construction, maintenance and operation of the facility should be considered.
- *Noise Disturbance* – Effects during construction, maintenance and operation of the facility should be considered.

Note: If you have questions about determining the extent of the action area, you should coordinate with the local Service field office as noted below. If site-specific conditions exist such that the action area would be limited to the facility footprint, but that fact may not be obvious from a map or figure, submit a narrative description of the action area in addition to a map for evaluation of the action area selected. 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").

[2] For definitions of terms that you might encounter when addressing the listed species requirements, go to: http://www.fws.gov/midwest/endangered/glossary/index.html and http://www.fws.gov/northeast/nyfo/es/actionarea.htm.

After determining the boundaries of the action area, you will next determine if listed species and/or critical habitat are expected to exist there. Relevant sources of information regarding the locations of listed species and critical habitats are often organized along county and/or township lines. You should thus first identify the counties and/or townships within which your action area is located. You would then consult relevant sources of information regarding the locations of listed species and critical habitats. The local offices of the FWS and NMFS often maintain lists of federally-listed threatened orendangered 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/.

In most cases, listed species and designated critical habitat lists will 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.ecfr.gov/cgi-bin/ECFR?page=browse). You may also use the FWS Critical Habitat Portal (see http://criticalhabitat.fws.gov/crithab/).

- ***If there are no listed species or critical habitat in the counties/townships where your action area is located, you may select Criterion A***. You must also provide a description of the basis for the criterion selected orprovide documentation supporting the criterion selected in your submittal.

- ***If there are listed species and/or critical habitat in the counties/townships in your action area,*** you shouldcontact your local FWS or NMFS office to determine if the listed species are known to exist within the specific action area of your minor source and if any designated critical habitat areas overlap the action area of your minor source.
  - If your local FWS or NMFS office 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 to determine if the species and/orcritical habitat may actually be present in or may use your action area:
    - 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. Biological surveys are frequently performed by environmental consulting firms. A biological survey may in some cases be useful to conduct in conjunction with Steps 3, 4 or 5 ofthese instructions.

- ***If, after performing one or more of the assessments above, you determine that there are no listed species or critical habitat in your action area, you may select Criterion A.*** You must also provide a description of the basis for the criterion selected or provide documentation supporting the criterion selected in your submittal.

- ***If listed species or critical habitat are located in your action area, then proceed to Step 3.***

Step 3 - ***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 2 you determine, based on communication with your local FWS or NMFS office, 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 that 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 or NMFS for assistance.

- ***If adverse effects to listed threatened or endangered species or their critical habitat are not likely, then you may select Criterion B***. You must provide the following specific information with your submittal:

  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 site and the listed species or designated critical habitat (in miles); and
  3. Any other information necessary to show that the construction/modification and operation of 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 4 below.***

Step 4 - ***Determine if Measures Can Be Implemented to Avoid Adverse Effects.***

If you determine in Step 3 that adverse effects from the construction/modification or operation of your new or modified minor source are likely to occur, you can still select eligibility Criterion B if you undertake appropriate measures to avoid or eliminate the likelihood of adverse effects prior to seeking coverage under the permit by rule. 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 able to implement appropriate measures to avoid the likelihood of adverse effects, then you may select Criterion B***. 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 by rule. You must also provide a description of the basis for the criterion selected, and the following specific information in your documentation: (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 sufficient measures to implement to avoid the likelihood of adverse effects,*** you must follow the procedures in Step 5**.**

Step 5 - ***Coordinate with the Service(s).***

If in Step 4 you cannot determine sufficient measures to avoid the likelihood of adverse effects, you must contact the applicable Service(s). You may still be eligible for coverage under the permit by rule if the likely adverse effects can be

addressed through meeting Criterion C.

- **Criterion C:** You have coordinated with the Service(s) 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. The Service(s) must provide written concurrence that the construction/modification and operation of your new or modified minor source is not likely to adversely affect listed species or critical habitat.

    - ***If you have obtained the Service(s) written concurrence as described above***, then you may select Criterion C. As part of your submittal, you must provide a description of the basis for the criterion selected or must include copies of the correspondence between you and the applicable Service(s).

Appendix B – Historic Property Screening Process

Section 1: Background

The purpose of this appendix is to assist you in completing the screening procedure for addressing historic properties that are either listed on, or eligible for listing on, the National Register for Historic Places prior to submitting your Notification of Coverage under a permit by rule for new or modified true minor sources in Indian country. In order to be eligible for coverage under a permit by rule, you must demonstrate that you qualify under one of the criteria listed in this appendix with respect to the protection of historic properties under the NHPA.

To address any issues relating to historic properties, 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 that a specific minor source meets the requirements for coverage under this permit by rule 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 coverage under a permit by rule.

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

If the impacts from your source have already been reviewed under another Federal agency's approval process (e.g., the Bureau of Indian Affairs authorizing operation of your source in Indian country) then documentation from that review may satisfy the requirements of this section. In some cases, the review by another agency will have evaluated the impacts from site disturbance activities (e.g., site clearing), but not from air emissions. In such cases supplemental evaluation may be required to complete the analysis.

Section 2: 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 Notification of Coverage under a permit by rule until you have completed this screening process and obtained confirmation of satisfactory completion from the EPA. The following four steps describe how applicants can meet the historic property requirements under this permit.

<u>Step 1</u> - 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 submit the appropriate documentation of **"no historic propertiesaffected"** with your submittal, 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, then you may submit the appropriate documentation of **"no historic properties affected"** with your submittal, and no further screening steps are necessary.

During the 30-day period following receipt of your screening process documentation by the EPA, the SHPO, THPO, or other tribal representative may request that the EPA deny coverage under a permit by rule 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.

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, then you may submit the appropriate documentation of **"no historic properties affected"** with your submittal, and no further screening steps are necessary. During the 30-day period following receipt of your screening process documentation by the EPA, the SHPO, THPO, or other tribal representative may request that the EPA delay your coverage under a permit by rule 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.

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.

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 in your submittal, 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 submit the appropriate documentation of **"no adverse effects"** with your submittal, and no further screening steps are necessary.

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.

During the 30-day period following receipt of your screening process documentation by the EPA, 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 you can submit your Notification of Coverage.

Step 4 - ***Consultation with your applicable SHPO, THPO, or other tribal representative.***

If, following your discussions with the appropriate historic preservation authorities in Step 3, 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 after consultation it is determined that there will be no adverse effects to historic properties, then you may submit the appropriate documentation of **"no adverse effects"** with your submittal, and no further screening steps are necessary. 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 submit the appropriate documentation of **"adverse effects"** with your submittal.

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 screening process

documentation, but you must indicate that you have not negotiated measures to avoid or mitigate such effects. You must also include the following with your submittal:

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.

During the 30-day period following receipt of your submittal by the EPA, the SHPO, THPO, ACHP or other tribal representative may request that the EPA place a hold on confirmation 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.