



Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Concrete Batch Plants in Indian Country

TECHNICAL SUPPORT DOCUMENT

Permittee: FNF Construction, Inc.
115 South 48th Street
Tempe, Arizona 85281

Project Name: FNF Construction, Inc. Window Rock Airport Soil Cement Mixing Plant

Location: Window Rock Airport
Beacon Road
Window Rock, Arizona 86515

Source Contact: Tressia Contreras, Environmental Manager
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Facility ID#: 31

Application #: 2018-004-GP

Summary

FNF Construction, Inc. (FNF) applied for coverage under the General Air Quality Permit for New or Modified Minor Source Cement Batch Plants in Indian Country (Concrete Batch Plants General Permit). FNF proposes to construct and operate a soil cement mixing plant located at the Window Rock Airport within the Navajo Nation tribal land in Window Rock, Apache County, Arizona. The United States Environmental Protection Agency (EPA), Region 9 has reviewed FNF's application for coverage and finds that the proposed facility qualifies for coverage under the Concrete Batch Plants General Permit. This Technical Support Document (TSD) describes the legal and factual basis for our approval.

Background

The Clean Air Act (CAA) provides the EPA with broad authority to protect air resources throughout the nation, including air resources in Indian Country. Unlike States, Indian Tribes are not required to develop CAA new source review (NSR) permitting programs. See, e.g., Indian Tribes: Air Quality Planning and Management, 63 Fed. Reg. 7253 (Feb. 12, 1998) (also known as the Tribal Authority Rule). In the absence of an EPA-approved NSR program, the EPA has the authority to implement a Federal Implementation Plan (FIP) in order to protect air resources from impacts due to the construction of new or modified stationary sources of air pollutants on tribal lands. In 2011, the EPA finalized the Tribal NSR Rule, codified at 40 CFR Part 49, as part of a FIP under the CAA for Indian Country. 76 Fed. Reg. 38748 (July 1, 2011). Among other requirements, the Tribal NSR Rule set forth procedures and terms under which the Agency would administer a minor NSR permitting program in Indian Country.

The Navajo Nation does not have an EPA-approved NSR program, so the EPA is the permitting authority for new or modified stationary sources of air pollutants. The EPA reviews applications and issues permits for the construction and operation of new and modified stationary sources on tribal land in accordance with the Tribal NSR Rule.

As part of the Tribal NSR Rule, the EPA adopted the option of developing general permits for certain categories of minor sources to which the Tribal NSR Rule would apply. The purpose of a general permit is to provide for the protection of air quality while simplifying the permit issuance process for similar facilities in order to minimize the burden on the reviewing authority and the regulated sources. The EPA finalized the General Air Quality Permit for New or Modified Minor Source Concrete Batch Plants in Indian Country (Concrete Batch Plants General Permit) effective November 14, 2016. 81 Fed. Reg. 70944 (October 14, 2016). New and modified minor sources may apply for coverage under the Concrete Batch Plants General Permit if the total potential to emit for new, modified, and existing units is below major source thresholds and the source can meet the throughput limits and other terms and conditions set forth in the general permit. Sources seeking coverage must also demonstrate that they meet all eligibility criteria.

Request for Coverage under Concrete Batch Plants General Permit

On February 22, 2018, the EPA Region 9 received a Request for Coverage under the Concrete Batch Plants General Permit from FNF for the construction and operation of a portable concrete batch plant and a soil cement mixing plant at the Window Rock Airport within the Navajo Nation tribal land in Window Rock, Apache County, Arizona. The soil cement mixing plant will be used for modifications at the Window Rock Airport.

The proposed project is for the reconstruction of the existing Runway 2-20 (7,000 feet by 75 feet), and would include all necessary pavement markings and limited shoulder regrading and seeding. Non-precision pavement markings would be reapplied, and safety areas associated with the new pavement edge would be regraded and seeded as well. The existing pavement has a Pavement Condition Index

(PCI) of 21 and has been observed to have foreign object debris (FOD). A reconstructed runway would enhance safety and reduce FOD.

On March 21, 2018, the EPA sent a letter to FNF indicating that their application was complete. The geographic area where the Project will be located is designated attainment/unclassifiable under the CAA for all National Ambient Air Quality Standards (NAAQS) pollutants.

Equipment Description

The subject portable concrete batch plant will have a projected annual concrete production of 8,200 cubic yards. The proposed operation will include the equipment listed within the table below.

Table 1: List of Affected Emission Units Covered by this Approval of Request for General Permit Coverage

ID #	Description			Controls on Unit	Equipment Size	Make / Model	Year of Construction
	Mixer	Hopper, Silo, or Bin	Equipment Name				
1		X	Concrete Silo	Baghouse	600 TPH	Accumix 600B	1986
2		X	Aggregate Hopper	Moisture in Material	600 TPH	Accumix 600B	1986
3	X		Mixer Pugmill	Wet Enclosed	--	Accumix 600B	1986
4			Concrete Feeder	Baghouse	60 TPH	Accumix 600B	1986
5			Water Tank	N/A	850 Gallons	Accumix 600B	1986
6			Conveyor	Wet Material	--	Accumix 600B	1986
7		X	Dump Hopper	Wet Material	1.5 Cubic Yards	Accumix 600B	1986
8			Concrete Baghouse	Baghouse	--	Accumix 600B	1986
9			Engine	N/A	230 HP	Accumix 600B	1986

Eligibility Criteria

Based upon our review of the FNF Request for Coverage, we have determined the Project qualifies for the Concrete Batch Plants General Permit because it meets the following criteria:

- The Project is for the modification of the operations at an existing minor source concrete batch plant;
- The Project is not for the construction or modification of a major source concrete batch plant;
- The Project will be located within the Navajo Nation tribal land;

- The Project will be located in an attainment, unclassifiable or attainment/unclassifiable area for criteria pollutants (i.e., it will not be located in any nonattainment area); and
- The Project satisfies the processes for threatened and endangered species and historic properties under the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA), respectively.

Potential to Emit

The emission calculations for the facility are provided below.

Table 2: Summary of Total Potential to Emit (PTE)

Process / Equipment	PM	PM ₁₀	PM _{2.5}	SO ₂	NO _x	CO	VOC	Single HAP	Total HAP
Materials Handling and Loading	35.58	17.48	2.27	--	--	--	--	--	--
Auxiliary Heater	0.00	0.00	0.00	0.00	0.00	0.00	0.00	--	0.00
Non-Emergency Engines	2.22	2.22	2.22	2.07	31.23	6.73	2.49	--	0.03
Emergency Generators	0.00	0.00	0.00	--	--	--	--	--	--
Vehicle Traffic	0.00	0.00	--	--	--	--	--	--	--
Storage Piles	0.0004	0.0002	--	--	--	--	--	--	--
Solvent Degreasing	--	--	--	--	--	--	--	--	--
Controlled Emissions (tons per year)	37.80	19.69	4.49	2.07	31.23	6.73	2.49	0.00	0.03

The Tribal NSR Rule establishes specific PTE thresholds for new or modified stationary sources that trigger the requirement to obtain a preconstruction permit under the Tribal Minor NSR program. Table 3 lists the minor and major source thresholds pursuant to 40 CFR 49.153 (Tribal Minor NSR), 40 CFR Part 52.21(b)(1)(i)(b) (*PSD Major Source*), and 40 CFR Part 71 (*title V Major Source*).¹ If post-control emissions for each regulated NSR pollutant are above the applicable thresholds, then the relevant CAA permitting requirements apply for that pollutant. See Table 3.

¹ See 40 CFR part 71.2, *Definition of Major Source (Paragraph 2)*. The major source threshold under 40 CFR part 71 is 100 tons per year (tpy) for this area.

Table 3: Tribal Minor NSR Permitting Thresholds (tons per year)

Regulated NSR pollutant	Tribal Minor NSR thresholds for attainment areas (tpy)	Major Source PSD thresholds for attainment areas (tpy)	Title V Major Source thresholds (tpy)
Carbon monoxide (CO)	10	250	100
Nitrogen oxides (NO _x)	10	250	100
Sulfur dioxide (SO ₂)	10	250	100
Volatile Organic Compounds (VOC)	5	250	100
PM	10	250	100
PM ₁₀	5	250	100
PM _{2.5}	3	250	100
Lead	0.1	--	--
Fluorides	1	--	--
Sulfuric acid mist	2	--	--
Hydrogen sulfide (H ₂ S)	2	--	--
Total reduced sulfur (including H ₂ S)	2	--	--
Reduced sulfur compounds (including H ₂ S)	2	--	--

Projects at new or modified sources that must obtain Tribal Minor NSR program preconstruction permits based on PTE at or above these Tribal minor NSR thresholds may qualify for coverage under a Tribal Minor NSR general permit in lieu of obtaining a site-specific permit. In order to qualify for the Concrete Batch Plants General Permit, the new or modified source must have a PTE (without controls) below the major source thresholds in Table 3 or accept restrictions contained within the permit that reduces its PTE to below major source thresholds (synthetic minor source).² If a new or modified source does not meet the specified criteria, the source does not qualify for coverage under the Concrete Batch Plants General Permit and must apply for a site-specific Tribal NSR permit or other applicable NSR permit.

² According to 40 CFR 49.152, a “[s]ynthetic minor source means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in §49.167, §52.21 or §71.2 of this chapter, as applicable, but that has taken a restriction so that its potential to emit is less than such amounts for major sources.” (emphasis added). Restrictions taken to create the synthetic minor source must be enforceable as a practical matter.

In this case, FNF determined that the Project triggered the preconstruction permit requirements under the Tribal Minor NSR Rule and is seeking to obtain coverage under the Concrete Batch Plants General Permit in lieu of obtaining a site-specific permit.

Listed Species-Related Eligibility Criteria

The EPA developed eligibility criteria related to species that are listed as endangered or threatened under the ESA that applicants must satisfy to qualify for coverage under the Concrete Batch Plants General Permit. Appendix A to the Request for Coverage form for the Concrete Batch Plants General Permit provides detailed screening procedures for applicants to follow to assess the potential impacts of their sources on federally listed species and their critical habitat. To be eligible for coverage under the General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the species-related eligibility criteria, provide sufficient documentation supporting the criterion selected, and obtain confirmation from the EPA that they have done so.

Although the Request for Coverage states that the Project meets Criterion D of Appendix A with respect to listed species protection, FNF clarified in an April 4, 2018 email that the Project falls under Criterion A of Appendix A, which states “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.”

The proposed Project is to reconstruct the existing Runway 2-20 (7,000 feet by 75 feet). The Request for Coverage application included a March 19, 2018 letter from the United States Fish and Wildlife Service (FWS) providing a list of threatened and endangered species that may occur in the proposed Project area, and/or may be affected by the proposed Project. The FWS’s list identified six (6) threatened, endangered, or candidate species as shown in Table 4.

Table 4: List of Threatened, Endangered, or Candidate Species

Type	Name	Status
Mammal	Gray Wolf (<i>Canis lupus</i>)	Proposed Experimental Population Non-Essential
Birds	Mexican Spotted Owl (<i>Strix occidentalis lucida</i>) Yellow-Billed Cuckoo (<i>Coccyzus americanus</i>)	Threatened
Reptiles	Northern Mexican Gartersnake (<i>Thamnophis eques megalops</i>)	Threatened
Fishes	Zuni Bluehead Sucker (<i>Catostomus dicobolus yarrowi</i>)	Endangered
Flowering Plants	Zuni Fleabane (<i>Erigeron rhizomatus</i>)	Threatened
Critical Habitats	None	--

The Request for Coverage application states that although the potential for the named species to occur in the vicinity of the proposed Project exists, no known species or critical habitats are known to exist

within the proposed Project's area of potential effects. It further states that the Project would occur on existing airport property on existing pavement and graded runway safety areas; therefore, the Project would not likely impact the existence of any federally listed species or result in the destruction or adverse modification of any federally designated critical habitat. In an April 18, 2018 email to the EPA, the FWS confirmed that the Project would have "no effect" on federally-listed threatened or endangered species or designated critical habitat(s) of such species that are likely to occur within the action area for the Project.

FNF has completed the species-related screening procedures and has demonstrated, with appropriate documentation, that the proposed Project meets Criterion A of the listed species-related eligibility criteria for coverage under the Concrete Batch Plants General Permit.

Historic Properties-Related Eligibility Criteria

The EPA developed the screening process in Appendix B of the Request for Coverage form to enable source owners/operators to 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, if applicable, determine whether actions can be taken to mitigate any such impacts. To be eligible for coverage under the Concrete Batch Plant General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the historic property-related eligibility criteria, provide sufficient documentation supporting the criterion selected, and obtain confirmation from the EPA that they have done so.

With respect to the Project, FNF indicated in the Request for Coverage application that the screening process in Appendix B of the Request for Coverage form had been completed to determine if the construction, modification, or operation of the Project has the potential to cause effects to historic properties. The Request for Coverage application included a June 24, 1993 cultural resource survey previously conducted on the airport property by the Navajo Nation Historic Preservation Department (NNHPD).

According to the survey report, two cultural sites and one isolated occurrence were found on the airport property. Of these discoveries, only one site (AZ-P-24-62) was deemed eligible as a cultural and archaeological resource. The condition of compliance for this site is it must be avoided by a minimum of 50 feet, and a qualified archaeologist must mark the site boundaries prior to construction activities. All construction activities pertaining to the proposed runway reconstruction would be performed at a pre-determined safe distance according to the NNHPD's direction. Thus, FNF determined that the Project would have no impact on historical, cultural, architectural, or archaeological resources, provided the measures described above are implemented.

The Request for Coverage application states that should additional cultural or archaeological resources be discovered during construction, work would be temporarily suspended in the area to allow for the evaluation and disposition of such resources. It further states that the responsible FAA, Tribal, and SHPO officials would then be notified as soon as possible following a discovery.

FNF has demonstrated that it satisfactorily completed the historic property-related screening procedures and that the Project meets one of the historic property-related eligibility criteria -- in this case, "no historic properties affected." Further, FNF provided sufficient documentation supporting the criterion selected.

Public Participation

As described in 40 CFR 49.157, issuance of general permits pursuant to the Tribal NSR Rule must meet public participation requirements. Before issuing a permit under the Tribal NSR program, the EPA must prepare a draft permit and must provide adequate public notice to ensure that the affected community and the general public have access to the draft permit information. Consistent with these requirements, during the development of the proposed Concrete Batch Plants General Permit, the EPA followed the applicable public participation process and received numerous comments. The EPA considered and addressed these comments in its issuance of the final Concrete Batch Plants General Permit. See 81 Fed. Reg. 70944 (October 14, 2016). The EPA's final action and supporting documentation can be assessed at the EPA website link below:

<https://www.epa.gov/tribal-air/general-permits-and-permits-rule-final-action-6-source-categories-september-16-2016>

This permit action provides FNF coverage under the Concrete Batch Plants General Permit. Public participation for this permit action, in accordance with 40 CFR 49.157, consists of making the application, and EPA's analysis and permit decision available for public inspection as specified in the Public Availability of Information section of this TSD.

Approval of Request for General Permit Coverage

The EPA has carefully reviewed the Request for Coverage and other relevant information and evaluated whether the Project meets the criteria qualifying it for coverage under this general permit. Based on our review of, and in reliance on, the information and representations provided in FNF's Request for Coverage, the EPA has determined that the Project meets all such criteria and is eligible for coverage under the Concrete Batch Plants General Permit. The EPA is therefore approving the Request for Coverage for the Project.

Public Availability of Information

For coverage of a particular source under the Concrete Batch Plants General Permit, the EPA's analysis of whether the source is within the category of emissions sources to which this general permit applies, including whether the source meets the criteria to be eligible for coverage under the general permit, must be made available to the public. 40 CFR 49.157(a)(5). The EPA has described its analysis in this TSD, which will be made available, along with the EPA's Approval of Request for General Permit Coverage for the Project under the Concrete Batch Plants General Permit and certain supporting documentation, on the EPA website at:

<http://www.epa.gov/caa-permitting/tribal-nsr-permits-region-9>

These documents, and the entire administrative record for this Approval of Request for Coverage, can also be obtained by contacting Shaheerah Kelly at the EPA address or phone number listed below. All documents will be available for review at the EPA Region 9 office indicated below, during regular business hours. Due to building security procedures, please call Shaheerah Kelly at (415) 947-4156 at least 24 hours in advance to arrange a visit.

Shaheerah Kelly (AIR-3)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St.
San Francisco, CA 94105
Phone: (415) 947-4156
E-mail: Kelly.shaheerah@epa.gov

Hard copies of these documents can be mailed to individuals upon request in accordance with Freedom of Information Act requirements as described on the EPA Region 9 website at <http://www.epa.gov/region9/foia/>.

The EPA is also making this TSD and our Approval of Request for Coverage for the Project, and certain other supporting documentation, available for review at:

Navajo Nation Environmental Protection Agency
Air Quality Control Program
Route 112, North Bldg. #2837
P.O. Box 529
Fort Defiance, AZ 86504
(928) 871-6790

The EPA's Approval of Request for Coverage for the Project is a final agency action for purposes of judicial review only for the issue of whether the Project qualifies for coverage under the Concrete Batch Plants General Permit. See 40 CFR 49.156(e)(6). Any petition for review of this approval action must be filed in the United States Court of Appeals for the appropriate circuit pursuant to CAA section 307(b).