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United States Environmental Protection Agency
Pacific Southwest – Region 9
Clean Air Act Permit
Federal Indian Country Minor New Source Review Program

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

Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Gasoline Dispensing Facilities in Indian Country within California

Last Modified: January 30, 2025
Version 1.1

This Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Gasoline Dispensing Facilities in Indian Country within California (the General Permit) is available for the construction or modification of certain minor source gasoline dispensing facilities in Indian country, within the geographical boundaries of California. Specifically, the General Permit is potentially available for such facilities within the geographic boundaries of California that are located in an Indian reservation or in another area of Indian country (as defined in 18 U.S.C. 1151) over which an Indian tribe, or the EPA, has demonstrated that the tribe has jurisdiction, and where there is no EPA-approved program in place. A gasoline dispensing facility (GDF) is any stationary source which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition *e.g.*, a retail gas station).

An owner or operator of a source that meets the eligibility criteria may seek coverage under the General Permit by submitting this Request for Coverage when the General Permit becomes effective. You may contact your reviewing authority or check the following website to determine whether the General Permit is effective: https://www.epa.gov/caa-permitting/california-tribal-gasoline-permits.

Questionnaire: For assistance with determining whether the proposed new or modified GDF source may be eligible for the General Permit and whether the owner or operator should submit this Request for Coverage, the owner or operator may refer to the "Questionnaire under the General Air Quality Permit for New or Modified Minor Source Gasoline Dispensing Facilities in Indian Country within California" (Questionnaire).

Instructions: For assistance with completing the Request for Coverage, the owner or operator should refer to the "Instructions for Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Gasoline Dispensing Facilities in Indian Country within California" (Instructions), which provide additional detail on the requested information. Information on the definition of a "modification" and "potential to emit" or "PTE" can be found at CFR 49.152(d) and in the Instructions.

The Questionnaire and Instructions are available on the EPA Region 9 website here: https://www.epa.gov/caa-permitting/california-tribal-gasoline-permits.

Eligibility Criteria

The owner or operator must meet the following criteria to potentially qualify for coverage under the General Permit and to submit a Request for Coverage:

- You, the owner/operator, plan to construct a new or modified minor source, as defined in 40 CFR 49.152(d), that is, or includes, a GDF, and your source has a potential to emit (PTE) less than the Prevention of Significant Deterioration and New Source Review (NSR) major source thresholds. For purposes of this eligibility criterion, your PTE calculation must include the PTE of all existing, new and modified emission units at your source, including those that are not part of the GDF.
- Your new or modified minor source gasoline dispensing facility is located within the geographic boundaries of California, and located in an Indian reservation or in another area of Indian country (as defined in 18 U.S.C. 1151) over which an Indian tribe, or the EPA, has demonstrated that the tribe has jurisdiction, and where there is no EPA-approved program in place.
- The new or modified GDF is not, or will not, be located at a major source of hazardous air pollutants.
- If the source is located in an area that has been designated as serious, severe or extreme nonattainment for the federal ozone standard, after the proposed construction or modification project, the source (including existing equipment as well as new and modified equipment) will dispense less than 15,000,000 gallons of fuel per year based on a 12-month rolling total. If the source is located in an area that is attainment, unclassifiable or attainment/unclassifiable or marginal/moderate nonattainment for the federal ozone standard, after the proposed construction or modification project, the source (including existing equipment as well as new and modified equipment) will dispense less than 25,000,000 gallons of fuel per year based on a 12-month rolling total.
- The proposed new or modified GDF will use a Stage I dual-point vapor balance system.
- If the proposed new or modified GDF is, or will be, located in a federal ozone nonattainment area classified as serious, severe or extreme, it will be equipped with a CARB Phase II Enhanced Vapor Recovery (EVR) System and In-Station Diagnostic (ISD) system, using CARB certified equipment and the Stage I system will meet a volumetric control efficiency of 98%.
- The proposed new or modified GDF may include new or modified emergency engines.
- The owner or operator demonstrates that the source meets 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
- The owner or operator has completed the screening process in Appendix B to determine if the construction, modification or operation of your new or modified minor source of air pollutants has the potential to cause effects to historic properties.
- You can otherwise comply with the terms and conditions of the General Permit.

Note: The General Air Quality Permit for New or Modified Minor Source Gasoline Dispensing Facilities in Indian Country within California pursuant to the Clean Air Act Federal Indian Country Minor New Source Review program does not confer any jurisdiction to the State of California over such facilities nor the areas of Indian Country in which these facilities are located.

In addition, the General Permit is not available to:

- Sources that store or transfer aviation gasoline at airports or other similar sources that dispense fuel through mobile (portable) fueling equipment.
- A proposed or modified GDF located in an ozone nonattainment area that includes any aboveground storage tanks (ASTs) as part of the new or modified source.

Reviewing Authority Discretion to Terminate General Permit Coverage

Applicants should note that the reviewing authority retains discretion to terminate a source's coverage under this General Permit and require a source-specific permit even if the above criteria are met. Reasons the reviewing authority may terminate a permitted source's coverage under this General Permit include:

1. The permittee is not in compliance with the provisions of the General Permit;
2. The reviewing authority has reasonable cause to believe that the permittee obtained Approval of the Request for Coverage by fraud or misrepresentation; or
3. The permittee has failed to disclose a material fact required by the Request for Coverage or the regulations applicable to the permitted source of which the applicant had or should have had knowledge at the time the permittee submitted the Request for Coverage.

More Information

Information on the ozone attainment status of the area where your source is located can be found at: https://www.epa.gov/green-book. You may also contact your reviewing authority for information on the area's attainment status.

Sources eligible for the General Permit may also be subject to federal standards under 40 CFR 63, subpart CCCCCC, National Emission Standards for Gasoline Dispensing Facilities; 40 CFR part 60, subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines; 40 CFR part 60, subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines; and 40 CFR part 63, subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The conditions applicable to sources seeking coverage under this General Permit are intended to be generally consistent with these requirements; however, compliance with the applicable requirements in 40 CFR part 63, subpart CCCCCC, 40 CFR part 60, subpart IIII; 40 CFR part 60, subpart JJJJ; and 40 CFR part 63, subpart ZZZZ is required independent of the conditions in the General Permit, and not all requirements applicable under these standards are necessarily included in the General Permit. The Technical Support Document for this General Permit identifies the specific requirements in these standards that are included in the General Permit. More information related to stationary engines is available here: https:// www.epa.gov/ stationary-engines/compliance-requirements-stationary-engines.

Steps to obtain coverage:

Step 1: Accurately complete all sections of the Request for Coverage. If you have any questions, please contact the reviewing authority at:

Mailing Address:	U.S. EPA Region 9, Pacific Southwest Air Permits Office Chief, Air-3 75 Hawthorne Street San Francisco, CA 94105
Phone:	415-972-3974
Email:	R9AirPermits@epa.gov

Step 2: Submit a copy of this Request for Coverage to the reviewing authority at the above address ***and*** to the Indian governing body, such as the tribal chairperson, in the area where the source is locating. Submittal of this form also satisfies the requirement that minor sources in Indian country register with the EPA at 40 CFR 49.160(c)(1)(iii).

After you submit the Request for Coverage under the General Permit to the reviewing authority:

- You may not commence construction of your new source or modification of your existing source until you receive notification of the final decision on your application for coverage under this General Permit.
- Your reviewing authority will process your Request for Coverage according to the procedures outlined in 40 CFR 49.156(e).
- The reviewing authority must act on your request for coverage under the General Permit as expeditiously as possible, but it must notify you of the final decision within 90 days of its receipt of your coverage request.
- If the reviewing authority determines that your request for coverage under the General Permit includes all the relevant information and is complete, it will notify you in writing as soon as that determination is made within the 45 days.
- Within 30 days from receipt of your application, if the application is not complete and more information is needed, your reviewing authority must notify you. You must submit such information within 15 days of the request. If you do not receive a request for additional information or a notice that your request for coverage under a general permit is complete within the 45-day completeness review period, your request will be deemed complete.
- If the reviewing authority sends a letter to you approving your request for coverage under the General Permit, you must comply with all conditions and terms of the General Permit. You will be subject to enforcement action for failure to obtain a preconstruction permit if you construct the emissions unit(s) or source with reviewing authority approval and your source is later determined not to qualify for the conditions and terms of the general permit.
- If the reviewing authority approves your Request for Coverage under the General Permit, you must post, prominently, a copy of the letter granting such request at the site where your source is locating.
- Your permit becomes invalid if you do not commence construction within 18 months after the effective date of your request for coverage under a general permit, if you discontinue construction for a period of 18 months or more, or if you do not complete construction within a reasonable time. The reviewing authority may extend the 18-month period upon a satisfactory showing that an extension is justified.
- Any source eligible to request coverage under a general permit may, instead, request a source-specific permit by applying for a permit under 40 CFR 49.154.

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

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

Prior to construction or modification, complete the information below and submit it to the reviewing authority at the address above. You may not commence construction or modification until you receive notification of the final decision on your Request for Coverage under the General Permit from the reviewing authority.

Section 1: Contact Information

1. Business Name:	2. Source Name:
3. Physical Site Address:	4. Reservation or other Area of Indian Country:
5. Owner:	6. Telephone Number and Email Address of Owner:
7. Mailing Address for Owner:	8. Name of Operator or Contact at Site (if different from owner):
9. Telephone Number and Email address of Operator or Contact at Site (if different from owner):	10. Correspondence Address:
11. Contact Information for this Request for Coverage: Name: Title:	 Email: Telephone:

Section 2: Source Information

12. Source Description. Select one and describe:
(*Example description: This source will be a 24-hour convenience store with an estimated 25,000 gallons per month in gasoline sales. We plan to install eight (8) dispenser islands and four (4) 25,000-gallon capacity underground storage tanks equipped with Phase II EVR Systems with ISDs.*)
(Please describe the proposed new source).

☐ New gasoline dispensing facility

☐ Modification of an existing source that is, or includes, a gasoline dispensing facility

_____

_____

_____

_____

_____

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

_____

☐ 4471 NAICS (Gasoline Stations)
☐ 44711 NAICS (Gasoline Stations without Convenience Stores)
☐ 447110 NAICS (Convenience Stations with Convenience Stores)
☐ 44719 NAICS (Other Gasoline Stations)
☐ 447190 NAICS (Other Gasoline Stations)
☐ 5411 SIC (Grocery Stores)
☐ 5541 SIC (Gasoline Service Stations)
☐ Other – please specify _____NAICS; _____SIC

14. Will your new or modified GDF be located in a nonattainment area for the National Ambient Air Quality Standards (NAAQS) for ozone pursuant to section 107(d) of the Act? Information on the ozone attainment status of the area where your source is located can be found at: https://www.epa.gov/green-book.

☐ Yes ☐ No

If your answer is 'Yes', specify the classification of the ozone nonattainment area. The classification of a particular nonattainment area will be determined consistent with the classification used to determine the applicable NSR

major stationary source threshold for the permitted source. This classification will also be used to determine the applicable permit conditions for the covered GDF:

☐ Marginal ☐ Moderate ☐ Serious ☐ Severe ☐ Extreme

15. Will the potential to emit (PTE) of your new source, or the increase in potential emissions from your modified existing source, be equal to or above the applicable minor NSR thresholds listed below for ANY of the listed pollutants, in tons per year (tpy)? Emissions from the gasoline dispensing equipment at your source may be calculated using the PTE calculator available online at: https://www.epa.gov/caa-permitting/california-tribal-gasoline-permits. Be sure to include all new or modified emission units at your source, including those not a part of the GDF. Information on the ozone attainment status of the area where your source is located can be found at: https://www.epa.gov/green-book .

☐ Yes ☐ No

Pollutant	Attainment Area[a]	Nonattainment Area
CO	10 tpy	5 tpy
PM	10 tpy	5 tpy
PM_{10}	5 tpy	1 tpy
$PM_{2.5}$	3 tpy	0.6 tpy
SO_2	10 tpy	5 tpy
NO_X[b]	10 tpy	5 tpy
VOC[b]	5 tpy	2 tpy
Lead	0.1 tpy	0.1 tpy
Fluorides	1 tpy	NA
Sulfuric Acid Mist	2 tpy	NA
H_2S	2 tpy	NA
Total Reduced sulfur	2 tpy	NA
Reduced sulfur compounds	2 tpy	NA

[a]If part of a Tribe's area of Indian country is designated as attainment and another part as nonattainment, the applicable threshold for a proposed source or modification is determined based on the designation where the source would be located. If the source straddles the two areas, the more stringent thresholds apply.

[b]In extreme ozone nonattainment areas, section 182(e)(2) of the Act requires any change at a major source that results in any increase in emissions to be subject to major NSR permitting. In other words, any changes to existing major sources in extreme ozone nonattainment areas are subject to a "0" tpy threshold, but that threshold does not apply to minor sources.

If you answered '**No**', your proposed new source or modification is exempted from permit requirements under the Federal Indian Country Minor NSR program. Please contact the reviewing authority to confirm that your source will not need a permit. If you answered '**Yes**', continue on to the next question.

16. Will the PTE of your source be less than 250 tpy for all regulated NSR pollutants including, but not limited to, lead, PM_{10}, $PM_{2.5}$, VOC, NO_x, CO, and SO_2? For this calculation, be sure to include all existing, new and modified emission units at your source, including emission units that are not part of the GDF.

☐ Yes ☐ No

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

17. If your source is located in a nonattainment area for any NAAQS pollutant, will the PTE of your source for all such nonattainment pollutants be less than the applicable NSR major source thresholds below? For this calculation, be sure to include all existing, new, and modified emission units at your source, including any emission units that are not part of the GDF.

Pollutant	Attainment Area	Nonattainment Area
Ozone	Marginal	100 tpy of VOC or NOx
	Moderate	100 tpy of VOC or NOx
	Serious	50 tpy of VOC or NOx
	Severe	25 tpy of VOC or NOx
	Extreme	10 tpy of VOC or NOx
$PM_{10,}$ $PM_{2.5}$	Moderate	100 tpy of PM_{10} or $PM_{2.5}$
	Serious	70 tpy
CO	Moderate	100 tpy
	Serious	50 tpy
SO_2, NO_2	No Nonattainment Classification	100 tpy

☐ Yes ☐ No ☐ N/A – Not located in any nonattainment areas

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

18. Do the owner and operator of your source agree to comply with all requirements of the General Permit?

☐ Yes ☐ No

If you answered '**No**', your source does not qualify for the General Permit and you must obtain a source-specific permit from your reviewing authority.

Section 3: Technical Information Concerning Emission Units at the Source

As needed, additional pages may be provided by the applicant and added to the Request for Coverage. Please use a unique ID# for each piece of equipment.

19. **Emission Units**

Information regarding the existing and proposed new or modified emission units at your source is required by 40 CFR 49.154 and 49.160. Please provide all of the requested information in the following table for each such emission unit at the source that is or will be owned, leased or operated by the owner or operator of the source. Examples of potential emission units include gasoline storage tanks, gasoline pumps and emergency engines.

- For each emission unit, include **supporting documentation for the PTE** of each unit with your request for coverage. In addition, for existing emission units, include the most recent actual annual emissions. See 40 CFR 49.154(a)(2). Supporting documentation can include providing a completed PTE Calculator.
- The table includes information requesting whether the particular emission unit is "CARB certified." Not all equipment at your GDF is required to be CARB certified. As such, this information only affects your eligibility to seek coverage under the General Permit for that equipment which is required to be installed and CARB certified (such as Phase II EVR and ISD Systems).
- For sources installing Phase II EVR and ISD systems, please include all CARB certified equipment that will be installed.
- For emergency engines, please include the model year and purpose (such as, power backup or fire pump).
- For storage tanks, please include whether they are aboveground or underground. See the Eligibility Criteria section of the Request for Coverage regarding aboveground storage tanks.
- Please review the eligibility criteria at the beginning of the Request for Coverage to ensure the information provided demonstrates you are eligible for the General Permit.

List of Existing, New, and Modified Emissions Units (applicants should attach additional copies of this table as necessary to list all emission units at the source):

Unit ID#	Description of Equipment and/or Process (including any input materials or fuels)	Maximum Capacity or Production Rate	Description of Pollution Control Equipment	Existing, New or Modified (include installation date for existing and most recent actual annual emissions)	Yes or No: CARB Certified Equipment (include applicable Executive Order, if CARB Certified)
Sample	*(6) Gasoline Dispensers*	*10 gallons/min*	*Stage II EVR System: (list specific equipment such as nozzles, hoses, etc.)*	*New*	*Yes VR-204-W*

Section 4: Information for Completing Screening Processes that Must Be Satisfied to Request Coverage under the General Permit

20. **Threatened or Endangered Species**

Have you demonstrated that you meet one of the criteria listed in Appendix A with respect to the protection of any and all species that are federally listed as threatened or endangered under the federal Endangered Species Act (ESA) and habitat that is federally designated as "critical habitat" under the ESA? If you answered **'No,'** you cannot request coverage under this General Permit.

☐ Yes ☐ No

If you answered 'Yes,' then you must provide the appropriate documentation as specified in Appendix A to support this demonstration to the EPA to qualify for coverage under this General Permit. Please indicate under which of the following criteria in Appendix A you are using in order to satisfy this requirement:

☐A ☐ B ☐ C ☐ D ☐ E

As provided in Appendix A, the EPA must provide confirmation that you satisfactorily completed this screening procedure and meet one of the eligibility criteria listed in Appendix A in order for you to be eligible for coverage under the General Permit.

21. **Historic Properties**

Have you completed the screening process in Appendix B to determine if the construction, modification or operation of your new or modified minor source of air pollutants has the potential to cause effects to historic properties? If you answered **'No,'** you cannot request coverage under this General Permit.

☐ Yes ☐ No

If you answered **'Yes,'** then you must provide the appropriate documentation concerning your completion of this screening process as specified in Appendix B to the EPA to qualify for coverage under this General Permit.

As provided in Appendix B, the EPA must provide confirmation that you have satisfactorily completed this screening process in order for you to be eligible for coverage under the General Permit.

Section 5: Additional Information

This section provides information on the sizes of sources in terms of potential emissions that are potentially eligible for coverage under the General Permit. The emission limitations and standards in this General Permit are generally expected to ensure that emissions from a GDF qualifying for coverage are below the rates shown in the following table. The PTE of any individual source, however, may vary.

Pollutant of Concern	Serious, Severe or Extreme Ozone Nonattainment Areas	Ozone Attainment, Unclassified or Attainment/Unclassifiable Areas and Moderate or Marginal Ozone Nonattainment Areas
VOC	10 tpy	30 tpy

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

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

Name: _____ Title : _____
(Print or Type)

Name: _____
(Signature)

Date: _____

Appendix A – Threatened or Endangered Species Requirements

The purpose of this appendix is to assist you in completing the screening procedure for addressing threatened or endangered species when submitting your Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Gasoline Dispensing Facilities in Indian Country within California (General Permit). In order to be eligible for coverage under the General Permit, 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. The EPA must provide confirmation that you satisfactorily completed this screening procedure in order for you to be eligible for coverage under the General Permit.

This appendix provides you information on the following:

- **Section 1.0:** Listed Species Eligibility Criteria and
- **Section 2.0:** Guidance for Determining Which Listed Species Criterion Applies.

1.0 Listed Species Eligibility Criteria

To be eligible for coverage under the General Permit, you must satisfactorily complete the screening 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.

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 Request for 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 the General Permit. Documentation of these requirements shall be maintained by the permittee for the duration of time the affected emissions unit(s) is (are) covered under the General Permit.

The following is a summary of the five eligibility criteria. See Section 2.0 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]

[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].

Criterion B:

Federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur within the action area of your source, but the construction and operation of your new minor source or construction and operation of the modification to your existing minor source is not likely to adversely affect listed threatened or endangered species or critical habitat. This determination may include consideration of any air pollution controls or other changes to the construction and/or operation of your new or modified source that you will adopt to ensure that construction, modification 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 Request for Coverage 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 and has addressed the effects of your new or modified 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 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 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.

2.0 Determining Which Criterion Applies

To qualify for the General Permit, 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/library/collections/permits-native-endangered-and-threatened-species and https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits) 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.

[2] For definitions of **terms that you might encounter when addressing the listed species requirements, go to:** https://www.fws.gov/laws/endangered-species-act/section-3

- *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: https://www.fws.gov/our-facilities and https://www.fisheries.noaa.gov/contact-directory/regional-offices.

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 or endangered 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 https://ipac.ecosphere.fws.gov/.

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 https://www.ecfr.gov/current/title-50). You may also use the FWS Critical Habitat Portal (see http://criticalhabitat.fws.gov/crithab/).

- ***If there are <u>no</u> listed species and/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 and provide documentation supporting the criterion selected in your submittal.

- ***If there <u>are</u> listed species and/or critical habitat in the counties/townships in your action area,*** you should contact 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/or critical 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 of these 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 and 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 General Permit.

These measures may involve relatively simple changes to construction activities such as re-routing construction to bypass an area where species are located, relocating source activities, or modifying the "footprint" of the site.

- ***If you are 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 General Permit. You must also provide a description of the basis for the criterion selected, and the following specific information on your Request for Coverage Form: (1) the federally listed species and/or designated habitat that are located within the action area of your minor source; (2) the distance between your source and the listed species or designated critical habitat (in miles); and (3) what steps were or will be taken to avoid the likelihood of adverse effects.

- ***If you cannot determine 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 General Permit 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 and must include copies of the correspondence between you and the applicable Service(s).

Appendix B – Historic Property Screening Process

1.0 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 Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Gasoline Dispensing Facilities in Indian Country within California (General Permit). In order to be eligible for coverage under the General Permit, you must demonstrate that you qualify under one of the criteria listed in this appendix with respect to the protection of historic properties. The EPA must provide confirmation that you satisfactorily completed this screening procedure in order for you to be eligible for coverage under the General Permit.

Key Terms

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

SHPO – The State Historic Preservation Officer for a particular state

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

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 General Permit does not constitute a separate Federal undertaking, the screening process in this appendix provides an appropriate site-specific means of addressing historic property issues in connection with coverage under the General Permit.

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.

2.0 Instructions for Source Owners/Operators

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

Step 1 - ***Have prior professional cultural resource surveys or other evaluations determined whether historic properties exist in the area of your proposed source? Or, have prior earth disturbances precluded the existence of historic properties in the area of your proposed source?***
If it has already been determined that no historic properties exist in the area of your proposed source based on available information, including information that may be provided by your applicable SHPO, THPO, or other tribal representative, then you may submit the appropriate documentation of **"no historic properties affected"** 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 EPA's review process, the SHPO, THPO, or other tribal representative may request that the EPA deny coverage under the General Permit based on concerns about potential adverse impacts to historic properties. The EPA will evaluate any such request and notify you if any additional information is needed to address adverse impacts to historic properties.

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 https://www.nps.gov/subjects/nationalregister/data-downloads.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 EPA's review process, the SHPO, THPO, or other tribal representative may request that the EPA delay your coverage under the General Permit based on concerns about potential adverse impacts to historic properties. The EPA will evaluate any such request and notify you if any additional information is needed to address adverse impacts to historic properties.

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 (https://www.achp.gov/hpresources). 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 EPA review process, the SHPO, THPO, or other tribal representative may request that the EPA place a hold on authorization based on concerns about potential adverse impacts to historic properties. The EPA will evaluate any such request and notify you if any additional information is needed to address adverse impacts to historic properties before continuing review of your Request for Coverage under the general permit.

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 EPA's review period, 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.