

Applying for Tribal Minor New Source Review Authorizations, Public Participation and Permit Appeals/Re- Openings

US Environmental Protection Agency
Office of Air Quality Planning and Standards (OAQPS)
February 18, 2025

Agenda

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- **Tribal Minor NSR Permit Application Process Simplified Diagram**
- **Site-Specific Permits Application Process**
 - Permit Types
 - Permit Application Information
 - Control Technology Review
 - Air Quality Impact Analysis
 - Monitoring Recordkeeping and Reporting
- **Streamlined Authorization and Permitting Approaches**
 - General Permits (GP) and Permits by Rule (PBR)
 - Oil and Gas Federal Implementation Plan (FIP)
- **Public Participation**
- **Permit Appeals/Permit Reopening**

Question #1

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Pop Quiz

Have you submitted a Tribal minor NSR permit application, coverage form or registration form to EPA in the past?

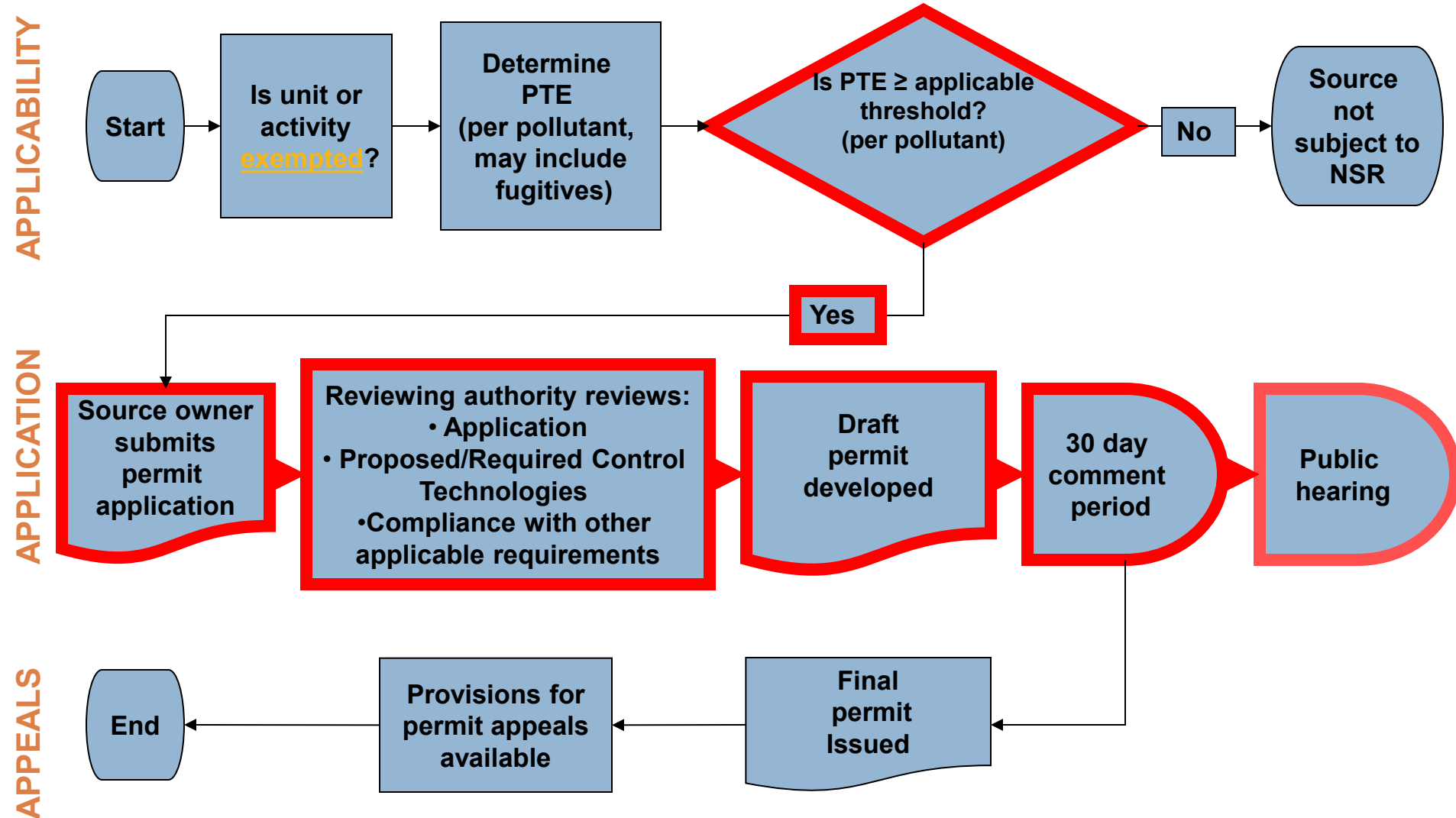
- A. Yes, a site-specific permit application.
- B. Yes, a general permit request for coverage
- C. Yes, a permit-by-rule notification for coverage.
- D. Yes, an Oil and Gas Federal Implementation Plan (FIP) registration form(s).
- E. No.
- F. I have no idea what you are asking.

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Site Specific-Permits

Tribal Minor NSR Permitting Process: Emphasis on Application (Not All NSR Authorizations Follow This Process)

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Application: Site-Specific Permits

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□ **True Minor Source Permits**

- Case-by-case determination of source emissions limits and control technology requirements (if any are applicable).
- Available for both regulated NSR pollutants and Hazardous Air Pollutants (HAPs).
- Permit can be used for case-by-case Maximum Achievable Control Technology (MACT) determinations if (1) no MACT standard for a source category has been established or (2) there is no EPA-approved program.

□ **Synthetic Minor Permits**

- For sources that have the capacity to emit pollutants at or above the major source thresholds but voluntarily accept emissions limitations to operate as minor sources.
- Available for both regulated NSR pollutants and HAPs.

□ **Minor Modifications at Major Sources Permits**

- For major sources that underwent a modification that resulted in air emissions below the applicable major NSR thresholds and above the Tribal Minor NSR rule NSR thresholds.

Question #2

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Quiz Show

- Can you install a pollution control device or develop a work practice that reduces your source's potential to emit below the applicable major source thresholds to avoid obtaining a major NSR permit?
 - A. No, you must always obtain a major NSR permit if your source emissions are above the applicable major source thresholds.
 - B. Yes, you can establish enforceable emissions limitations in synthetic minor source permit to avoid the major NSR permitting requirements.

Application: Permit Application Information

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Identifying information (name, address, etc.)



Description of source's processes and products



List of all affected emissions units and its emissions

- New Units – PTE, including any restrictions on PTE.
- Modified Units – allowable emissions both before and after the modification, including any emissions restrictions.



Description of any existing air pollution control equipment



Description of any limitations on source operation

In general, **allowable emissions** means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both).

Application: Control Technology Review

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- **By control technology we mean:**

- Pollution prevention techniques (e.g. substituting solvents).
- Add-on pollution control equipment (e.g. Bag house, scrubber, carbon filter, electrostatic precipitator etc.).
- Design and equipment specifications.
- Work practices and operational standards.

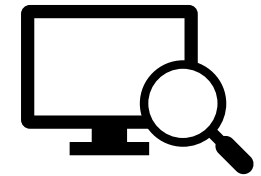
- **This control technology review is a case-by-case determination for site-specific permits:**

- True Minor Permits.
- Synthetic Minor Permits.
- Minor Modifications at Major Sources.

Application: Air Quality Impact Analysis (AQIA)

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- **Conducted if reviewing authority is concerned that the minor source will cause or contribute to a NAAQS or increment violation.**
 - ▣ Increment is the maximum allowable increase (micrograms per cubic meter) of a regulated NSR pollutant above its baseline concentration.
 - ▣ Increments exists for four regulated NSR pollutants (PM_{10} , $PM_{2.5}$, SO_2 and NO_x) and vary depending on area classification (Class I, II and III) and averaging time (1-hour, 8-hours, 24-hours, 1 year).
- **Performed in accordance with 40 CFR Part 51, Appendix W.**
- **EPA has developed a Weigh of Evidence (WoE) approach for the EPA regions to determine if an AQIA is necessary.**



Application: Monitoring, Recordkeeping & Reporting Requirements

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□ **Monitoring**

- Sufficient to assure compliance with control technology requirements
 - May include Continuous Emissions Monitoring System (CEMS), Predictive Emissions Monitoring System (PEMS), Continuous Parametric Monitoring System (CPMS), equipment inspections, mass balances, periodic performance tests and/or emissions factors.
 - For further information visit: <https://www.epa.gov/air-emissions-monitoring-knowledge-base/basic-information-about-air-emissions-monitoring>

□ **Recordkeeping**

- Sufficient to assure compliance with emission limitations and monitoring requirements.
- Monitoring records and supporting information are retained for 5 years.

□ **Reporting**

- Annual monitoring reports to show compliance with emission limitations.
- Prompt reports of deviations from permit requirements.
- Could be submitted electronically through EPA's Compliance and Emissions Data Reporting Interface (CEDRI) - www.epa.gov/CDX

Question #3

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Trivia Check

- What is the name for the air quality modeling analysis performed for preconstruction permits?
 - A. Alternative Site Analysis.
 - B. Best Available Control Technology (BACT).
 - C. Air Quality Impact Analysis.
 - D. Offsets.
 - E. None of the above.

Public Notice and Public Hearing on the Draft Individual Permit

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- **EPA must make permit information available for public inspection at the appropriate EPA Regional Office and in at least one location in the area affected by the source.**
 - ▣ Locations might include post offices, libraries, Tribal environmental offices, community centers and other gathering places in the community.
- **The public notice must provide for an opportunity for public comment and a deadline for requesting a public hearing on the draft permit.**
- **The appropriate types of notice may vary depending on the proposed project and the area of Indian country that would be affected.**
 - ▣ Factors include the nature and size of your source, local air quality considerations and the characteristics of the population in the affected area, including seasonal activities that may conflict with the public participation of the local community (e.g., subsistence hunting and fishing or other cultural practices).

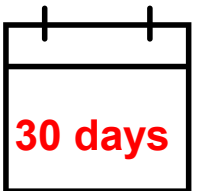


Public Participation Requirements

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□ **For true minor source permits, minor modifications at major sources permits, synthetic minor permits and the initial development of a general permit, EPA:**

- Must provide at least a 30-day public comment period on the draft permit.
- Must mail a notice of the draft permit to the applicant, the Indian Governing Body, and surrounding tribal, state and local air pollution authorities.
- May use additional approaches to public noticing such as websites, newspapers, and mailing lists developed by the reviewing authority consisting of those persons who have requested to be placed on such a mailing list.



□ **For source requesting/noticing coverage under a General Permit (GP)/Permit-by-Rule (PBR):**

- No public comment period when requesting coverage.
- Source must submit a copy of the *GP request for coverage* or *PBR notice of coverage* to the tribe in the area where source is locating.
- EPA will post information of coverage request on website.
- Public can notify EPA about any concerns on a source's eligibility to construct under a GP/PBR.

Final Permit

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- After a decision to issue or deny the permit, reviewing authority must notify the applicant in writing.
 - ▣ Denial should provide reasons for the denial.
- If a final permit is issued, we must provide adequate public notice of the decision for the following permit types:

True minor permits	Synthetic minor permits and minor modifications at major sources permits
Decision noticed using one or more public noticing approaches such as websites, newspapers, and mailing lists	Copy of decision available at all locations where draft permit was made available

Important Permitting Milestones for Site-Specific Permits

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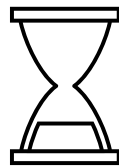
	True Minor Permits	Synthetic Minor and Minor Mods at Major Sources Permits
Application Completeness Review	45 days	60 days
Public Comment Period	30 days	30 days
Public Hearing	Whenever there is a significant degree of public interest or at the reviewing authority discretion.	Whenever there is a significant degree of public interest or at the reviewing authority discretion.
Permit Issuance Timeframe	No later than 135 days after the application is deemed complete.	No later than 1 year after the application is deemed complete.

Permit Terms and Permit Re-Openings

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Permit Terms

- A permit remains valid as long as the source exists and if the source:
 - ▣ Commences construction within 18 months after effective date of permit
 - ▣ Does not discontinue construction for a period of 18 months or more
 - ▣ Completes construction in a reasonable time



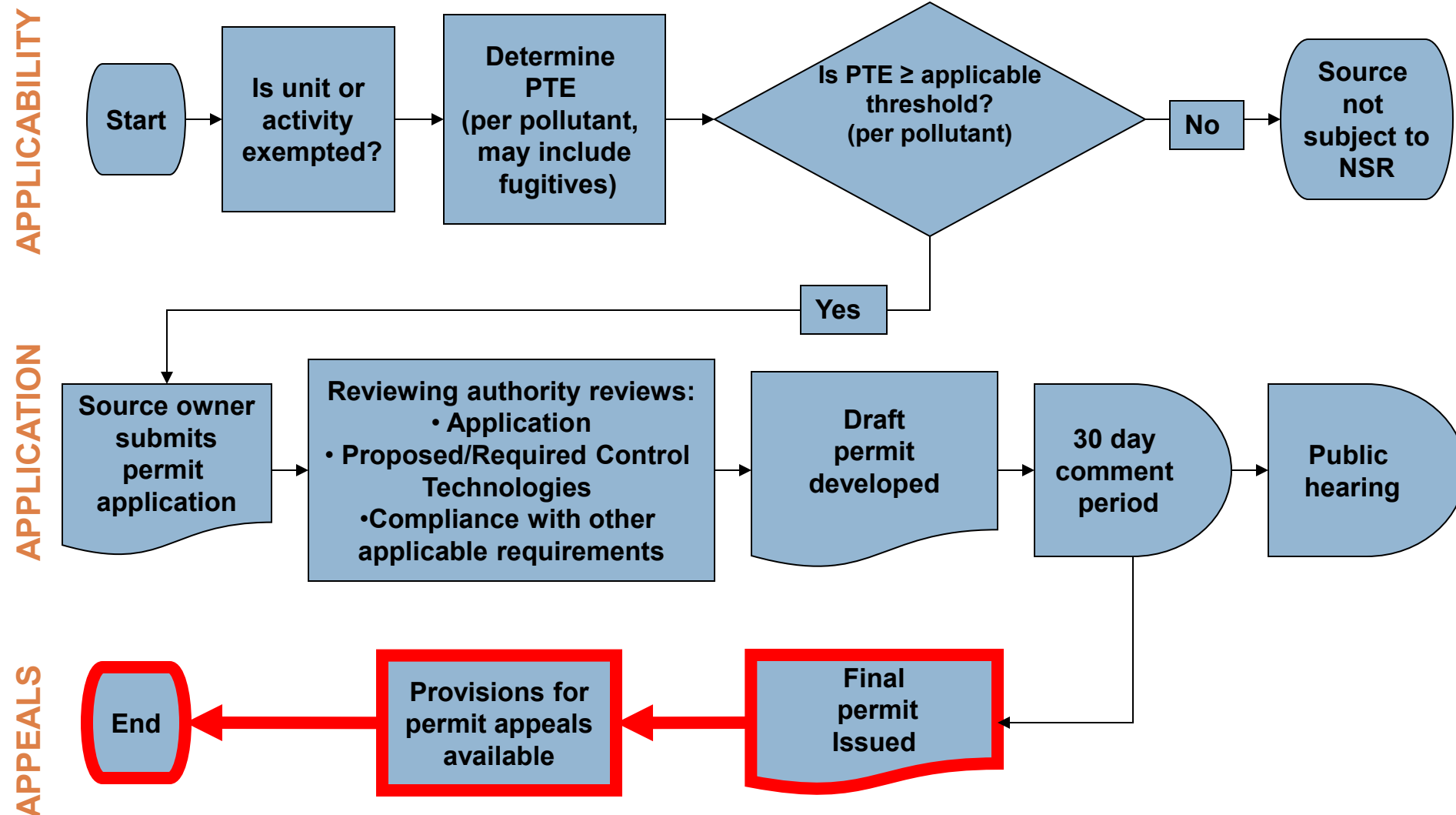
Permit Re-Openings

- Usually if permit contains a material mistake or fails to assure compliance with applicable requirements
 - ▣ Only reviewing authority can reopen a permit
 - Permit reopening that increases the emission limits will be public noticed using one or more of the public noticing approaches available such as websites, newspapers, and mailing lists



Tribal Minor NSR Permitting Process (Simplified): Emphasis on Appeals (Not All NSR Authorizations Follow This Process)

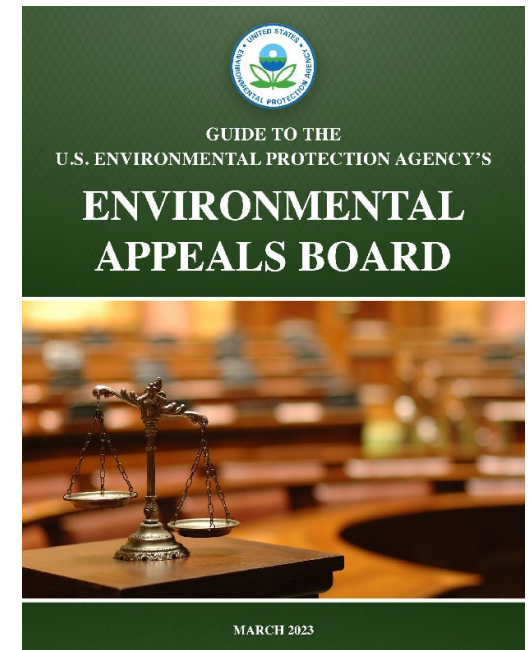
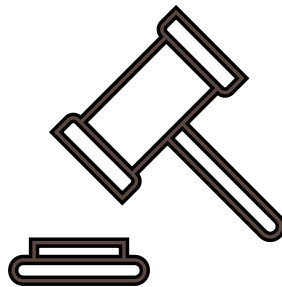
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Appeals: Permit Appeals

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- Appeals to EPA-issued permits must be filed with the EPA's Environmental Appeals Board (EAB) within 30 days after a final permit decision has been issued.
- Filing of a petition for review prevents permit from taking effect.
- If all remedies are exhausted, person may appeal to Federal Court.



General Permits and Permits-by-Rule

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□ **General Permits (GPs)**

- Permit requirements are determined in advance for several similar equipment types or facilities to simplify permit issuance process. GPs could be reservation, state-specific or nationwide.
- Individual sources may submit a Request for Coverage form (similar to a permit application) and be granted approval to be covered by the applicable GP.
- A GP for a source must be issued no later than 90 days after coverage request is submitted.
- GPs can be used to request synthetic minor status for source categories with GPs.

□ **Permits by Rule (PBR)**

- Permit requirements are determined in advance for several similar equipment types or facilities to simplify permit issuance process.
- A source wishing to operate pursuant to a PBR must submit a Notification of Coverage form to the reviewing authority prior to commencing construction or modification.
- Once the Notification of Coverage is submitted and EPA posts it online, the source may commence construction or modification without further action by EPA.

Source Categories for which GPs/PBRs Have Been Issued to Date

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General Permits

1. Hot Mix Asphalt Plants
2. Sawmill Facilities
3. Stationary Compression Ignition Engines
4. Stone Quarrying, Rock Crushing and Screening Facilities
5. Graphic Arts and Printing Operations
6. Stationary Spark Ignition Engines
7. Concrete Batch Plants
8. Boilers and Emergency Engines

Permits by Rule

1. Autobody Repair and Miscellaneous Surface Coating Operations
2. Petroleum Dry Cleaning Facilities
3. Gasoline Dispensing Facilities

General Permits and Permits by Rule Efficiency Tools

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- **EPA developed various tools to assist source owners in establishing coverage under a GP or PBR:**
 1. Background document: Information on how the permit was developed and summary of applicable permit requirements.
 2. Instructions: Instructions for establishing coverage by the GP or PBR.
 3. Questionnaire: To determine if the facility is eligible for the GP or PBR.
 4. Potential to Emit (PTE) Calculator: Excel spreadsheet to assist the source owner in calculating the source air emissions.
 5. Request or Notification of Coverage Form: Necessary to establish coverage under a GP or PBR respectively.

- **All implementation tools and documents are available at:**
 - <https://www.epa.gov/tribal-air/tribal-minor-new-source-review>

- **Source owners also complete a threatened/endangered species and historic properties screening form.**

Oil and Gas Production and Natural Gas Processing Federal Implementation Plan (FIP)

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- **To apply, source owners fill out a Part I and II registration form:**
 - ▣ Part I Form: General source information to register the source under the FIP.
 - Must be submitted 30 days before the source begins construction.
 - ▣ Part II Form: Specific emission and production information from the source.
 - Must be submitted within 30 days after startup of production.
- **Source owners also complete a threatened/endangered species and historic properties form.**

Summary

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- **Minor sources in Indian country can apply or request various types of permits or authorizations:**
 - ▣ Site-Specific Permits: True Minor Sources, Synthetic Minor Sources & Minor Mod. at Major Sources.
 - ▣ General Permits.
 - ▣ Permits-by-Rule.
 - ▣ Oil and Gas FIP.

- **EPA is here to help!**
 - ▣ **The EPA Regional Offices are ready to assist sources and tribal environmental professionals with questions on how to continue to implement the Tribal NSR air permitting program.**

Contacts

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Useful Links and Documents

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- **EPA's Tribal NSR Webpage: A great resource of information.**

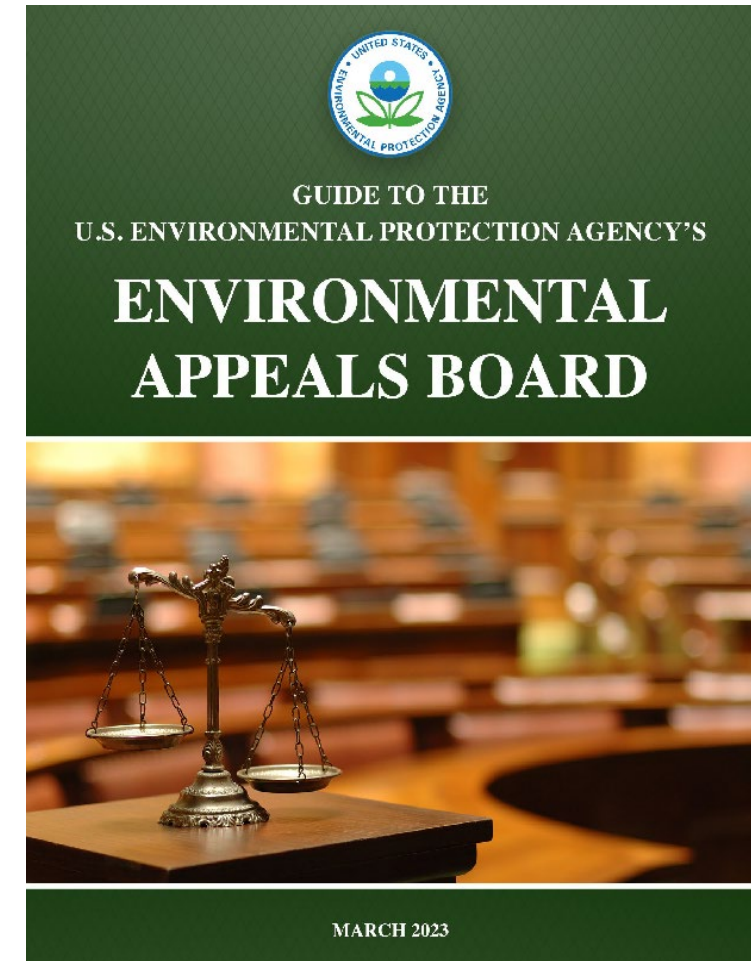
- <https://www.epa.gov/tribal-air/tribal-minor-new-source-review>

- **Link to EPA Environmental Appeals Board Website**

- <https://www.epa.gov/aboutepa/about-environmental-appeals-board-eab>

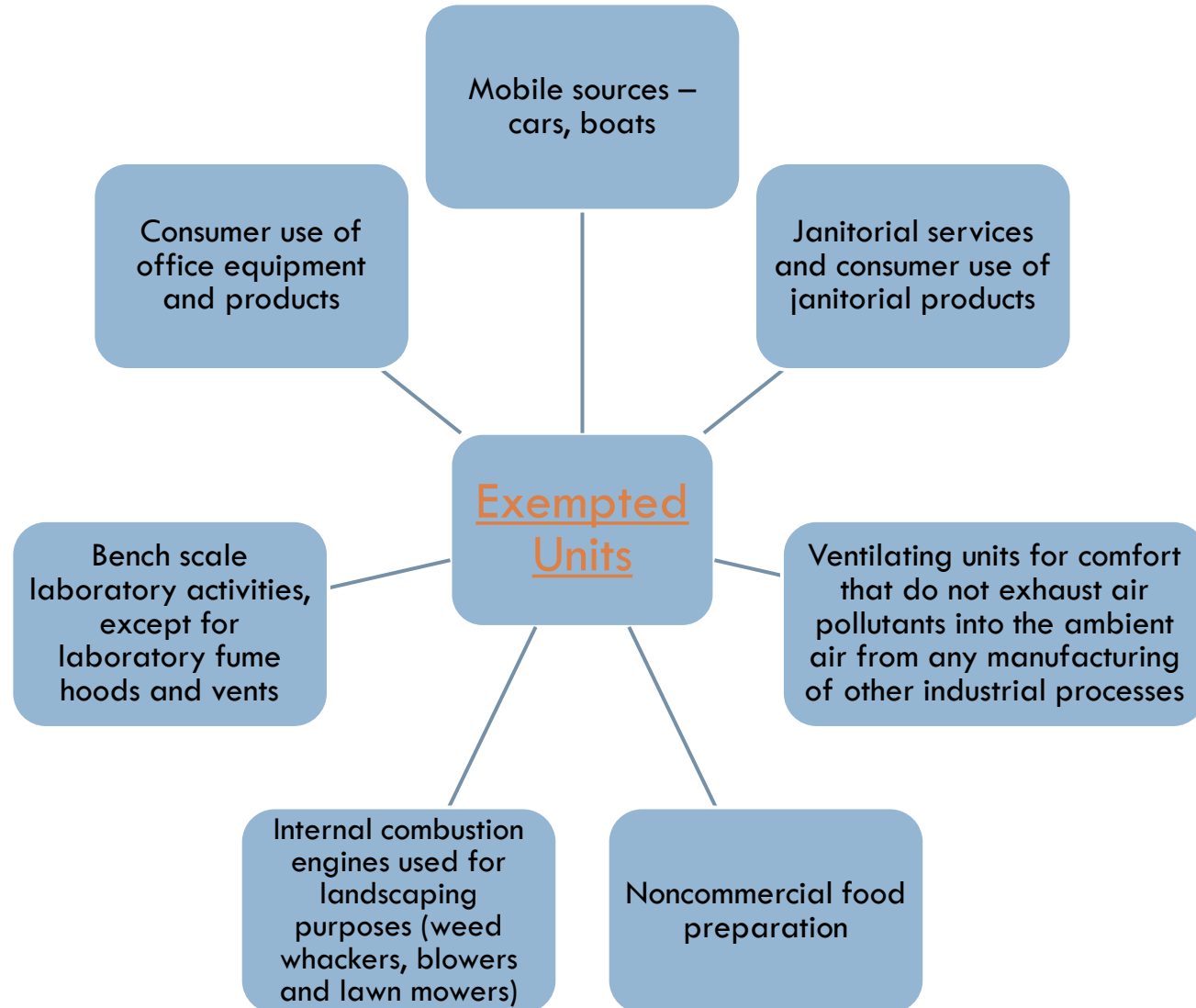
- **Guide to the US EPA Environmental Appeals Board**

- [https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/8f612ee7fc725edd852570760071cb8e/26e637699cb1cc1685257b50004044f6/\\$FILE/Guide%20to%20the%20EAB%20March%202023.pdf](https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/8f612ee7fc725edd852570760071cb8e/26e637699cb1cc1685257b50004044f6/$FILE/Guide%20to%20the%20EAB%20March%202023.pdf)



Tribal Minor NSR Program Exempted Units

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EPA-Developed Tribal NSR Efficiency Improvements

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Bundle #1 (proposed 12/13, finalized 4/15)

- Gas dispensing facilities (*permit by rule*)
- Auto body repair and miscellaneous surface coating operations (*permit by rule*)
- Petroleum dry cleaners (*permit by rule*)
- Stone quarrying, crushing and screening facilities (*general permit*)
- Hot mix asphalt plants (*general permit*)

Bundle #2 (proposed 7/14, finalized 9/16)

- Boilers and emergency engines (*general permit*)
- Spark ignition engines (*general permit*)
- Compression ignition engines (*general permit*)
- Graphic arts and printing operations (*general permit*)
- Concrete batch plants (*general permit*)
- Sawmill facilities (*general permit*)

Bundle #3 (proposed 8/15, finalized 5/16)

- National Oil and Natural Gas FIP (Part 1 and Part 2 Oil and Gas Form Registrations)