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## 40 C.F.R. § 49.164

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### Air quality permit by rule for new or modified true minor source gasoline dispensing facilities in Indian country.

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(a) *Abbreviations and acronyms:*

AST Aboveground Storage Tank

CAA or the Act Federal Clean Air Act

CFR Code of Federal Regulations

EPA United States Environmental Protection Agency

GDF Gasoline Dispensing Facility

NAAQS National Ambient Air Quality Standards

NSR New Source Review

ppm parts per million

PSD Prevention of Significant Deterioration

PV Pressure/Vacuum

VOC Volatile Organic Compounds

(b) *Definitions for the purposes of this permit by rule.*(1) *Cause* means with respect to the reviewing authority's ability to terminate a permitted source's coverage under a permit that:

- (i) The permittee is not in compliance with the provisions of this permit by rule;
- (ii) The reviewing authority determines that the emissions resulting from the construction or modification of the permitted source significantly contribute to NAAQS violations, which are not adequately addressed by the requirements in this permit by rule;
- (iii) The reviewing authority has reasonable cause to believe that the permittee obtained coverage under the permit by rule by fraud or misrepresentation; or
- (iv) The permittee failed to disclose a material fact required by the Notification of Coverage or the requirements applicable to the permitted source of which the applicant had or should have had knowledge at the time the permittee submitted the Notification of Coverage.

(2) *Construction* means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of an affected emissions unit that would result in a change of emissions.

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- (3) *Dual-point vapor balance system* means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.
- (4) *Emergency engine* means any stationary reciprocating internal combustion engine that meets all of the criteria in paragraphs (b)(4)(i) through (iii) of this section. All emergency engines must comply with the requirements specified in 40 CFR 63.6640(f) in order to be considered emergency engines. If the engine does not comply with the requirements specified, then it is not considered to be an emergency engine.
- (i) The engine is operated to provide electrical power or mechanical work during an emergency situation. Examples include engines used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or an engine used to pump water in the case of fire or flood, etc.
- (ii) The engine is operated under limited circumstances for situations not included in paragraph (b)(4)(i) of this section, as specified in 40 CFR 63.6640(f).
- (iii) The engine operates as part of a financial arrangement with another entity in situations not included in paragraph (b)(4)(i) of this definition only as allowed in 40 CFR 63.6640(f).
- (5) *Notification of Coverage* means the permit notification that contains all the information required in the standard notification form for this permit by rule.
- (6) *Permittee* means the owner or operator of a permitted source.
- (7) *Permitted source* means each gasoline dispensing facility for which a permitted source submits a complete Notification of Coverage.
- (8) *Responsible official* means one of the following:
- (i) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is directly responsible for the overall operation of the permitted source;
- (ii) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
- (iii) For a public agency: Either a principal executive officer or ranking elected official, such as a chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- (9) *Submerged filling* means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than 6 inches from the bottom of the tank. Bottom filling of gasoline storage tanks is covered under this submerged filling definition.
- (10) *Ullage* means the volume of a container not occupied by liquid. For example, the ullage of a tank designed primarily for containing liquid is the volume of the tank minus the volume of the liquid it contains.
- (11) *Vapor balance system* means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.
- (12) *Vapor tight* means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can

be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the lower explosive limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the potential leak source.

(c) *Information about this permit by rule—(1) Applicability.* Pursuant to the provisions of the CAA, subchapter I, part D and 40 CFR part 49, subpart C, this permit authorizes the construction or modification and the operation of each stationary gasoline dispensing facility (GDF) for which a reviewing authority receives a completed Notification of Coverage (permitted source).

(2) *Eligibility.* To be eligible for coverage under this permit by rule, the permitted source must qualify as a true minor source as defined in 40 CFR 49.152 and satisfied the requirements in 40 CFR 49.156(f)(6)(iii). In addition, coverage under this Permit by Rule is not available in areas located within the geographic boundaries of California.

(3) *Notification of Coverage.* Requirements for submitting a Notification of Coverage are contained in paragraph (d)(1) of this permit by rule. The information contained in each permitted source's Notification of Coverage is hereby enforceable under this permit by rule.

(4) *Termination.* Paragraph (d)(6) of this permit by rule addresses a reviewing authority's ability to revise, revoke and reissue, or terminate coverage under this permit by rule. It also addresses the reviewing authority's ability to terminate an individual permitted source's coverage under this permit by rule.

(5) *Definitions.* The terms used herein shall have the meaning as defined in 40 CFR 49.152, unless otherwise defined in paragraph (b) of this permit by rule. If a term is not defined, it shall be interpreted in accordance with normal business use.

(d) *Permit by rule terms and conditions.* The following applies to each permittee and permitted source with respect to only the affected emissions units and any associated air pollution control technologies in that permitted source's Notification of Coverage.

(1) *General provisions—(i) Obtaining coverage under this permit by rule.* To obtain coverage under this permit by rule, an applicant must submit a completed Notification of Coverage to the appropriate reviewing authority for the area in which the permitted source is or will be located (the Notification of Coverage Form can be found at: <http://www.epa.gov/air/tribal/tribalnsr.html>). Table 1 of paragraph (f) contains a list of reviewing authorities and their area of coverage. You must also submit a copy of the Notification of Coverage to the Indian governing body for any area in which the permitted source will operate. Coverage under this permit by rule is not available in areas within the geographical boundaries of California.

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