



Via email: a-and-r-docket@epa.gov

March 17, 2014

Gina McCarthy
Office of the Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Comments on General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country, Docket ID No. EPA-HQ-OAR-2011-0151

Dear Administrator McCarthy:

EPA has requested comment on General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country (Tribal NSR). The oil and natural gas industry faces a deadline of September 2, 2014 by when they must have minor new source permits, but EPA has not even proposed a general permit (GP) for the oil and natural gas sector yet. It would be nearly impossible for companies to comply with a GP for new development at this late date. Therefore, Western Energy Alliance and AXPC support a delay in the deadline for oil and natural gas permits and request at least the full 18 month extension to March 2, 2016. We also support the use of permits by rule (PBRs) in place of GPs, and we agree that GPs and/or PBRs should be allowed to create synthetic minor sources.

Western Energy Alliance represents over 480 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. The majority of our members are independent producers – small businesses with an average of twelve employees. Many of them operate on Indian Reservations and in Indian Country and do not have the manpower to handle a complex regulatory scheme. As such, we request that EPA seek to simplify its regulations for the oil and natural gas sector in Tribal NSR while still maintaining environmental protection.

AXPC is a national trade association representing 32 of America's largest and most active independent natural gas and crude oil exploration and production companies. AXPC's members are "independent" in that their operations are limited to the exploration for and production of natural gas and crude oil. Moreover, its members operate autonomously, unlike their fully integrated counterparts, which operate in additional segments of the energy business, such as downstream refining and marketing. AXPC's members are leaders in developing and applying the innovative and advanced technologies necessary to explore for and produce crude oil and natural gas, both offshore and onshore from unconventional sources, and that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways.

EPA has asked for comments from the oil and natural gas sector in three main areas of Tribal NSR. Each is addressed each below.

Extend the Deadline by When Minor Sources in the Oil and Natural Gas Sector Must Receive Permits

We support an extension of the deadline by when true minor sources in the oil and natural gas industry must obtain permits on lands covered under this rule. Development and production of oil and natural gas wells require long lead times and regulatory certainty. Without a GP or PBR for the industry, the number of applications for minor source permits under the Tribal NSR would overwhelm EPA's limited resources and likely lead to unrealistic lead times and increased uncertainty for sources seeking permits. The only practical way for EPA to handle the high number of minor source permit requests will be to develop a GP or PBR for the oil and natural gas sector. However, to date none has been proposed. It would be almost impossible for our companies to comply with a GP or PBR, the contents of which we know nothing about. Even if one is proposed in the near future, 5½ months or less is not sufficient time for our companies to make control decisions and equipment purchases, which often involve waiting lists or require testing to assure controls will work in specific locations. We request EPA extend the deadline for permits by the full 18 months to March 2, 2016.

Further, we encourage EPA to add conditional language extending the deadline to one year after a GP or PBR for the oil and natural gas sector is finalized. If the deadline for permits is extended but a GP or PBR for the industry is never finalized, EPA will find itself in the same situation 18 months from now.

In related rule amendments, we support EPA's proposal to eliminate the 4 month time period industry must wait before requesting coverage under a GP in Sec. 49.156(e). Industry would like to be able to apply for permits as soon as the GP or PBR is effective in order to facilitate planning for new development.

Allowing Permits by Rule (PBR) in Place of General Permits (GP) for Oil and Natural Gas

We support the drafting of a PBR in place of a GP for the oil and natural gas sector. Several states have permits by rule for the industry that accomplish several important goals. They protect the environment, allow industry operational flexibility, and significantly reduce the burden on the permitting authorities.

A GP could cause significant delay in development as EPA tries to process the thousands of permits that would be required once the GP is in place. As was the case for the Ft. Berthold Reservation in North Dakota, the number of permit applications will likely overwhelm EPA based on its available manpower and resources. A PBR for the oil and natural gas sector will significantly reduce the workload for EPA, resulting in a more efficient permitting process for industry while maintaining environmental standards and avoiding the loss of royalties to the Tribes due to delayed development.

Allowing General Permits and Permits by Rule to Create Synthetic Minor Source

We support the use of a GP or PBR to create synthetic minor sources on the lands under the jurisdiction of Tribal NSR. Because the types of controls and emission reductions for oil and natural gas industry sources are fairly standard, a GP or PBR will facilitate emission reductions in an efficient and streamlined manner that reduces unnecessary replication of EPA staff efforts while still providing strong environmental protections.

Further, we suggest the true minor and synthetic minor permits should come from the same permitting authority to further streamline the process. As stated by EPA in this request for comment,

“State and local permitting agencies often successfully use [synthetic minor] mechanisms to reduce permits workload and to provide sources with regulatory certainty, and a number of streamlining and environmental benefits can result for reviewing authorities, sources and the environment if we allow these mechanisms.”

The Federal Implementation Plan (FIP) for the Ft. Berthold Reservation in North Dakota is one such example of the successful use of standardized synthetic minor permits. We suggest EPA recognize that effort as a model for EPA and industry engagement to produce a suitable GP or PBR for the oil and natural gas sector.

If EPA does create a synthetic minor permitting program, we request the same extension of the deadline by which synthetic minor sources must have permits. Specifically, we request the full 18 month extension proposed for true minor sources or one year after a GP or PBR for synthetic minor sources is finalized, whichever is later.

Thank you for the opportunity to comment on the Tribal NSR program and for working with industry as EPA develops the GP or PBR for the oil and natural gas sector. Please do not hesitate to ask for more information and input. We appreciate your continued attention to our feedback.

Sincerely,



Kathleen M. Sgamma
Vice President of Government & Public Affairs, Western Energy Alliance



V. Bruce Thompson
President, AXPC