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(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(9) The reviewing authority shall promptly publish in the FEDERAL REGISTER notice of any final agency action on a permit.

(10) Motions to reconsider a final order must be filed within 10 days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision must be directed to and decided by, the Board. Motions for reconsideration directed to the Administrator, rather than to the Board, will not be considered, except in cases the Board has referred to the Administrator pursuant to §49.172(d)(1) and in which the Administrator has issued the final order. A motion for reconsideration will not stay the effective date of the final order unless specifically so ordered by the Board.

(11) For purposes of this section, time periods are computed as follows:

(i) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event.

(ii) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event, except as otherwise provided.

(iii) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day.

(iv) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days must be added to the prescribed time.

(e) *Can my permit be reopened?* The reviewing authority may reopen an existing, currently-in-effect permit for cause on its own initiative, such as if it contains a material mistake or fails to assure compliance with applicable requirements. However, except for those permit reopenings that do not increase the emissions limitations in the per-

mit, such as permit reopenings that correct typographical, calculation and other errors, all other permit reopenings shall be carried out after the opportunity of public notice and comment and in accordance with one or more of the public participation requirements under §49.171(b)(1)(ii).

§49.173 Administration and delegation of the nonattainment major NSR program in Indian country.**(a) Who administers a nonattainment major NSR program in Indian country?**

(1) If the Administrator has approved a TIP that includes a major NSR program for sources in nonattainment areas of Indian country that meets the requirements of part D of title I of the Act and §51.165 of this chapter, the Tribe is the reviewing authority and will administer the approved major NSR program under Tribal law.

(2) If the Administrator has not approved an implementation plan, the Administrator may delegate the authority to assist EPA with administration of portions of this Federal nonattainment major NSR program implemented under Federal authority to a Tribal agency upon request, in accordance with the provisions of paragraph (b) of this section. If the Tribal agency has been granted such delegation, it will have the authority to assist EPA according to paragraph (b) of this section and it will be the reviewing authority for purposes of the provisions for which it has been granted delegation.

(3) If the Administrator has not approved an implementation plan or granted delegation to a Tribal agency, the Administrator is the reviewing authority and will directly administer all aspects of this Federal nonattainment major NSR program in Indian country under Federal authority.

(b) *Delegation of administration of the Federal nonattainment major NSR program to Tribes.* This paragraph (b) establishes the process by which the Administrator may delegate authority to a Tribal agency, with or without signature authority, to assist EPA with administration of portions of this Federal nonattainment major NSR program, in accordance with the provisions in paragraphs (b)(1) through (8) of this section.

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Any Federal requirements under this program that are administered by the delegate Tribal agency will be subject to enforcement by EPA under Federal law. This section provides for administrative delegation of the Federal nonattainment major NSR program and does not affect the eligibility criteria under §49.6 for treatment in the same manner as a state.

(1) *Information to be included in the Administrative Delegation Request.* In order to be delegated authority to assist EPA with administration of this FIP permit program for sources, the Tribal agency must submit a request to the Administrator that:

(i) Identifies the specific provisions for which delegation is requested;

(ii) Identifies the Indian Reservation or other areas of Indian country for which delegation is requested;

(iii) Includes a statement by the applicant's legal counsel (or equivalent official) that includes the following information:

(A) A statement that the applicant is a Tribe recognized by the Secretary of the Interior;

(B) A descriptive statement that is consistent with the type of information described in §49.7(a)(2) demonstrating that the applicant is currently carrying out substantial governmental duties and powers over a defined area and

(C) A description of the laws of the Tribe that provide adequate authority to administer the Federal rules and provisions for which delegation is requested and

(iv) A demonstration that the Tribal agency has the technical capability and adequate resources to administer the FIP provisions for which the delegation is requested.

(2) *Delegation of Partial Administrative Authority Agreement.* A Delegation of Partial Administrative Authority Agreement (Agreement) will set forth the terms and conditions of the delegation, will specify the provisions that the delegate Tribal agency will be authorized to implement on behalf of EPA and will be entered into by the Administrator and the delegate Tribal agency. The Agreement will become effective upon the date that both the Administrator and the delegate Tribal agency have signed the Agreement or

as otherwise stated in the Agreement. Once the delegation becomes effective, the delegate Tribal agency will be responsible, to the extent specified in the Agreement, for assisting EPA with administration of the provisions of the Federal nonattainment major NSR program that are subject to the Agreement.

(3) *Publication of notice of the Agreement.* The Administrator will publish a notice in the FEDERAL REGISTER informing the public of any Agreement for a particular area of Indian country. The Administrator also will publish the notice in a newspaper of general circulation in the area affected by the delegation. In addition, the Administrator will mail a copy of the notice to persons on a mailing list developed by the Administrator consisting of those persons who have requested to be placed on such a mailing list.

(4) *Revision or revocation of an Agreement.* An Agreement may be modified, amended or revoked, in part or in whole, by the Administrator after consultation with the delegate Tribal agency.

(5) *Transmission of information to the Administrator.* When administration of a portion of the Federal nonattainment major NSR program in Indian country that includes receipt of permit application materials and preparation of draft permits has been delegated in accordance with the provisions of this section, the delegate Tribal agency must provide to the Administrator a copy of each permit application (including any application for permit revision) and each draft permit. You, the permit applicant, may be required by the delegate Tribal agency to provide a copy of the permit application directly to the Administrator. With the Administrator's consent, the delegate Tribal agency may submit to the Administrator a permit application summary form and any relevant portion of the permit application, in place of the complete permit application. To the extent practicable, the preceding information should be provided in electronic format by the delegate Tribal agency or by you, the permit applicant, as applicable and as requested by the Administrator. The delegate Tribal agency must also submit to the Administrator

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such information as the Administrator may reasonably require to ascertain whether the delegate Tribal agency is implementing and administering the delegated program in compliance with the requirements of the Act and of this program.

(6) *Waiver of information transmission requirements.* The Administrator may waive the requirements of paragraph (b)(5) of this section for any category of sources (including any class, type or size within such category) by transmitting the waiver in writing to the delegate Tribal agency.

(7) *Retention of records.* Where a delegate Tribal agency prepares draft or final permits or receives applications for permit revisions on behalf of EPA, the records for each draft and final permit or application for permit revision must be kept by the delegate Tribal agency for a period not less than 5 years.

(8) *Delegation of signature authority.* To receive delegation of signature authority, the legal statement submitted by the Tribal agency pursuant to paragraph (b)(1) of this section must certify that no applicable provision of Tribal law requires that a major NSR permit be issued after a certain time if the delegate Tribal agency has failed to take action on the application (or includes any other similar provision providing for default issuance of a permit).

(c) *Are there any non-delegable elements of the Federal nonattainment major NSR program in Indian country?* The following authorities cannot be delegated outside of EPA:

(1) The Administrator's authority to object to the issuance of a major NSR permit.

(2) The Administrator's authority to enforce permits issued pursuant to this program.

(d) *How will EPA transition its authority to an approved nonattainment major NSR program?*

(1) The Administrator will suspend the issuance of nonattainment major NSR permits under this program promptly upon publication of notice of approval of a TIP with a major NSR permit program for nonattainment areas.

(2) The Administrator may retain jurisdiction over the permits for which

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the administrative or judicial review process is not complete and will address this issue in the notice of program approval.

(3) After approval of a program for issuing nonattainment major NSR permits and the suspension of issuance of nonattainment major NSR permits by the Administrator, the Administrator will continue to administer nonattainment major NSR permits until permits are issued under the approved Tribal implementation plan program.

(4) Permits previously issued under this program will remain in effect and be enforceable as a practical matter until and unless the Tribe issues new permits to these sources based on the provisions of the EPA-approved Tribal implementation plan.

Subpart D—Implementation Plans for Tribes—Region I

IMPLEMENTATION PLAN FOR THE MOHEGAN TRIBE OF INDIANS, CONNECTICUT

§49.201 Identification of plan.

(a) *Purpose and scope.* This section contains the implementation plan for the Mohegan Tribe of Indians, Connecticut. This plan consists of an area wide NO_x emission limitation regulation submitted by the Mohegan Tribe on May 4, 2005, applicable to the reservation of The Mohegan Tribe of Indians of Connecticut.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the FEDERAL REGISTER. Entries in paragraph (c) of this section with EPA approval dates after August 13, 2009, will be incorporated by reference in the next update to the TIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of