

## Environmental Protection Agency

§49.5511

production during the reporting period; and

(iii) A summary of cases where construction or operation was not performed in compliance with the requirements specified in §49.4164, §49.4165, or §49.4166 for each oil and natural gas well at each oil and natural gas production facility, and the corrective measures taken.

(iv) A certification by a responsible official of truth, accuracy and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

§§ 49.4169–49.5510 [Reserved]

### Subpart L—Implementation Plans for Tribes—Region IX

#### IMPLEMENTATION PLAN FOR THE GILA RIVER INDIAN COMMUNITY

SOURCE: 76 FR 17030, Mar. 28, 2011, unless otherwise noted.

#### §49.5511 Identification of plan.

(a) *Purpose and scope.* This section contains the approved implementation plan for the Gila River Indian Community dated August 2008. The plan consists of programs and procedures that cover general and emergency authorities, ambient air quality standards, permitting requirements for minor sources of air pollution, enforcement authorities, procedures for administrative appeals and judicial review in Tribal court, requirements for area

sources of fugitive dust and fugitive particulate matter, general prohibitory rules, and source category-specific emission limitations and standards.

(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.

(2) EPA Region IX 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 the Tribal Implementation Plan as of January 19, 2011.

(3) Copies of the materials incorporated by reference may be inspected at the Region IX Office of EPA at 75 Hawthorne Street, San Francisco, CA 94105-3901 or call 415-947-4192; the U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or call 202-566-1742; and the National Archives and Records Administration. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) *EPA-approved regulations.*

#### EPA-APPROVED GILA RIVER INDIAN COMMUNITY TRIBAL REGULATIONS

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Gila River Indian Community, Tribal Implementation Plan, Part I, General Provisions, Sections 1–3.	Definitions, General Authority, Procedures for Preparation, Adoption, and Submittal of the Air Quality Management Program.	August 20, 2008 ..	3/28/11 [76 FR 17028].	
Gila River Indian Community, Tribal Implementation Plan, Part I, General Provisions, Section 4.	Adoption of National Ambient Air Quality Standards as Community Standards.	August 20, 2008 ..	3/28/11 [76 FR 17028] .....	Note: several revisions to the NAAQS have occurred since the adoption of the TIP.

EPA-APPROVED GILA RIVER INDIAN COMMUNITY TRIBAL REGULATIONS—Continued

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Gila River Indian Community, Tribal Implementation Plan, Part II, Permit Requirements.	Definitions, Applicability of Permit Requirements, Non-Title V Permit Requirements, Permit Revisions at a Non-Title V Source, Continuous Emissions Monitoring, Stack Height Limitation, Confidentiality of Information, Permit Fees.	August 20, 2008 ..	3/29/11 [76 FR 17028] .....	Title V regulations are not approved into the TIP.
Gila River Indian Community, Tribal Implementation Plan, Part III, Enforcement Ordinances.	Civil Enforcement, Criminal Enforcement, Citizen Suits.	August 20, 2008 ..	3/28/11 [76 FR 17028].	
Gila River Indian Community, Tribal Implementation Plan, Part IV, Administrative Appeals.	General Provisions, Definitions, Administrative Appeals Procedures, Final Administrative Decision: Review, Judicial Review of Final Administrative Decisions.	August 20, 2008 ..	3/28/11 [ 76 FR 17028].	
Gila River Indian Community, Tribal Implementation Plan, Part V, Area Source Emission Limits, Sections 1–2.	Open Burning, General Requirements for Fugitive Dust-Producing Activities.	August 20, 2008 ..	3/28/11 [76 FR 17028].	
Gila River Indian Community, Tribal Implementation Plan, Part VI, Generally Applicable Individual Source Requirements for Existing and New Sources, Sections 1–3.	Visible Emissions; VOC Usage, Storage, and Handling; Degreasing and Solvent Metal Cleaning.	August 20, 2008 ..	3/28/11 [76 FR 17028].	
Gila River Indian Community, Tribal Implementation Plan, Part VII, Source/Category Specific Emission Limits for Existing and New Sources, Sections 1–3.	Secondary Aluminum Production, Aerospace Manufacturing and Rework Operations, Non-metallic Mineral Mining and Processing.	August 20, 2008 ..	3/28/11 [76 FR 17028] .....	

(d) Nonregulatory.

Name of nonregulatory TIP provision	Tribal submittal date	EPA approval date	Explanations
Gila River Indian Community, Tribal Implementation Plan, Introductory Materials.	June 22, 2009 .....	3/28/11 [76 FR 17028].	Minor NSR program support documents.
Technical Amendments to Part II of the 2006 Air Quality Management Program Plan, Title 17 Chapter 9 of the Gila River Indian Community Law and Order Code.	June 22, 2009 .....	3/28/11 [76 FR 17028] .....	

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Name of nonregulatory TIP provision	Tribal submittal date	EPA approval date	Explanations
Minor New Source Review Demonstration.	June 22, 2009 .....	3/28/11 [76 FR 17028] .....	Minor NSR program support documents.
Letter from Margaret Cook, Executive Director, GRIC DEQ, to Deborah Jordan, Air Division Director, EPA Region 9, Re: Gila River Indian Community Tribal Implementation Plan.	July 17, 2010 .....	3/28/11 [76 FR 17028] .....	Letter discussing intent of citizen suit provisions in Part III.

[76 FR 17030, Mar. 28, 2011]

EDITORIAL NOTE: At 76 FR 23879, April 29, 2011, §49.22 was to be redesignated as §49.5511 in subpart L; however, the amendment could not be incorporated because §49.5511 already exists.

### §49.5512 Federal Implementation Plan Provisions for Four Corners Power Plant, Navajo Nation.

(a) *Applicability.* The provisions of this section shall apply to each owner or operator of the coal burning equipment designated as Units 1, 2, 3, 4, and 5 at the Four Corners Power Plant (the Plant) on the Navajo Nation Indian Reservation located in the Four Corners Interstate Air Quality Control Region (see 40 CFR 81.121).

(b) *Compliance Dates.* Compliance with the requirements of this section is required upon the effective date of this rule unless otherwise indicated by compliance dates contained in specific provisions.

(c) *Definitions.* For the purposes of this section:

(1) *Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

(2) *Air pollution control equipment* includes baghouses, particulate or gaseous scrubbers, and any other apparatus utilized to control emissions of regulated air contaminants which would be emitted to the atmosphere.

(3) *Business Day.* Business day means a normal working day, excluding weekends and Federal Holidays.

(4) *Daily average* means the arithmetic average of the hourly values measured in a 24-hour period.

(5) *Excess emissions* means the emissions of air contaminants in excess of

an applicable emissions limitation or requirement.

(6) *Heat input* means heat derived from combustion of fuel in a Unit and does not include the heat input from preheated combustion air, recirculated flue gases, or exhaust gases from other sources. Heat input shall be in accordance with 40 CFR part 75.

(7) *Malfunction* means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during certain malfunction episodes. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(8) *Owner or Operator* means any person who owns, leases, operates, controls, or supervises the Plant or any of the coal burning equipment designated as Units 1, 2, 3, 4, or 5 at the Plant.

(9) *Oxides of nitrogen (NO<sub>x</sub>)* means the sum of nitric oxide (NO) and nitrogen dioxide (NO<sub>2</sub>) in the flue gas, expressed as nitrogen dioxide.

(10) *Plant-wide basis* means total stack emissions of any particular pollutant from all coal burning equipment at the Plant.

(11) *Regional Administrator* means the Regional Administrator of the Environmental Protection Agency (EPA) Region 9 or his/her authorized representative.

(12) *Shutdown* means the cessation of operation of any air pollution control