

Tribal Minor NSR Webinar

Tribal Environmental Professionals

US Environmental Protection Agency

Office of Air Quality Planning and Standards (OAQPS)

July 25, 2011

Presentation Outline

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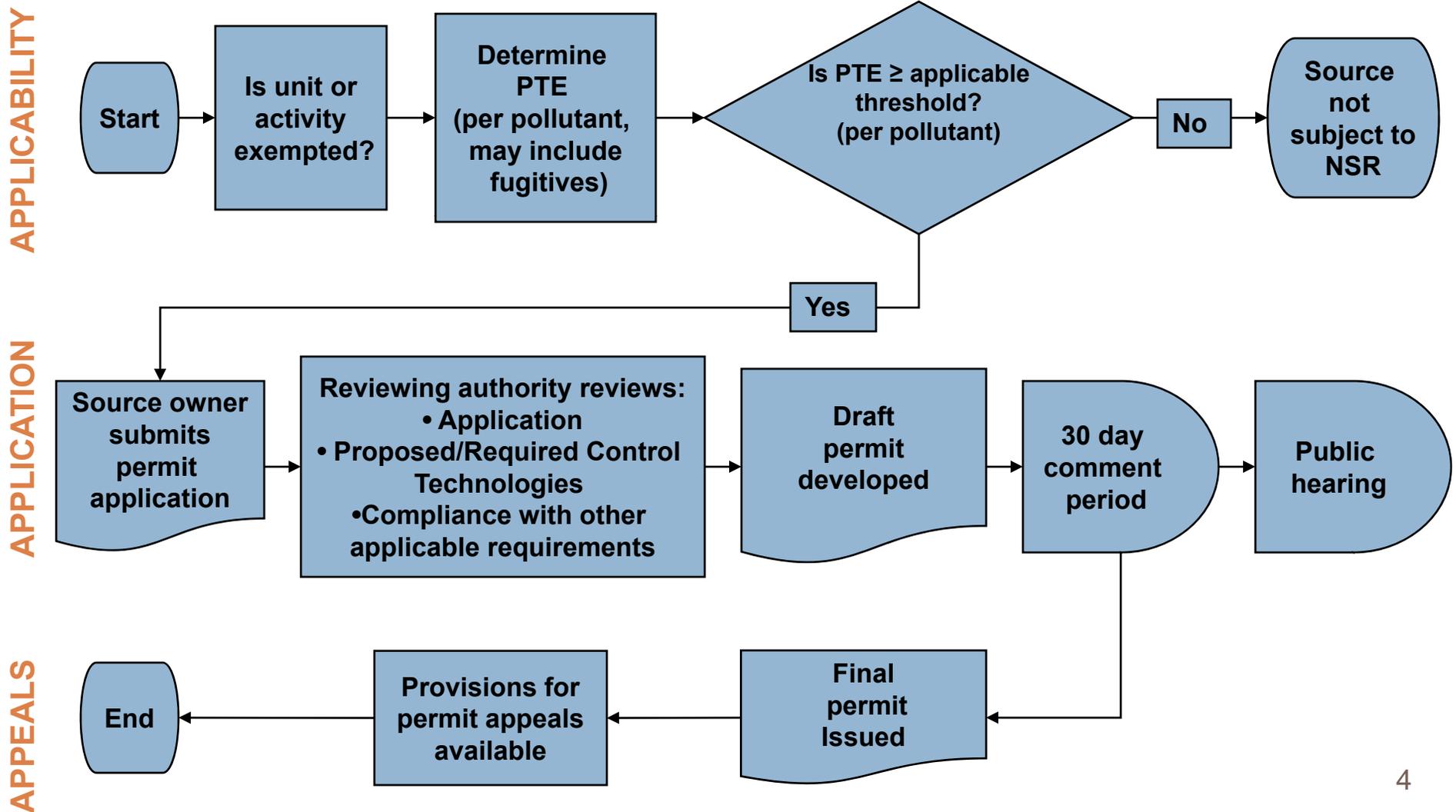
- Description of Covered Sources
- Re-cap of Permitting Process
- Description of Tribal Minor NSR Requirements
- Main Requirements Summary

Tribal Minor NSR Program

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- Covers:
 - ▣ True Minor Sources
 - Sources with actual emissions below major source thresholds and, in the case of this rule, above minor NSR thresholds
 - ▣ Synthetic Minor Sources
 - Major sources who restrict their emissions to become minor sources
 - ▣ Minor Modifications at Major Sources
 - Small modifications (low emissions) at major sources
- Regulated pollutants: NAAQS and other pollutants

Permitting Process (Simplified)



Applicability: Exempted Units

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- Units or activities exempted from permitting
 - Proposed 10 exempted units or activities finalized 7
 - We intend to propose a separate rule to seek comment on whether additional units or activities should be exempted
- Mobile sources
 - Ventilating units for comfort that do not exhaust air pollutants into the ambient air from any manufacturing of other industrial processes
 - Noncommercial food preparation
 - Consumer use of office equipment and products
 - Janitorial services and consumer use of janitorial products
 - Internal combustion engines used for landscaping purposes
 - Bench scale laboratory activities, except for laboratory fume hoods and vents

Applicability: New Sources Potential to Emit (PTE)

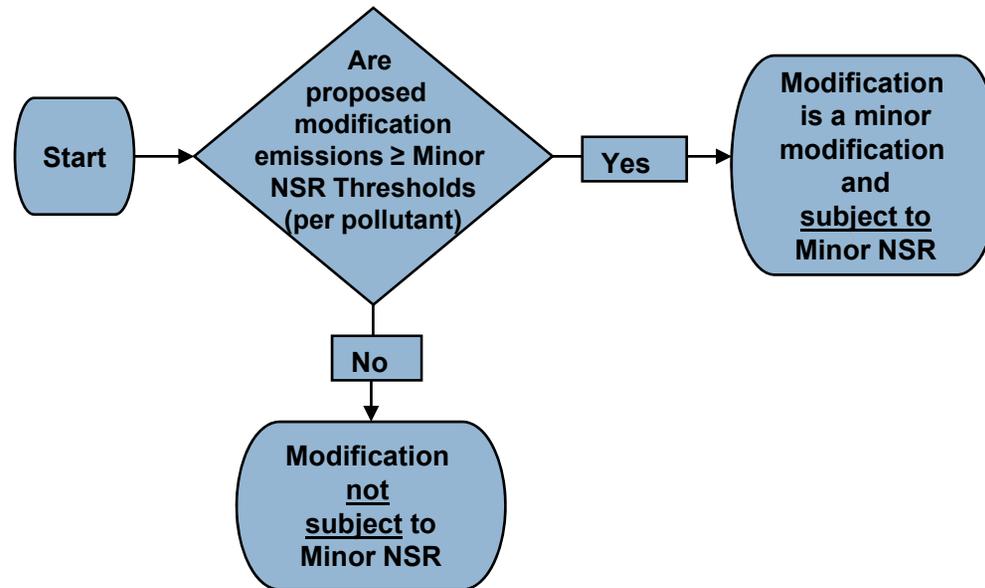
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- The highest amounts of pollutants that the source could release into the air based on the equipment design (calculated per pollutant)
- It can also consider limitations on source operation as well as emission controls
 - ▣ Ex. Restrictions on hours of operation instead of 8760 hrs
- Includes fugitive emissions if the source is part of the 28 source category list
 - ▣ Emissions that enter the atmosphere from a source without first passing through a stack or duct designed to direct or control their flow

Applicability: Modifications

Allowable-to-Allowable Test

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- **Allowables** – enforceable emission limitations on max. capacity
- If unit was unpermitted or is added, emission increase based on PTE
- Includes fugitive emissions if the source is part of the [28 source category list](#)

Applicability: Potential to Emit and Allowables Emissions Calculations

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- Various methods exist to quantify emissions. For example:
 - On-site measurement
 - Vendor design capacity or rated capacity information
 - Material balance calculations
 - Emission Factors

- Tools will be available to help source owners/operators calculate these emissions

- EPA Regional offices will also provide assistance

Applicability:

Minor Source Thresholds

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- Cutoff levels for which sources with emissions lower than the thresholds would typically be exempt from the minor NSR program
- Vary by pollutant
- More stringent for nonattainment areas than attainment areas
- Currently no thresholds for Greenhouse Gases (GHGs)

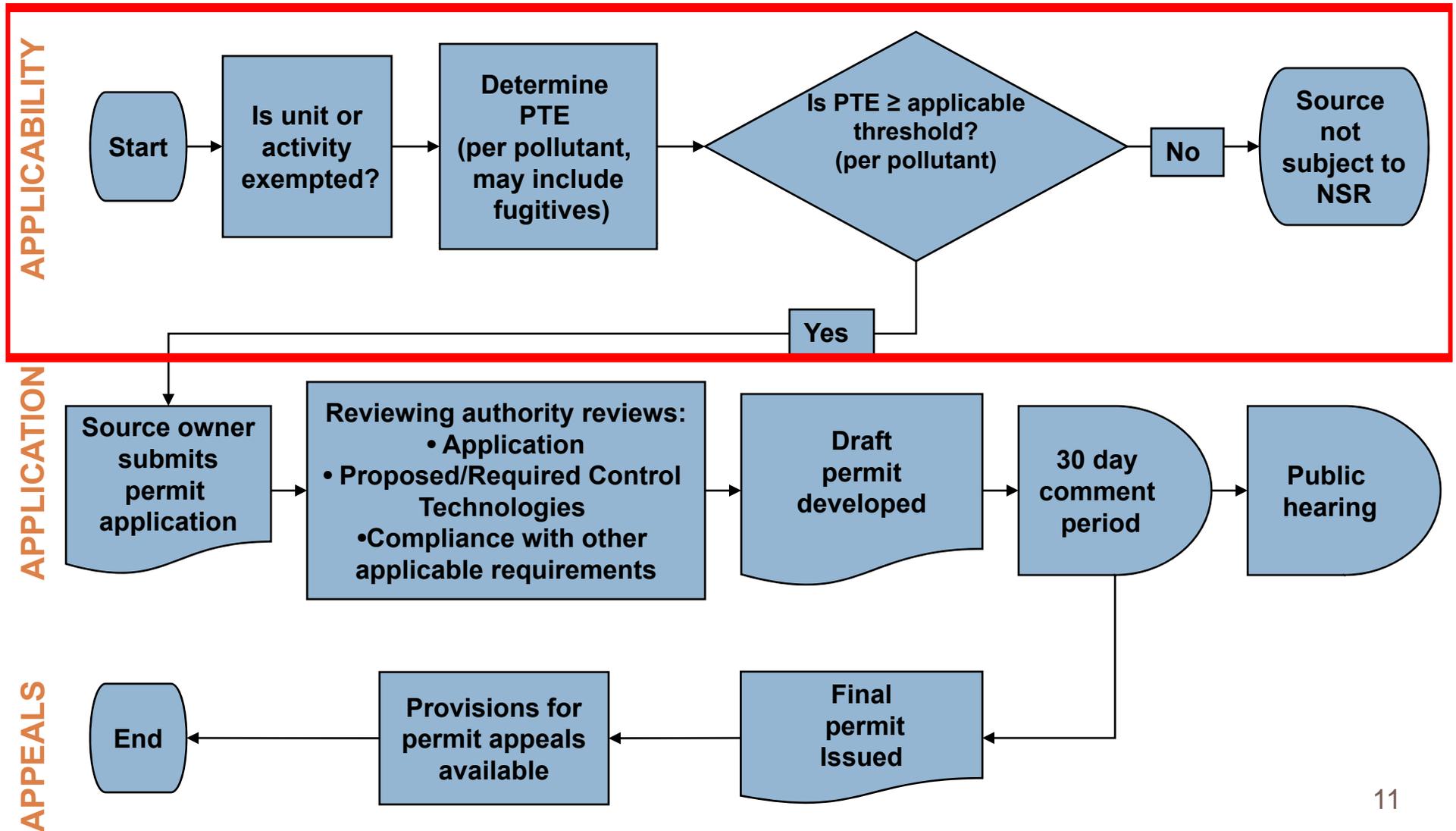
Applicability:

Minor Tribal NSR Rule Thresholds

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Regulated NSR Pollutant	For Nonattainment Areas (tpy)	For Attainment Areas (tpy)
Carbon monoxide (CO)	5	10
Oxides of nitrogen (NO_x)	5	10
Sulfur dioxide (SO₂)	5	10
Volatile organic compounds (VOC)	2	5
PM	5	10
PM-10	1	5
PM-2.5	0.6	3
Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2
Hydrogen sulfide (H₂S)	NA	2
Total reduced sulfur (including H₂S)	NA	2
Reduced sulfur compounds (including H₂S)	NA	2
Municipal waste combustor emissions	NA	2
Municipal solid waste landfills emissions	NA	10

Permitting Process (Simplified)



Application:

Types of Permit Applications

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1. Site-Specific Permit

- ▣ Case-by-case determination of source emissions limits and control technology requirements, if any are required
- ▣ Available for true minor sources & minor mods. at major sources

2. General Permit (GP)

- ▣ Requirements are determined in advance for a number of similar equipment types or facilities to simplify permit issuance process

3. Synthetic Minor Permit

- ▣ Limits PTE 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 regulated NSR pollutants and toxic air pollutants

Application:

Types of Permit Applications (Cont.)

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- General Permits:
 - Not Allowed for Synthetic Minor Sources
 - Developed after opportunity of public notice and comment

- This Minor NSR program terminates the 1999 PTE Transition Policy
 - Sources that would otherwise be major were allowed to obtain synthetic minor status if their actual emissions remained below 50% of major source threshold

Application: Types of Permit Applications (Cont.)

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- Case-by-case MACT determinations allowed under site-specific permits
- MACT compliance determined on a case-by-case basis if:
 - No MACT standard for a source category has been established
 - There is no EPA-approved program
- As proposed minor NSR program will be used as one of the “other administrative procedures for preconstruction review and approval”
 - Applicable sources will be major for HAPs and minor for NSR
 - Sources will eventually need a Part 71 permit for major HAP emissions

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 – allowables both before and after the modification, including any restrictions on emissions
- Description of any existing air pollution control equipment
- Description of any limitations on source operation

Application:

Permit Fees

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- Received numerous comments requesting us to allow collection of permit fees to cover program costs
- CAA does not give the Agency explicit authority to charge permit fees for preconstruction permitting
- Under a delegation agreement or TIP, tribes can charge fees under their own authority

Application:

Control Technology Review

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- By control technology we mean:
 - ▣ Pollution prevention techniques
 - ▣ Add-on pollution control equipment
 - ▣ Design and equipment specifications
 - ▣ Work practices and operational standards

- Site-Specific Permits
 - ▣ Case-by-case determination

- General Permits
 - ▣ Determined during the dev. of the GP and after opportunity for public notice & comment

Application:

Air Quality Impact Analysis (AQIA)

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- Analysis conducted if reviewing authority is concerned that minor source will cause or contribute to a NAAQS or increment violation
- In accordance with 40 CFR Part 51, Appendix W
- We plan to develop guidance on scope of AQIA

Application: Monitoring, Recordkeeping & Reporting Req.

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□ Monitoring

- Sufficient to assure compliance with control technology requirements
 - May include: CEMS, PEMS, CPMS, equipment inspections, mass balances, periodic performance tests and/or emissions factors

□ Recordkeeping

- Sufficient to assure compliance with emission limitations
- Records should be retained for 5 years

□ Reporting

- Annual monitoring reports to show compliance with emission limitations
- Prompt reports of deviations from permit requirements

Application: Permit Issuance Process

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- True Minor Sources Seeking Site-Specific Permits
 - Application completeness review – 45 days
 - Public Comment Period – 30 days
 - Public Hearing – If sufficient interest
 - Permit Issuance Timeframe
 - No later than 135 days after the application is deemed complete

Application: Permit Issuance Process (Continued)

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- True Minor Source Seeking General Permits
 - Application completeness review – 45 days
 - Reviewing Authority – 30 days
 - Source Owner or Operator – 15 days
 - Public Comment Period – No public comment period
 - Public Hearing – If sufficient interest
 - Permit Issuance Timeframe
 - No later than 90 days after date coverage request is submitted

Application: Permit Issuance Process (Continued)

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- Synthetic Minors Permits and Minor Modifications at Major Sources under Site-Specific Permits
 - Application completeness review – 60 days
 - Public Comment Period – 30 days
 - Public Hearing – If sufficient interest
 - Permit Issuance Timeframe
 - No later than 1 year after the application is deemed complete

Application: Public Participation Requirements

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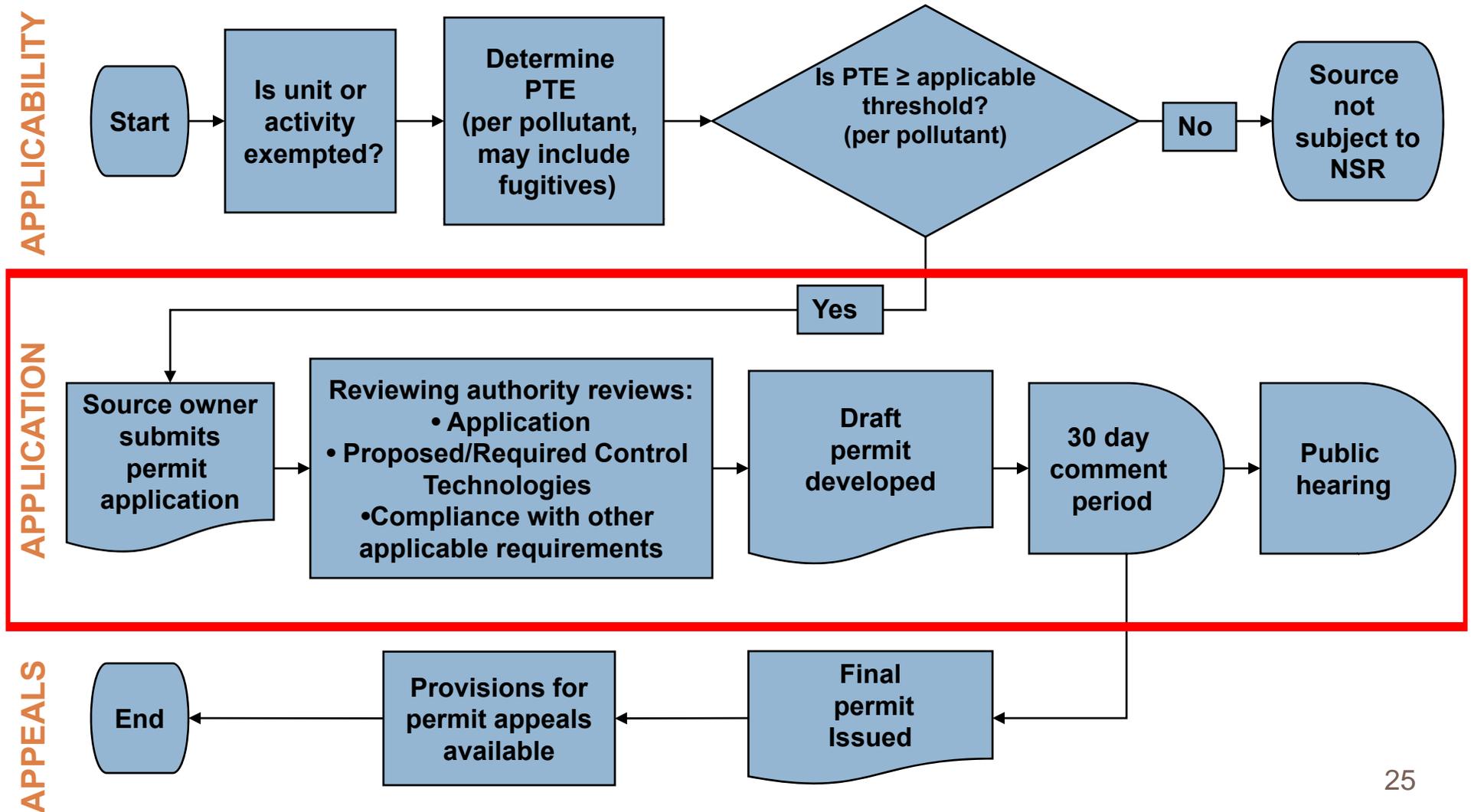
- For site-specific permits, synthetic minor permits and the initial development of general permit, reviewing authority:
 - Must provide 30-day public comment period on the draft permit
 - Must mail a notice of the draft permit to the applicant, the Indian Governing Body, and surrounding tribal, state and local air pollution authorities
 - May use additional approaches to public noticing such as websites, newspapers, and mailing lists

Application: Public Participation Requirements

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- For source requesting coverage under a general permit
 - No public comment period when requesting coverage
 - Source must submit a copy of the coverage request to the tribe in the area where source is locating
 - EPA will post information of coverage request on website
 - Public can notify us of any concerns about a source's eligibility to construct under a general permit

Permitting Process (Simplified)



Final Permit

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- After a decision to issue or deny the permit, reviewing authority must notify the applicant in writing
- If a final permit is issued, we must provide adequate public notice of the decision
 - ▣ Synthetic minor permits and site-specific permits for minor modifications at major sources
 - Copy of decision available at all locations where draft permit was made available
 - ▣ Site-specific permits for true minor sources
 - Decision noticed using one or more of the additional approaches to public noticing such as websites, newspapers, and mailing lists
 - ▣ General permits for true minor sources
 - Copy of the letter granting request for coverage posted at site

Permit Term

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- Permit remains valid as long as 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 Reopenings

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- Usually if permit contains a material mistake or fails to assure compliance with applicable requirements
 - ▣ Only reviewing authority can reopen a permit

- Permit reopenings that increase the emission limits will be public noticed
 - ▣ Using one or more of the additional approaches to public noticing such as websites, newspapers, and mailing lists

- Provisions differ from proposal since we proposed that any person (including the permittee) may petition the reviewing authority to reopen a permit for a cause

Appeals: Permit Appeals

Administrative Permit Appeals (Environmental Appeals Board)

- Appeals must be filed within 30 days after a final permit decision has been issued
- Upon filing of a petition for review, the permit will be stayed
- Motion to reconsider the final EAB order must be filed within 10 days
- If all remedies are exhausted, person may appeal to Federal Court

Judicial Permit Appeals

- Permits:
 - are effective upon issuance
 - not stayed by filing for an appeal
 - To stay a permit, petition under the Administrative Procedures Act (APA) 5 U.S.C. 705 must be filed
- Source can have permit revoked after proceeding with construction while appeal was pending

Finalized EAB Option

Treatment of Existing Minor Sources

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- Proposed three options for how to treat existing minor sources:
 - ▣ **Option 1** – New permit not needed initially, only when a minor modification triggers NSR
 - ▣ **Option 2** – New permit not needed initially, but existing sources must register within 1 year after rule’s effective date
 - ▣ **Option 3** – Existing minors need new permit shortly after the rule is final

- Finalizing modified option 2
 - ▣ Existing true minor sources have 18 months (March 1, 2013) after the effective date of the rule (August 30, 2011) to register or 90 days after they begin operation, whichever is later

- Registration requirements only apply to true minor sources

Registration Requirements

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- Identifying information
- Description of source processes and products
- List of all emission units and activities
- Production rates information
- Identification and description of any existing air pollution control equipment
- Existing limitations on source operation

- Additional requirements:
 - Report of relocation
 - Report of change of ownership
 - Report of closure

Treatment of Existing Synthetic Minor Sources

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- Proposed that these sources must submit a permit application within 1 year of rule's effective date (August 30, 2011)
- Finalizing various provisions depending on the mechanism existing source used to obtain synthetic minor status
- Existing synthetic minor sources under Region 10's Federal Air Rule for Reservations (FARR) or an EPA-approved rule or program limiting PTE
 - ▣ No action needed unless source proposes a modification after rule's effective date (August 30, 2011)

Treatment of Existing Synthetic Minor Sources (Continued)

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- Existing synthetic minor sources established under a permit pursuant to the part 71 program. Region has the discretion to:
 - ▣ Require a permit application within 1 year of this rule's effective date (August 30, 2011)
 - ▣ Require a permit application under this rule at the same time the source owner applies to renew its part 71 permit, or
 - ▣ Allow source to continue to maintain synthetic minor status through part 71 permit

- Existing synthetic minor source status established through a mechanism other than those described above (e.g. PTE transition policy)
 - ▣ Permit application required within 1 year of this rule's effective date (August 30, 2011)

Implementing the Minor NSR Rule in Phases

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- Proposed that entire rule would be effective 60 days after publication in the Federal Register – August 30, 2011
- Commenters very concerned about workload rule would bring
- Finalizing that:
 - New and modified synthetic minor sources, minor modifications at major sources, and new and modified major sources in nonattainment areas are subject to the rule on the rule's effective date - August 30, 2011
 - True minor sources are subject to the rule **36 months (September 2, 2014)** after the rules' effective date (August 30, 2011) or 6 months after a general permit for a source category is published, whichever is earlier

Delegation of Enforcement Authority to Tribes

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- Many commenters requested delegation of enforcement authority (civil and criminal)
- Proposed that when a tribe requests delegation of the Federal NSR Program EPA will retain all enforcement authority (civil and criminal)
- Finalized that any permits issued under the Federal program remain Federal in character and continue to be enforceable by us (civil and criminal) in Federal court

Key Points to Remember: Minor NSR

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- Program for minor sources in both attainment and nonattainment areas (generally for emissions lower than 100 or 250 tpy and equal to or higher than minor NSR thresholds)
- Pollutants regulated: NAAQS and other pollutants
- Main requirement: Control Technology Review
- Three types of permit options: site-specific permits, general permits, and synthetic minor permits

Key Points to Remember: Minor NSR

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- Program for minor sources in both attainment and nonattainment areas (generally for emissions lower than 100 or 250 tpy and equal to or higher than minor NSR thresholds)
- Pollutants regulated: NAAQS and other pollutants
- Main requirement: Control Technology Review
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Contacts

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Appendix

28 Source Categories List

1. Coal cleaning plants (with thermal dryers)
2. Kraft pulp mills
3. Portland cement plants
4. Primary zinc smelters
5. Iron and steel mills
6. Primary aluminum ore reduction plants
7. Primary copper smelters
8. Municipal incinerators capable of charging more than 250 tons of refuse per day
9. Hydrofluoric acid plants
10. Sulfuric acid plants
11. Nitric acid plants
12. Petroleum refineries
13. Lime plants
14. Phosphate rock processing plants
15. Coke oven batteries
16. Sulfur recovery plants
17. Carbon black plants (furnace process)
18. Primary lead smelters
19. Fuel conversion plants
20. Sintering plants
21. Secondary metal production plants
22. Chemical process plants
23. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
24. Taconite ore processing plants
25. Glass fiber processing plants
26. Charcoal production plants
27. Fossil fuel-fired steam electric plants of more than 250 million British thermal units (BTU) per hour heat input
28. Fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU/ hour heat input