

**NOTICE OF DIRECT FINAL RULEMAKING AND REQUEST FOR
COMMENTS ON (1) INCORPORATION BY REFERENCE OF CERTAIN EPA-
ESTABLISHED NEW SOURCE PERFORMANCE STANDARDS AND
CERTAIN NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR
POLLUTANTS AS PART OF THE RESERVATION AIR CODE AND (2)
CERTAIN NON-CONTROVERSIAL REVISIONS TO THE TITLE V
OPERATING PERMIT PROGRAM**

The Southern Ute Indian Tribe/State of Colorado Environmental Commission is taking direct final action on (1) the addition of certain new source performance standards and certain national emission standards for hazardous air pollutants to the Reservation Air Code and (2) certain insignificant revisions to the Commission's Title V Operating Permit Program. The new source performance standards and national emission standards for hazardous air pollutants are those that have been established by the United States Environmental Protection Agency ("EPA") under Sections 111 and 112 of the Clean Air Act, respectively, and which generally apply to oil and gas operations on the Southern Ute Indian Reservation. The incorporation by reference of the new source performance standards and national emission standards for hazardous air pollutants into the Reservation Air Code will enable the Southern Ute Indian Tribe and the Environmental Commission to exercise authority with respect to the incorporated standards and requirements and will reduce administrative burdens on owners and operators. The insignificant revisions to the Commission's Title V Operating Permit Program will eliminate discovered typos, correct spacing errors, make minor clarifying corrections, and, at the request of operators, add a method for operators to choose to calculate fees that will be simpler, but will result in a higher payment.

I. Dates. This action is effective on January 28, 2013 without further notice, unless the Commission receives relevant adverse comments by December 29, 2012. If the Commission receives relevant adverse comments, it will publish a timely withdrawal in the same manner in which this notice was published informing the public that this action will not take effect.

The addition of the new source performance standards and national emission standards for hazardous air pollutants to the Reservation Air Code is conditioned upon the Southern Ute Indian Tribe receiving authorization from the EPA to implement New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants (established by EPA under Sections 111 and 112 of the Clean Air Act, respectively) on the Southern Ute

Indian Reservation. The Tribe expects to receive such authorization before the effective date of this action.

The non-controversial revisions to the Commission's Title V Operating Permit Program will become effective upon approval of the revisions by the EPA.

II. Legal authority under which the rule is proposed.

Legal authority is vested in the Southern Ute Indian Tribe/State of Colorado Environmental Commission by the *Intergovernmental Agreement Between the Southern Ute Indian Tribe and the State of Colorado Concerning Air Quality Control on the Southern Ute Indian Reservation* dated December 13, 1999 ("IGA"), tribal law (Resolution of the Council of the Southern Ute Indian Tribe # 00-09), State law (C.R.S. § 24-62-101), and federal law (Act of October 18, 2004, Pub. L. No. 108-336, 118 Stat.1354) to adopt rules and regulations for air quality programs applicable to all lands within the exterior boundaries of the Southern Ute Indian Reservation. The Commission's direct final rulemaking authority can be found in section IV.G. of the Commission's Procedural Rules.

III. Submission of comments.

Please provide any comments no later than December 29, 2012. Please submit your comments to Brenda Jarrell, Air Quality Program Manager for the Southern Ute Indian Tribe, by one of the following methods:

- E-mail: bjarrell@southernute-nsn.gov
- Mail: Southern Ute Indian Tribe/State of Colorado Environmental Commission, c/o Brenda Jarrell, Air Quality Program Manager, Southern Ute Environmental Programs Division, P.O. Box 737 MS# 84, Ignacio, Colorado, 81137
- Fax: 970-563-0384
- Hand delivery: Air Quality Program, Environmental Programs Division, Southern Ute Indian Tribe, 398 Ouray Drive, Ignacio, Colorado, 81137

IV. Supplementary information and summary description of Code additions and revisions to Title V operating permit program.

The Commission is publishing this direct final action without a prior proposed rule because it views the addition of Art. II. Parts 2 and 3 to the Reservation Air Code as a noncontroversial action and anticipates no adverse comments. The EPA-established standards and requirements that will be incorporated by reference into the Reservation Air Code by the addition of Art. II Parts 2 and 3 already apply to Reservation sources of air pollution and their incorporation into the Reservation Air Code will enable the Tribe and Commission to exercise authority with respect to the incorporated standards and requirements. Additionally, the incorporation by reference of the new source performance standards and national emission standards for hazardous air pollutants into the Reservation Air Code will reduce administrative burdens on owners and operators by eliminating the need for certain compliance reports to be submitted to both EPA and the Tribe.

Additionally, the Commission views the revisions to the Commission's Title V Operating Permit Program as a noncontroversial action and anticipates no adverse comments because the revisions are merely elimination of typos, spacing corrections, minor clarifications, and, at the request of operators, the addition of a method for operators to choose to calculate fees that will be simpler (by using potential to emit rather than actual emissions), but will result in a higher payment.

If the Commission receives adverse comment, it will publish a timely withdrawal in the same manner that this notice has been published informing the public that the action will not take effect. It also will publish a notice of proposed rulemaking and will address the comments on the direct final action as part of that proposed rulemaking.

V. Where a complete copy of Art. II, Parts 2 and 3, and the Title V operating permit program revisions, can be obtained.

A copy of Art. II, Parts 2 and 3, as well as a redline showing the non-substantive revisions to the Commission's operating permit program, is available upon request from the Tribe's Air Quality Program Manager who can be contacted by e-mail, mail, fax, or in person at the addresses noted above. Article II, Parts 2 and 3, and the redline also are available at the following website:

<http://www.southernute-nsn.gov/air-quality/environmental-commission>

For further information contact: Brenda Jarrell, Program Manager, Air Quality Program, Southern Ute Indian Tribe, P.O. Box 737 MS#84, Ignacio, Colorado, 81137; office (970) 563-4705 (ext. 2246); fax number (970) 563-0384; e-mail bjarrell@southernute-nsn.gov