



# Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Hot Mix Asphalt Plants in Indian Country

## Technical Support Document

**Permittee:** Sunroc Corporation dba Depatco, Inc.  
730 N 1500 W  
Orem, UT 84057

**Project Name:** Sunroc Hot Mix Asphalt Plant

**Location:** Depatco  
1850 Tank Farm Road  
Pocatello, Idaho  
Power County  
Fort Hall Reservation

**Source Contact:** Kamren Garfield  
Environmental Specialist  
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**Date:** June 21, 2023

**Permit #:** R10TNSR03301 (replaces R10TNSR02700)

## Background

The Clean Air Act (CAA) provides the U.S. Environmental Protection Agency (EPA) with broad authority to protect air resources throughout the nation, including air resources in Indian Country. In 2011, the EPA finalized the Tribal New Source Review (NSR Rule), codified at 40 CFR Part 49, as part of a Federal Implementation Plan in order to protect tribal air resources from impacts due to the

construction of new or modified stationary sources of air pollutants where there is no EPA-approved NSR program. 76 Fed. Reg. 38748 (July 1, 2011). Among other requirements, the Tribal NSR Rule set forth procedures and terms under which the Agency would administer a minor NSR permitting program in Indian Country.

As part of the Tribal NSR Rule, the EPA adopted the option of developing general permits for certain categories of minor sources to which the Tribal NSR Rule would apply. See 40 CFR 49.156. The purpose of a general permit is to provide for the protection of air quality while simplifying the permit issuance process for similar facilities in order to minimize the burden on the reviewing authority and the regulated sources. The EPA finalized the General Air Quality Permit for New or Modified Minor Source Hot Mix Asphalt Plants (HMA General Permit) in Indian Country effective June 1, 2015 (80 Fed. Reg. 25068 (May 1, 2015)). New and modified minor sources that are true minor sources or major sources seeking to become synthetic minor sources may apply for coverage under the HMA General Permit if the potential to emit for new, modified, and existing units is below major source thresholds and the source can meet the throughput limits and other terms and conditions set forth in the General Permit. Sources seeking coverage under this General Permit must also demonstrate that they meet certain additional eligibility criteria.

This Technical Support Document (TSD) describes Region 10's analysis of the Applicant's Request for Coverage for the Project and our determinations concerning this request.

### **Request for Coverage under HMA General Permit**

On March 21, 2023, Region 10 received an initial Request for Coverage under the HMA General Permit from Sunroc Corporation dba Depatco Inc. (Sunroc) to construct and operate a Hot Mix Asphalt (HMA) operation co-located with a Stone Quarrying, Crushing, and Screening (SQCS) plant synthetic minor source on the Fort Hall Reservation (the Project) at the Depatco pit in Pocatello, Idaho. The Request for Coverage was certified and signed as being true and accurate by Russell Leslie, Vice President, on March 01, 2023.

Sunroc will co-locate the HMA plant with an existing SQCS plant, owned and operated by Sunroc. The SQCS plant may produce crushed rock prior to or during operation of the HMA plant. Sunroc is considered the "Applicant" and the "Permittee" for the Project.

### **Approval of Request for General Permit Coverage**

Based on a review of and reliance on all of the information and representations provided in the Request for Coverage and other relevant information, Region 10 has determined that the Project qualifies for coverage under the HMA General Permit because it meets all of the required criteria. In particular, and as further described below:

- The Project is for a synthetic minor (drum) HMA plant that only produces hot mix asphalt and is located within Indian Country.
- The Project is located in an attainment, unclassifiable or attainment/unclassifiable area for all National Ambient Air Quality Standards (NAAQS) pollutants except for PM10.
- The project is located in the Fort Hall nonattainment area for PM10.
- The plant will only use natural gas, propane or diesel fuels in the dryer and the auxiliary heater, and diesel fuel in the generators.

- The dryer mixer is controlled by a baghouse.
- Each asphalt and fuel storage tank has a capacity less than 39,890 gallons.
- The Project will be co-located with a SQCS plant and will comply with conditions 17 and 20.b of the HMA General Permit to limit combined emissions of regulated NSR-regulated pollutants to less than 100 tons per year.
- The Applicant has met the eligibility criteria related to federally-listed species and has completed the screening process for historic properties.

This Approval and the HMA General Permit authorize the Permittee to operate the Project within the exterior boundaries of the Fort Hall Reservation at the location described on page 1 of this TSD. Region 10’s review with respect to the criteria is discussed in more detail below.

### Project Description

The J.K. Merrill & Sons Pit was an active quarry owned by the J.K. Merrill & Sons company. Sunroc acquired the pit from J.K. Merrill & Sons, Inc. on December 01, 2022. EPA Region 10 had granted Sunroc a HMA general permit (R10TNSR02700) issued on February 09, 2022. The issuance of this HMA plant general permit will rescind the existing HMA permit (R10TNSR02700) issued to Sunroc to operate the HMA at this site.

### Sunroc HMA Plant List of Affected Emission Units Covered by this Approval

ID #	Description of Affected Emission Units	Controls
1	<b>HMA Dryer:</b> Dryer ID: ADM MM225; manufactured 2008, portable, 88 mmBtu/hr burner, fueled with natural gas, propane, diesel	Baghouse
2	<b>Generators</b> <b>(1) Caterpillar Generator:</b> 1662 maximum horsepower, manufactured 1999; fueled with diesel <b>(2) Auxiliary Generator:</b> 200 maximum horsepower, manufactured 2007; fueled with diesel	None
3	<b>Auxiliary Heater:</b> 2.5 MMBtu/hour capacity; manufactured 1996, fueled with natural gas, liquified petroleum gas, diesel	None
4	<b>Material Handling, Transferring, loading and Storage Equipment:</b> feeders, scalper screens, storage piles, conveyors and asphalt storage silos	None
5	<b>Asphalt Oil Storage Tanks:</b> 30,000 gallons and 35,000 gallons	None
6	<b>Diesel Storage Tank:</b> 12,000 gallons	None

## Ambient Air Quality

The geographic area where the Project will be located is designated attainment or attainment/unclassifiable under the CAA for all NAAQS pollutants except for PM10. The Project will be located in an area that is legally designated as a moderate PM10 nonattainment area<sup>1</sup>. Region 10 determined in 2010<sup>2</sup> through PM10 monitoring that the area has attained the NAAQS, but until the area has been redesignated as in attainment, the area is still treated as nonattainment for air permitting purposes.

The HMA General Permit contains limits on emissions and operations sufficient to ensure that the HMA plant is not a major source and to ensure that emissions would not cause or contribute to a violation of any NAAQS (80 Fed. Reg. at 25085, under typical conditions). The EPA recognizes operations in compliance with the SQCS General Permit would generally not cause or contribute to a NAAQS or PSD increment violation.

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<sup>1</sup> Refer to <https://www3.epa.gov/airquality/greenbook/ancl.html>. Power County is within the Fort Hall PM<sub>10</sub> nonattainment area.

<sup>2</sup> <https://www.federalregister.gov/documents/2010/07/28/2010-18564/determination-of-attainment-for-pm-10-fort-hall-pm-10-nonattainment-area-idaho>

## Emissions

A source in an attainment area must obtain a major source construction permit if its emissions of regulated NSR pollutants will be greater than 100 tons per year for listed source categories and 250 tons per year for non-listed categories. A source in an attainment area must obtain a major source operating permit if its emissions will be greater than 100 tons per year for regulated pollutants and 250 tons per year for PM. A source must obtain a minor NSR permit if its emissions are less than the major source construction permitting thresholds, but more than the minor NSR permitting thresholds in the table below. The minor NSR permitting thresholds are more restrictive (lower) for sources locating in a nonattainment area, as specified in the table. Permit limitations, also called synthetic minor limits, are considered in determining whether a source will be a major source.

**Tribal Minor NSR Permitting Thresholds (tons per year)**

<b>Pollutant</b>	<b>Nonattainment Areas</b>	<b>Attainment Areas</b>
CO	5	10
NO <sub>x</sub>	5	10
SO <sub>2</sub>	5	10
VOC	2	5
PM	5	10
PM <sub>10</sub>	1	5
PM <sub>2.5</sub>	0.6	3

Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2

Hydrogen sulfide	NA	2
Total reduced sulfur	NA	2
Reduced sulfur compounds	NA	2

A new or modified source that is required to obtain a minor NSR permit may qualify for coverage under a minor NSR general permit in lieu of obtaining a site-specific permit. To qualify for the General Permit, the new or modified source must meet the eligibility criteria in the Request for Approval (see the Approval of Request for General Permit Coverage section above) and be able to comply with the limitations in the General Permit. If a new or modified source does not meet the specified criteria or cannot comply with the limitations in the General Permit, the source does not qualify for coverage under the General Permit and must apply for a site-specific minor NSR permit or other applicable NSR permit.

The HMA General Permit includes enforceable physical or operational limitations on the maximum capacity of the source to emit air pollutants, including air pollution control equipment and restrictions on the type or amount of material combusted, stored, or processed. The permit is designed to ensure emissions remain below the major source construction and operating permit thresholds. The HMA General Permit also contains specific requirements for sources located in PM10 nonattainment areas.

When an HMA plant is co-located (two operations functioning as one source at the same location) with a SQCS facility, emissions from both sources must be totaled to determine the applicable permitting program. Both SQCS and HMA general permits include special limitations that apply to co-located sources to ensure that the total emissions from both operations are less than the major source permitting thresholds.

The potential emissions contained in the table below are based on the material throughput limits and fuel consumption limitations for co-located HMA plants and SQCS plants that are specified in the respective general permits and assume compliance with those limitations. For more information about how these emissions were calculated, please see the [Background Document: General Air Quality Permit for New or Modified Minor Source Hot Mix Asphalt Plants in Indian Country \(Final\) \(PDF\)](https://www.epa.gov/sites/production/files/2016-05/documents/hotmixasphaltbackgrounddocument.pdf) (25 pp, 857 K, 03/23/15) at <https://www.epa.gov/sites/production/files/2016-05/documents/hotmixasphaltbackgrounddocument.pdf>.

**HMA Plant (Controlled) Potential to Emit Summary**

Process	Pollutant (tons/year)						
	PM	PM <sub>10</sub>	PM <sub>2.5</sub>	SO <sub>2</sub>	NO <sub>x</sub>	CO	VOC
Co-located HMA Plant and SQCS Plant	86	63	30	18	90	78	27

Permit. Initial performance tests will be required for the dryer. As specified in Condition 32 of the General Permit, within 60 days after achieving the maximum production rate at which the permitted source will operate but not later than 180 days after the first day of operation after receiving coverage under the General Permit, Sunroc shall perform an initial performance test of the dryer operations to verify compliance with the applicable emission limitations in the General Permit.

### **Listed Species-Related Eligibility Criteria**

The EPA developed eligibility criteria related to species that are listed as endangered or threatened under the federal Endangered Species Act that applicants must satisfy to qualify for coverage under the HMA General Permit. Appendix A to the Request for Coverage form for the HMA General Permit provides detailed screening procedures for applicants to follow to assess the potential impacts of their sources on federally-listed species and their critical habitat. To be eligible for coverage under a General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the species-related eligibility criteria, provide sufficient documentation supporting the criterion selected and obtain confirmation from the EPA that they have done so.

The Applicant's Request for Coverage states that the Project meets Criterion A of Appendix A with respect to listed species protection (no federally-listed threatened or endangered species or designated critical habitats). As evidence, the Applicant provided a letter from the USFWS's Information for Planning and Consultation center dated July 29, 2021. The USFWS letter provided indicates there are no threatened, endangered, or candidate species in the immediate area of the project and no critical habitat for any species. R10 confirmed there are no endangered species or critical habitat listed for this area through the USFWS website. We also confirmed the findings with USFWS Biologist Ryan Blackadar, who stated in an August 25, 2021, email to R10 that they "have not identified any conflicts with any species federally listed as threatened or endangered, or proposed for listing, under the Endangered Species Act." We also confirmed the findings with NOAA National Marine Fisheries Service biologist Bob Ries, who stated in a November 2, 2021, email that there were no listed species or critical habitat in the region of the source..

After review and consideration of this information, Region 10 agrees that the Applicant has completed the species-related screening procedures and has demonstrated by providing the appropriate information and documentation that the proposed Project meets Criterion A of the listed species-related eligibility criteria for coverage under the HMA General Permit. Per Appendix A of the Request for Coverage, this HMA plant would meet Criterion A because there are no federally-listed threatened or endangered species or designated critical habitat of such species within the action area of the project.

### **Historic Properties-Related Eligibility Criteria**

The EPA engaged in the National Historic Preservation Act Section 106 process when the General Permit was issued. Requests for approval under the General Permit are not subject to NHPA Section 106 but are subject to the NHPA screening requirements in Appendix B of the Request for Coverage. The EPA developed the screening process in Appendix B of the Request for Coverage to enable source owners/operators to appropriately consider the potential impacts, if any, resulting from the construction, modification, and/or operation of a new or modified emission source on historic properties that are either listed on or eligible for listing on the National Register of Historic Places and, if applicable, determine whether actions can be taken to mitigate any such impacts. To be eligible for coverage under the HMA General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the historic property-related eligibility criteria, provide sufficient documentation

supporting the criterion selected and obtain confirmation from the EPA that they have done so.

With respect to the Project, the Applicant indicated in the Request for Coverage that the screening process in Appendix B of the Request for Coverage form had been completed to determine if the construction, modification, or operation of the Project has the potential to cause effects to historic properties. The Request for Coverage indicated that no historic properties or cultural resources would be affected by the Project because it is to be located in the previously disturbed portions of the J.K. Merrill & Sons pit and no additional disturbance is necessary for the Project.

Also, it can be noted, the Project replaces an HMA plant at the J.K. Merrill pit permitted to operate under coverage of the HMA General Permit in 2022 (permit R10TNSR02700). When that permit was issued, Region 10 and the Shoshone-Bannock Tribes Tribal Historic Preservation Officer (THPO) concluded the original HMA would not impact cultural resources or historic properties.

On the Fort Hall Reservation, the Shoshone-Bannock THPO is the lead for the historical preservation program. Region 10 contacted Carolyn Smith, Cultural Resources Coordinator of the Shoshone Bannock Tribes and THPO, to verify the Project was unlikely to cause any concern for impacts to cultural resources. Ms. Smith sent a letter to Sunroc, dated September 13, 2021, providing a set of questions and concerns regarding the project's possible impacts to tribal cultural resources and environmental health. Region 10 understands Sunroc discussed the concerns with the tribe and answered the tribes' questions. The tribes sent an email to Sunroc on October 11, 2021, indicating they had no further comments or questions regarding that project.

Region 10 has concluded that the Project meets the historic property-related eligibility criteria "no historic properties affected" and that the Project is consistent with the historic property-related eligibility criterion for coverage under the HMA General Permit.

## **Environmental Justice**

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA believes the human health or environmental risk associated with this action will not have disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. The EPA's primary goal in developing the SQCS General Permit was to ensure that air resources in Indian Country will be protected in the manner intended by the CAA. The SQCS General Permit will limit adverse impacts by restricting operations and emissions. In addition, the SQCS General Permit is part of a flexible preconstruction permitting program for minor sources in Indian Country that is comparable to similar programs in neighboring states in order to create a more level regulatory playing field for owners and operators within and outside of Indian Country. The SQCS General Permit reduces an existing disparity by filling the regulatory gap.

The EPA has developed an EJ mapping and screening tool called EJSCREEN. It is based on nationally consistent data and an approach that combines environmental and demographic indicators in maps and reports. According to EPA's EJSCREEN Version 2.1 environmental justice screening and mapping tool, minorities comprise 13% of the community within a three-mile radius of the facility, and 27% of the 9,361-

resident population within that area is characterized as low income. The percentage of minorities in the community is lower than the national average (40%). The percentage of low-income residents are also lower than the national average (30%).

As explained above, the general permit was designed to be protective of the NAAQS, and Region 10 therefore believes that the SQCS General Permit is appropriately protective of the NAAQS with respect to the Project. Compliance with the NAAQS is emblematic of achieving a level of public health protection that demonstrates that a proposed facility will not have a disproportionately high and adverse human health or environmental effects on minorities or low-income populations. See, e.g., *In re Shell Offshore Inc.*, 13 E.A.D. 357, 404-5 (EAB 2007).

### **Tribal Consultation**

Region 10 sent a letter to the Chairman of the Shoshone-Bannock Tribal Council on April 20, 2023, offering an opportunity for consultation on this EPA permitting action. The EPA did not receive a request for formal consultation associated with this Project.

### **Public Participation**

As described in 40 CFR 49.157, issuance of general permits pursuant to the Tribal NSR Rule must meet public participation requirements. Before issuing a permit under the Tribal NSR program, the EPA must prepare a draft permit and must provide adequate public notice to ensure that the affected community and the general public have access to the draft permit information. The public notice must provide an opportunity for a 30-day public comment period and notice of a public hearing, if any, on the draft permit.

In contrast, a 30-day public comment period under 40 CFR 49.157 is not required for an approval of a request for coverage of a particular source under a General Permit. Region 10 posted the request for coverage on its website on May 16, 2023, prior to the issuance of any decision to approve or deny the request for coverage and requested the public to submit any concerns about the applicant's eligibility to construct under the General Permit. Region 10's air permits website can be found at:

<https://www.epa.gov/caa-permitting/caa-permitting-epas-pacific-northwest-region>.

Region 10's Approval of the Request for Coverage for the Project is a final agency action for purposes of judicial review only for the issue of whether the Project is eligible for coverage under the SQCS General Permit (see 40 CFR 49.156(e)(6)). Any petition for review of this approval action must be filed in the United States Court of Appeals for the appropriate circuit pursuant to CAA section 307(b)