

Region 9 General Permit for Gasoline dispensing Facilities in Indian Country: Pechanga's Comments



NTFAQ
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Pechanga Comments



- Primarily took issue with the technical support document (TSA) that was included with the draft permit
 - What does “incorporated by reference” mean for this permit?

Pechanga Comments



- 1) Benefits do not outweigh burdens (of regulatory costs)
 - Onboard refueling vapor recovery (ORVR) has an efficiency of 98%
 - 1998 passenger vehicles
 - 2001 light duty trucks and vans
 - 2004 heavy duty trucks
- Statutory requirement of 95% efficiency
- Secondary vapor recapture was required by federal law at one time, but is no longer required due to increased ubiquitousness of ORVR in the fleet

Pechanga's Comments



- “leveling the playing field”
 - Not clear; interpreted as economic leveling of the playing field
 - Few tribal gas dispensing facilities (GDF) in CA, while there are thousands of non-tribal GDFs
- Economic competition is not a valid argument for creating, implementing, imposing, or repealing environmental law

Pechanga's Comments



- 2) Multiple references to state and local air district standards
 - E.g. CARB certified, SCAQMD approved, etc.
- CA Lacks Authority to Regulate in Indian Country
- In addition, Pechanga has better air quality than adjacent air districts and has more stringent GDF standards than federally required; therefore, it's unnecessary to insist on consistency with state standards.

Pechanga's Comments



- “The CA CDF General Permit that is the subject of this TSD is intended to provide a streamlined preconstruction permitting process under the Minor NSR program for certain GDFs located in Indian country within California, as well as to provide **general consistency** with the minor new source review (SNR) requirements generally applicable to GDFs in areas for which the **State of California air permitting authority have jurisdiction.**”

Pechanga's Comments



- 3) Lack of Consultation
 - One public hearing
 - Written notice received via mail/email
 - Over 100 federally recognized tribes in CA...
- Tribe requested formal government to government consultation in their comment letter on January 10, 2017
- Additional issues with consultation included ensuring comments and concerns were addressed in the final permit language

Lesson's Learned



- Re-affirming government-to-government consultation is an ongoing process
- Be open and polite, but firm
- Be vigilant when it comes to proposed rules and regulations
- Use your tribal organizations like NTAA!!