

## Appendix G

### TIP Enforceability Checklist<sup>1</sup>

This checklist provides general enforceability guidance applicable to all possible components of a TIP. However, TIPs do not need to contain all of these components. You need only to refer to those sections that apply to the provisions included in your tribe's TIP.

Enforceability Analysis	EPA Requirement
<b>Applicability</b>	
What sources are being regulated?	Clarity
What are the criteria for exemptions?	Clarity
Is the calculation procedure for exemptions clearly identified?	Example calculation or clear explanation of how to determine exemption.
Is the emission inventory of affected sources listed in the document?	Allowable and actual emissions in the source category should be included, for enforcement purposes and to determine any baselines in the regulation(s).
Is the averaging time(s) used in the rule different from that of the ambient standards?	The averaging time in the rule must be consistent with protecting the ambient standard, if applicable. Normally, it should be equal to or shorter than the time associated with the standard. Longer term averaging is available only in limited instances, provided the ambient standard is not compromised.
What are the units of compliance (pounds VOC per gallon of solids applied less water, grains per dry standard cubic foot, etc)?	Clearly stated in the rule.
Is bubbling or averaging of any type allowed? If yes, state criteria. Could an inspector independently determine if the criteria were met? Does EPA have to approve each case?	Explicit description of how averaging, bubbling, or equivalency is to be determined. VOC equivalency must be on a "solids applied" basis. Any method must be independently reproducible. Provision must be explicit as to whether case-by-case approval is required. If provision is intended to be generic, then bubble policy must be met.

<b>Enforceability Analysis</b>	<b>EPA Requirement</b>
If there is a redesignation will this change the emission limits? If yes, which ones and how?	Regulation may not allow for self nullification upon redesignation of area to attainment. Maintenance demonstration required in order to drop regulation.
<b>Compliance Dates</b>	
What is the compliance date? What is the area's attainment date?	Must not be later than approved or about to be approved date of attainment unless emission reductions are not necessary for attainment. In some cases, it will be necessary for the regulation to specify dates in compliance schedules.
<b>Specificity of Conduct</b>	
What test method is required?	Test method must be explicitly stated.
What is the averaging time in the compliance test method?	Averaging time and application of emission limit must be explicit.
Is a compliance calculation or evaluation required? If yes, the formula, period of compliance, and/or the evaluation method must be listed in the rule.	Formula must be explicit.
<b>Incorporation by Reference</b>	
What is the tribe's authority for rulemaking?	Demonstrate the legal mechanism to promulgate and enforce rules.
Are the methods/rules incorporated by reference in the right manner?	Same as above, clarity.
<b>Recordkeeping</b>	
What records are required to determine compliance?	Clarity
In what form or units (lbs/gal, gr/dscf, etc.) must the records be kept? On what time basis?	Records to be kept must be consistent with units of compliance in the performance requirements, including the applicable time period.

Enforceability Analysis	EPA Requirement
Does the rule affirmatively require the records to be kept?	There must be a clear, separately enforceable provision that requires records to be kept.
<b>Exemptions</b>	
List any exemptions allowed.	Must be clearly defined and distinguishable from what constitutes a violation.
Is the criteria for application clear?	Same as above.
Include malfunction provisions.	Rule must specify what exceedances may be excused, how the standard is to be applied, and who makes the determination.

**Endnote**

- 1 This appendix is from *Regulatory Development Enforceability on Regulations* by Susan E. Bromm, US EPA., no date.

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