

2/13/97

FACT SHEET

**PROPOSED REVISION TO REGULATIONS IMPLEMENTING THE
FEDERAL OPERATING PERMITS PROGRAM
UNDER THE CLEAN AIR ACT IN INDIAN COUNTRY**

TODAY'S ACTION...

- ◆ The Environmental Protection Agency (EPA) is today proposing revisions to its Federal operating permits regulation, issued in July 1996. EPA's proposed revisions would clarify the Agency's authority to issue operating permits (under Title V of the Clean Air Act) to stationary sources or facilities of air pollution located in "Indian country" (Native American tribal lands nationwide).

- ◆ EPA's Indian Policy recognizes that Tribal governments are primarily responsible for carrying out environmental programs within their jurisdictions. However, EPA will retain responsibility for environmental protection until Tribes are able to administer their own programs. Consistent with the Clean Air Act and EPA's Indian policy, EPA will protect air quality in Indian country by administering an operating permits program in areas lacking an EPA-approved operating permits program. EPA will generally administer an operating permits program in Indian country until the Tribe assumes responsibility for the program.

BACKGROUND: EPA'S OPERATING PERMITS PROGRAM

- ◆ The Clean Air Act Amendments of 1990 included new provisions requiring all States to develop operating permits programs that meet certain Federal criteria. The States, in turn, are to require affected facilities to obtain permits that contain all of their Clean Air Act requirements.

- ◆ Unlike States, Indian Tribes are not required to develop operating permits programs, although EPA encourages Tribes to do so.

HOW IS EPA WORKING WITH TRIBAL GROUPS TO IMPROVE AIR QUALITY?

- ◆ Today's action demonstrates EPA's commitment to environmental justice by assuring that EPA will develop

and administer permits programs to protect air quality on Tribal lands while working with Tribes to develop their own operating permits programs.

- ◆ EPA will continue to work in partnership with Tribes who have been unable to obtain approval of their operating permits programs. EPA will help those Tribes phase into the program by providing a delayed implementation deadline for the Federal permit program of November 15, 1997. This will give EPA additional time to work with interested Tribes, through technical support and assistance, to increase their expertise and capacity to administer permit programs.

HOW WILL EPA'S FEDERAL PERMITS PROGRAM WORK IN INDIAN COUNTRY?

- ◆ Initially, only facilities located in Indian country that are major sources, solid waste incineration units (required to obtain a permit under section 129 of the Clean Air Act), and certain sources subject to requirements under the acid rain program will be required to obtain Federal permits. Sources whose potential emissions exceed certain levels are considered "major."
- ◆ Indian country includes: (a) all land within the limits of any Indian reservation under the jurisdiction of the U.S. government (including land owned by non-Indians), (b) all dependent Indian communities within the borders of the U.S., and (c) all Indian allotments, the Indian title to which have not been extinguished. The term "reservation" applies not only to the territory traditionally known as reservations, but includes Tribal trust lands. Sources that are unsure if they are located in Indian country should consult with the appropriate EPA Regional office.
- ◆ Before EPA administers a Federal operating permits program in an area of Indian country, the regulated community will be notified of the program's effective date and its obligation to apply for permits. EPA will begin administering the permit program in Indian country no later than November 15, 1997. Sources subject to the program would have up to one year from that date in which to submit permit applications to the appropriate EPA Regional office.

- ◆ The Federal permitting rule is consistent with EPA's operating permits rule for State programs which sets minimum standards for these programs.
- ◆ When EPA approves a Tribal operating permits program, it will suspend the issuance of Federal operating permits for that area.

FOR FURTHER INFORMATION...

- ◆ Anyone with a computer and a modem can download the proposed revisions from the Clean Air Act Amendments Bulletin Board of EPA's electronic Technology Transfer Network (under "Recently Signed Rules") by calling (919) 541-5742. For further information about how to access the board, call (919) 541-5384. For further information about the proposed revisions, contact Candace Carraway of EPA's Office of Air Quality Planning and Standards at (919) 541-3189.