

02/08/99

FACT SHEET

REVISION TO REGULATIONS IMPLEMENTING THE FEDERAL OPERATING PERMITS PROGRAM IN INDIAN COUNTRY

TODAY'S ACTION . . .

- ◆ The Environmental Protection Agency (EPA) is revising its Federal operating permits regulation that was finalized in July 1996. EPA's revisions clarify the Agency's authority to issue operating permits to facilities located in "Indian country."
- ◆ 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, as long as the Indian title has not been extinguished. The term "reservation" applies not only to the territory traditionally known as reservations, but includes Tribal trust lands.
- ◆ EPA's existing Indian Policy recognizes that Tribal governments are primarily responsible for carrying out environmental programs within their jurisdictions. However, under this policy, EPA retains 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's revisions to the operating permits regulation allow the Agency to protect air quality in Indian country by administering an operating permits program in areas lacking an EPA-approved program. EPA will generally administer an operating permits program in Indian country until the Tribe assumes responsibility for the program.

BACKGROUND

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

- ◆ The requirement to obtain a Federal permit applies primarily to facilities located in Indian country that are “major” sources, solid waste incineration units, and certain sources subject to requirements under the acid rain program. Sources whose potential emissions exceed certain levels are considered "major."
- ◆ In areas lacking an EPA-approved program, EPA will generally administer the program until the Tribe can assume responsibility.
- ◆ 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.
- ◆ The effective date of the program will be 30 days following publication of today’s rule in the Federal Register. Sources subject to the program will have up to one year from that date in which to submit permit applications to the appropriate EPA Regional office.
- ◆ When EPA approves a Tribal operating permits program, it will suspend the issuance of Federal operating permits for that area.

WHO WILL BE AFFECTED BY THESE REVISIONS?

- ◆ Approximately 100 sources located in Indian country are likely to be affected by this regulation and will be required to submit permit applications. The majority of sources affected are expected to be within extractive industries such as timber and gas-related (e.g., natural gas compressor stations and power plants).

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

- ◆ EPA will administer permits programs to protect air quality on Tribal lands while working with Tribes to develop their own operating permits programs.
- ◆ EPA will provide technical support and assistance to Tribes that have not obtained approval of their operating permits programs to increase the Tribe’s expertise and capacity to administer permit programs.

FOR FURTHER INFORMATION . . .

- ◆ Interested parties can download the notice from EPA's web site on the Internet

under “recent actions” at the following address: <http://www.epa.gov/ttn/oarpg>. For further information about the revision, contact Candace Carraway of EPA's Office of Air Quality Planning and Standards at (919) 541-3189.

- ! EPA's Office of Air and Radiation's homepage on the Internet contains a wide range of information on air pollution programs and issues. The Office of Air and Radiation's home page address is: <http://www.epa.gov/oar>.