

December 9, 1999

MEMORANDUM

SUBJECT: The Term "Affected States" As It Concerns Local  
Authorities in the Context of Part 71

FROM: A. Scott Voorhees /s/  
Operating Permits Group (MD-12)

TO: Steve Branoff  
Region IX

In response to your question of providing notice to local authorities in the context of part 71 draft permit notices going to "affected States," the Federal Implementation Team considers part 71 in general to follow the precedent of part 70, where the policy has been to limit the term "affected States" to States. However, if the permitted source is located within the jurisdiction of a local air pollution control agency, then a notice would be required to be sent to that local authority (see item (3) in definition of Affected States in section 71.2.). In the interest of good government, we suggest giving local authorities a copy of these notices, even if the sources are not actually within their jurisdiction.

The definition of affected States in 71.2 specifically mentions Tribal areas which are to be considered to be affected States for the purposes of part 71, provided that a Tribe is an "eligible tribe" which means it has obtained "treatment as a state" status under the Tribal Authority Rule (TAR). Finally, section 71.8(d) requires the permitting authority to provide notice of each draft permit to any federally-recognized Indian Tribe whenever a reservation or Tribal area is within 50 miles of the permitted source, even if the Tribe has not come in for treatment as a state status under the TAR.

Feel free to contact me if you have further questions. I can be reached at (919) 541-5348.

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