Conservation and Recovery Act (42 U.S.C. 6901 et seq.) and under the Clean Water Act (33 U.S.C. 1251 et seq.), whether issued by the State, the U.S. **Environmental Protection Agency** (EPA), or the U.S. Army Corps of Engineers.

(e) Nothing in this part shall prevent a State from administering an operating permits program and establishing more stringent requirements not inconsistent

with the Act.

## §71.2 Definitions.

The following definitions apply to part 71. Except as specifically provided in this section, terms used in this part retain the meaning accorded them under the applicable requirements of the Act.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

Administrator or EPA means the Administrator of the U.S. Environmental Protection Agency (EPA) or his or her designee.

Affected source shall have the meaning given to it in 40 CFR 72.2.

Affected States are:

- (1) All States and Tribal areas whose air quality may be affected and that are contiguous to the State or Tribal area in which the permit, permit revision or permit renewal is being proposed; or that are within 50 miles of the permitted source. A Tribe and any associated Tribal area shall be treated as a State under this paragraph (1) only if EPA has determined that the Tribe is eligible to be treated in the same manner as a State.
- (2) The State or Tribal area in which a part 71 permit, permit revision, or permit renewal is being proposed.
- (3) Those areas within the jurisdiction of the air pollution control agency for the area in which a part 71 permit, permit revision, or permit renewal is being proposed.

(4) Except as provided in paragraph (3) of this definition, the term "affected State" does not include any local agency, district, or interstate program.

Affected unit shall have the meaning

given to it in 40 CFR 72.2.

Applicable requirement means all of the following as they apply to emissions units in a part 71 source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future compliance

(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in part 52 of this chapter;

(2) Any requirement enforceable by the Administrator and by citizens under the Act that limits emissions for the purposes of creating offset credits or for complying with or avoiding the applicability of applicable requirements;

(3) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act;

(4) Any standard or other requirement under section 111 of the Act, including section 111(d);

- (5) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;
- (6) Any standard or other requirement of the acid rain program under title IV of the Act or 40 CFR parts 72 through
- (7) Any requirements established pursuant to section 114(a)(3) or 504(b)
- (8) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
- (9) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
- (10) Any standard or other requirement for tank vessels, under section 183(f) of the Act:
- (11) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the
- (12) Any standard or other requirement of the regulations promulgated at 40 CFR part 82, subpart B and subpart F to protect stratospheric ozone under sections 608 or 609 of title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a permit issued under title V of the Act, and any standard or other requirement under any other section(s) of title VI of the Act that the Administrator determines should be contained in a permit issued under title V of the Act; and

(13) Any national ambient air quality standard or increment or visibility requirement under part C of title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

*Delegate agency* means the State air pollution control agency, local agency, other State agency, Tribal agency, or other agency authorized by the Administrator pursuant to § 71.10 to carry out all or part of a permit program under part 71.

Designated representative shall have the meaning given to it in 40 CFR 72.2.

Draft permit means the version of a permit for which the permitting authority offers public participation under § 71.7 or § 71.11 and affected State review under § 71.8.

Eligible Indian tribe or Eligible tribe means a tribe that has been determined by EPA to meet the criteria for being treated in the same manner as a State, pursuant to the regulations implementing section 301(d)(2) of the Act.1

Emissions allowable under the permit means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of title IV of the Act.

Federal Indian reservation, Indian reservation or reservation means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

Final action or final permit action means the issuance or denial of a part 71 permit, permit renewal, or permit revision by the permitting authority, which has completed all review procedures required by §§ 71.7, 71.8, and 71.11, and is subject to administrative appeal and judicial review

Fugitive emissions are those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

General permit means a part 71 permit that meets the requirements of § 71.6(d).

Indian tribe or tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Insignificant activity or emissions means those activities, operations, and

<sup>&</sup>lt;sup>1</sup> Proposed rule entitled "Indian Tribes: Air Quality Planning and Management", 59 FR 43956 (August 25, 1994).