

**§ 71.3 Sources subject to permitting requirements.**

(a) *Part 71 sources.* The following sources are subject to the permitting requirements under this part:

- (1) Any major source;
- (2) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act;
- (3) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;
- (4) Any affected source; and
- (5) Any source in a source category designated by the Administrator pursuant to this section.

(b) *Source category exemptions.* (1) All sources listed in paragraph (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act are exempted from the obligation to obtain a part 71 permit until such time as the Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources and the appropriateness of any permanent exemptions in addition to those provided for in paragraph (b)(4) of this section.

(2) In the case of nonmajor sources subject to a standard or other requirement under either section 111 or 112 of the Act after July 21, 1992 publication, the Administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain a part 70 or part 71 permit at the time that the new standard is promulgated.

(3) [Reserved]

(4) The following source categories are exempted from the obligation to obtain a part 71 permit:

- (i) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 60, subpart AAA—Standards of Performance for New Residential Wood Heaters; and
- (ii) All sources and source categories that would be required to obtain a per-

mit solely because they are subject to 40 CFR part 61, subpart M—National Emission Standard for Hazardous Air Pollutants for Asbestos, § 61.145, Standard for Demolition and Renovation.

(c) *Emissions units and part 71 sources.*

(1) For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source.

(2) For any nonmajor source subject to the part 71 program under paragraphs (a) or (b) of this section, the permitting authority shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the part 71 program.

(d) *Fugitive emissions.* Fugitive emissions from a part 71 source shall be included in the permit application and the part 71 permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(e) An owner or operator of a source may submit to the Administrator a written request for a determination of applicability under this section.

(1) *Request content.* The request shall be in writing and include identification of the source and relevant and appropriate facts about the source. The request shall meet the requirements of § 71.5(d).

(2) *Timing.* The request shall be submitted to the Administrator prior to the issuance (including renewal) of a permit under this part as a final agency action.

(3) *Submission.* All submittals under this section shall be made by the responsible official to the Regional Administrator for the Region in which the source is located.

(4) *Response.* The Administrator will issue a written response based upon the factual submittal meeting the requirements of paragraph (e)(1) of this section.

[61 FR 34228, July 1, 1996, as amended at 64 FR 8262, Feb. 19, 1999; 70 FR 75346, Dec. 19, 2005]