

DRAFT

Comment [CG1]: May want to add legal disclaimer to note that the actual regulations reign superior over this FAQ document.

FREQUENTLY ASKED QUESTIONS

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I. AR PERMIT SYSTEM OVERVIEW

A. PERMITTING UNDER THE ARKANSAS WATER AND AIR POLLUTION CONTROL ACT

The powers and duties of the Director of the Division of Environmental Quality are set forth in Ark. Code Ann. § 8-1-202. Within this section of the Arkansas Code, the Director of DEQ is tasked with “administration of permitting, licensing, certification, and grants programs deemed necessary to protect the environmental integrity of the state.”

Ark. Code Ann. §§ 8-4-101 et seq. and §§ 8-4-201 et seq., which apply to water regulations, are incorporated by reference in Subchapter 3 of the Arkansas Air and Water Pollution Control Act. As a result, the following statutes apply to the air permitting program:

- Ark. Code Ann. § 8-4-203. Permits Generally—Definitions
- Ark. Code Ann. § 8-4-204. Permits—Revocation
- Ark. Code Ann. § 8-4-204. Permits—Revocation
- Ark. Code Ann. § 8-4-205. Permit Hearings

Regulations promulgated by the Arkansas Pollution Control and Ecology Commission determine how those duties are specifically implemented.

B. ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION REGULATIONS

The Arkansas Pollution Control and Ecology Commission (“Commission”) retains the authority to promulgate regulations in the State of Arkansas. The Commission is a separate and distinct legal entity from the Division of Environmental Quality. Arkansas air regulations are comprised of four regulations:

- Regulation 18: Arkansas Air Pollution Control Code
- Regulation 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control
- Regulation 16: Regulations of the Arkansas Operating Air Permit Program
- Regulation 31: Nonattainment new Source Review Requirements

In addition to the four primary air regulations, air permitting is also impacted by the following Regulations:

- Regulation 8: Administrative Procedures
- Regulation 9: Fee Regulation

1. REGULATION 18: ARKANSAS AIR POLLUTION CONTROL CODE

As stated in APC&EC Reg. 18.102, Regulation 18 “consists of those rules and regulations deemed necessary and desirable by the Commission for control or air pollution pursuant to rulemaking mandates under State law.” Regulation 18 was promulgated with the intent to “preclude federal enforceability,”¹ which means that it was not intended to be incorporated by reference into Code of Federal Regulations to meet any Clean Air Act requirement. Instead, Regulation 18 was intended to remain a stand-alone and independent permitting system and set of requirements from those set forth in Regulations 19, 26, and 31 to meet certain Clean Air Act requirements.

DEQ does not consider requirements derived solely from APC&EC Regulation 18 to be federally enforceable regardless of whether those requirements are contained in Title V Operating Permits.

Facilities whose actual emissions are below the minor source thresholds in Regulation 19 may still require a Registration if the source's emissions exceed the registration thresholds in Reg. 18.315.

Comment [AB2]: May want to add a paragraph to clarify a Minor Source Reg. 18 permit category per Reg. 18.301(B)(2)

2. REGULATION 19: REGULATIONS OF THE ARKANSAS PLAN OF IMPLEMENTATION FOR AIR POLLUTION CONTROL

Regulation 19 contains chapters that are intended to meet a variety of federal requirements including the certain permitting requirements.

- Chapter 4: Minor Source Review contains thresholds in APC&EC 19.401 above which stationary sources are required to obtain permits.
- Chapter 9: Prevention of Significant Deterioration contains the EPA-approved process for issuance of a new major source or a major modification of an existing source which is major for purposes of PSD. The

¹

relevant PSD provisions are incorporated by reference in APC&EC Reg. 19.904 Adoption of Regulations.

- Chapter 11: Major Source Permitting Procedures requires that “[f]acilities subject to Arkansas Pollution Control and Ecology Commission’s Regulation 26, Regulations of the Arkansas Operating Air Permit Program, (Regulation 26) shall be required to have their permit applications processed in accordance with the procedures contain in Regulation 26 which are hereby incorporated by reference.”

3. REGULATION 26: REGULATIONS OF THE ARKANSAS AIR OPERATING PERMIT PROGRAM

Arkansas has an approved Title V Operating Permit Program under 40 CFR part 70. These provisions are set forth in Regulation 26.

4. REGULATIONS 8, 9, AND THE ARKANSAS CODE

Regulation 8 contains administrative procedures including procedures in Chapter 2 that apply to permits issued by DEQ generally. These requirements apply to air permitting that DEQ is required to comply with any other applicable public notice requirements.

Regulations 9 contains the regulation setting permit fees. Chapter 5 contains Air Permit Fees

C. ONE VS TWO PERMIT SYSTEM

1. PRE- CONSTRUCTION PERMITS VS. OPERATING PERMITS: WHAT ARE THE DIFFERENT PROCESSES AND HOW DO THEY WORK IF ONLY ONE PERMIT IS ISSUED?

Many states issue two separate and distinct types of permits when a new facilitate is to be permitted. First, a pre-construction permit is issued containing solely Title I requirements. This allows a facility to begin construction. Then a separate process is set forth to issue a Title V Operating Permit. This is not the case in Arkansas.

Arkansas is frequently referred to as having a “one permit system” because DEQ only issues a single air permit that covers both construction and operation. This means that a Title V Operating Permit issued under APC&EC Regulation 26

includes Title I requirements, Title V requirements, as well as state-only requirements derived from APC&EC Reg. 18.

APC&EC Reg. 19.103 states that "Regulation 19 . . . presumes a single permit system, encompassing both federal and state requirements. A regulated facility which is subject to permitting under Regulation 19 shall be required to apply for and comply with one permit, even though that permit may contain conditions derived from the federal mandates contained in Regulation 19, as well as conditions predicated solely on state law."

2. WHICH PARTS OF A PERMIT ARE TITLE V-DERIVED REQUIREMENTS AND WHICH PARTS ARE CONSTRUCTION-PERMIT-BASED?

As previously discussed, Arkansas has a one permit system, which contains Title V derived requirements as well as state-only requirements. Generally, Title V-derived requirements include monitoring, recordkeeping, and recording requirements. A citation is listed adjacent to each specific condition.

D. STATE IMPLEMENTATION PLANS

State Implementation plans are plans that are submitted to EPA to meet the requirements of certain EPA programs including Regional Haze and requirements under section 110 of the Clean Air Act that pertain to National Ambient Air Quality Standards. If those plans contain enforceable requirements, then those requirements are incorporated by reference into the Code of Federal Regulations. As a result of this incorporation by reference, these state regulations, orders, or other enforceable mechanisms are federally-enforceable. Much of the air permitting program is incorporated by reference in this manner. The Arkansas State Implementation Plan is contained 40 C.F.R. § 52.170.

E. RELATION TO FEDERAL RULES

1. DELEGATED, APPROVED, IMPLEMENTED AS AN "APPLICABLE REQUIREMENT"

The Clean Air Act provides for various methods for states to implement programs including approval of state rules that implement programs or delegation of primary authority to implement and enforce federal laws pertaining to a program.

2. PART 70 (TITLE V OPERATING PERMIT PROGRAM)

a. ARKANSAS "APPROVED" PROGRAM

Arkansas has an "approved" Title V Operating Permit Program.² This program is contained in APC&EC Reg. 26. This program was granted full approval, which became effective on December 10, 2001.³ These approvals are reflected in Appendix A to 40 CFR Part 70.

b. IS THERE AN "APPROVAL" LETTER OR INFORMATION?

EPA's approval of the Arkansas Title V Operating Permit Program occurred in a series of rulemaking actions that were published in the federal register.⁴

3. PREVENTION OF SIGNIFICANT DETERIORATION (PSD)

c. WHAT IS INCLUDED IN THE ARKANSAS PSD RULES?

Arkansas PSD Rules are incorporated by reference in Chapter 9 of APC&EC Regulation 19.

d. HOW DO ARKANSAS PSD RULES DIFFER FROM 40 CFR 52.21?

Chapter 9 of APC&EC Regulation 19 does not incorporate 40 CFR 52.21 by reference in its entirety. Please see that Chapter to determine which sections apply in Arkansas.

4. NEW SOURCE PERFORMANCE STANDARDS (NSPS) AND NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP)

e. DELEGATION MEMOS

² Clean Air Act Final Interim Approval of Operating Permits Program; the State of Arkansas, 60 FR 46771-01;

³ Clean Air Act (CAA) Full Approval of Operating Permits Program and Approval and Promulgation of Implementation Plans; State of Arkansas; New Source Review (NSR), 66 FR 51312-01.

⁴ Clean Air Act Final Interim Approval of Operating Permits Program; the State of Arkansas, 60 FR 46771-01; Clean Air Act (CAA) Full Approval of Operating Permits Program and Approval and Promulgation of Implementation Plans; State of Arkansas; New Source Review (NSR), 66 FR 51312-01.

f. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR
POLLUTANTS FOR SOURCE CATEGORIES UNDER 40 CFR PART
63 (NESHAP)

In 2014, DEQ entered into a Memorandum of Agreement with EPA Region 6 regarding the Implementation an agreement for enforcement of standards delegated under section 112 of the Clean Air Act. Under this agreement, DEQ has the ability to implement and enforce the delegated Part 63 standards upon incorporation into a source's Title V permit. DEQ accepts delegation of new Part 63 standards unless DEQ notifies Region 6 that it does not intend to implement and enforce a standard. 40 C.F.R. § 63.99(a)(4)(i) lists the specific Part 63 standards that have been delegated unchanged to DEQ.

Comment [MW3]: Note: add table as an appendix

Comment [AB4]: May want to add a link to the table of delegated rules may reduce the document volume and be user friendly.

The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, determinations, and the Memorandum of Agreement, dated September 17, 2014, entered into between the DEQ and the U.S. Environmental Protection Agency, Region 6 regarding section 112, Clean Air Act Implementation. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. DEQ's authority to implement and enforce a delegated Part 63 standard is effective when the standard is incorporated into the source's Title V (Part 70) Operating Permit.

DEQ has neither requested delegation of the accidental release program under CAA section 112(r), nor Part 63 standards applicable to area sources not required to obtain a Title V permit.

g. ONCE IN ALWAYS IN

Generally, DEQ administers its delegated NESHAP subparts in a manner consistent with EPA's memorandum, entitled "Guidance for Reclassification of Major Sources as Area Sources under Section 112 of the Clean Air Act" dated January 25, 2018.ⁱ Under this guidance, sources of hazardous air pollutants previously classified as "major sources" may be reclassified as "area sources" at any time, provided the facility limits its potential to emit below major source thresholds.

h. NEW SOURCE PERFORMANCE STANDARDS

On September 14, 1981, DEQ received delegation of authority for implementation and enforcement of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants (except demolition and renovation of buildings containing asbestos) to DEQ. On March 25, 1982, EPA Region 6 granted delegated authority for enforcing all future NSPS and NESHAP standards promulgated by EPA without make a formal request to EPA.

Comment [MW5]: cite to letter

5. PROGRAMS THAT DEQ IS NOT DELEGATED

DEQ is not delegated the following programs:

- accidental release program under CAA section 112(r)
- Part 63 standards applicable to area sources not required to obtain a Title V permit.
- New Source Performance Standards for New Residential Woodheaters, Subpart AAA

This list may not be comprehensive. Please contact the Office of Air Quality for more information.

6. ACTIVITIES THAT THE OFFICE OF AIR QUALITY DOES NOT PERMIT, BUT THAT ARE NEVERTHELESS REGULATED

The following are programs that DEQ does *not* implement or permit, but that have requirements that may be relevant to facilities:

- Clean Air Act Section 112(r): Accidental Release Prevention/Risk Management Plan Rule
- Most mobile source requirements
- Vehicle emission standards, catalytic converter removals
- Indoor Air Pollutants (such as mold, radon, lead paint, etc.)/Indoor Air Quality
- OSHA/Occupational health requirements
- Freon-associated certification programs
- Sewer vents on homes
- Trees/landscaping issues
- Radiation
- Medical waste/Prescription take-back programs

Open burning is regulated by DEQ, but open burning is not permitted. Please contact the DEQ Office of Air Quality Compliance Branch for specific questions about open burning.

7. DOES DEQ ADMINISTER THE CLEAN AIR ACT 112(R): ACCIDENTAL RELEASE PREVENTION; RISK MANAGEMENT PLAN RULE?

No, EPA administers the accidental release prevention requirements: risk management program requirements under Clean Air Act section 111(r).

Section 112(r) of the Clean Air Act Amendments requires EPA to publish regulations and guidance for chemical accident prevention at facilities that use certain hazardous substances. These regulations and guidance are contained in the Risk Management Plan (RMP) rule. The RMP rule requires facilities that use extremely hazardous substances to develop a Risk Management Plan which:

- identifies the potential effects of a chemical accident,
- identifies steps the facility is taking to prevent an accident, and
- spells out emergency response procedures should an accident occur.

These plans provide valuable information to local fire, police, and emergency response personnel to prepare for and respond to chemical emergencies in their community. Making RMPs available to the public also fosters communication and awareness to improve accident prevention and emergency response practices at the local level.

- A link the federal register notice of the federal rule can be found here: <https://www.govinfo.gov/content/pkg/FR-2004-04-09/pdf/04-7777.pdf>
- A link to the fact sheet about the rule can be found here: https://www.epa.gov/sites/production/files/2013-10/documents/caa112_rmp_factsheet.pdf

8. OZONE-DEPLETING SUBSTANCES

DEQ does not regulate ozone-depleting substances.

In the United States, ozone-depleting substances (ODS) are being phased out and are regulated as class I or class II controlled substances.

- Class I substances have a higher ozone depletion potential and have been completely phased out in the U.S.; with a few exceptions, this means no one can produce or import class I substances.
- Class II substances are all hydrochlorofluorocarbons (HCFCs), which are transitional substitutes for many class I substances. New production and import of most HCFCs will be phased out by 2020. The most common HCFC in use today is HCFC-22 or R-22, a refrigerant still used in existing air conditioners and refrigeration equipment.

Please contact EPA for more information.

F. OTHER CLEAN AIR ACT PROGRAMS IN ARKANSAS

1. REGIONAL HAZE

In 1977, Congress added § 169 to the Clean Air Act (CAA), which set forth the following goal for restoring pristine conditions in national parks and wilderness areas:

Congress hereby declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from man-made air pollution.

In 1999, EPA promulgated the "Regional Haze Regulations: Final Rule" (also referred to as the Regional Haze Rule) to address the combined visibility effects of various pollution sources over a wide geographic region with the goal of achieving natural visibility conditions at designated Class I areas by 2064. This program requires all states, including those that do not have Class I areas to participate in planning, analysis, and emission control programs to comply with the Regional Haze Rule. States with Class I areas are required to conduct certain analyses to establish goals for each Class I area in the state to improve visibility on the haziest days and ensure no degradation occurs on the clearest days.

These goals and long-term strategies to achieve these goals are to be included in state implementation plans (SIPs) covering each ten-year period leading up to 2064. Amendments to the Regional Haze Rule were finalized in 2005 and 2017.

The Arkansas Regional Haze State Implementation Plan is contained in 40 C.F.R. § 52.173.

The following are EPA actions in the federal register pertaining to regional haze:

- 77 FR 14676, March 12, 2012
- 81 FR 66415, Sept. 27, 2016
- 81 FR 68319, Oct. 4, 2016
- 82 FR 18994, 18995, April 25, 2017
- 83 FR 5917, Feb. 12, 2018
- 83 FR 5940, Feb. 12, 2018
- 84 FR 44228, Aug. 23, 2019
- 84 FR 51054, Sept. 27, 2019
- 84 FR 51059, Sept. 27, 2019

2. NONATTAINMENT AREAS AND NONATTAINMENT NEW SOURCE REVIEW

EPA has an ongoing obligation to designate the attainment status of areas, which are called air quality control regions.⁵ This status is based on whether or not a particular area is meeting the National Ambient Air Quality Standards (NAAQS). An area may be classified as one of three designations:

- Attainment – meet the standard;
- Nonattainment – does not meet the standard; or
- Unclassifiable – cannot be classified on the basis of available information at meeting or not meeting the standard

A number of additional State Implement Plan elements are required for nonattainment areas. The general non-attainment provisions include requirements for lowest achievable emissions rate (LAER) and reasonably available control technology (RACT) standards on new and existing sources, respectively. States must also include requirements to demonstrate “reasonable further progress” toward meeting the NAAQS.

The ozone standard has the following classifications of severity

- Marginal
- Moderate
- Serious
- Severe 1
- Severe 2
- Extreme

⁵ 42 U.S.C.A. § 7407

The PM and CO NAAQS have only the moderate and serious classification.

Arkansas is currently in attainment for all NAAQS across the state. As a result, there are no nonattainment areas in Arkansas.

APC&EC Reg. 31 contains the nonattainment New Source Review requirements for Arkansas. In addition APC&EC Reg. 19, Chapter 13 contains Stage I Vapor Recovery requirements for areas that have been designated nonattainment.

3. ACID RAIN TRADING PROGRAM

Acid rain results when sulfur dioxide (SO₂) and nitrogen oxides (NO_x) are emitted into the atmosphere and transported by wind and air currents. The SO₂ and NO_x react with water, oxygen and other chemicals to form sulfuric and nitric acids. These then mix with water and other materials before falling to the ground. Acid rain causes acidification of lakes and streams and contributes to damage of trees and sensitive forest soils.

Title IV of the 1990 Clean Air Act Amendments established the Acid Rain program, which requires emissions reduction of sulfur dioxide and nitrogen oxides from power plants. The Acid Rain program created a cap and trade program in which affected facilities may trade allowances within a total cap of 8.95 million tons of SO₂ set for all electricity generating units within the contiguous United States.

In Arkansas, APC&EC Reg. 26, Chapter 12 incorporates by reference 40 CFR Part 72 and 76 (including the provisions of 40 CFR Parts 73, 74, 75, 77, and 78 referenced therein) as they were in effect on October 15, 1999.

4. THE CROSS-STATE AIR POLLUTION RULE OR CSAPR

The Cross-State Air Pollution Rule (CSAPR) is a federal implementation plan promulgated to address air pollution from upwind states that crosses state lines and affects air quality in downwind states. Sulfur dioxide (SO₂) and oxides of nitrogen (NO_x) emissions react in the atmosphere and contribute to the formation of fine particle (soot) pollution. NO_x also contributes to ground-level ozone (smog) formation. These emissions and the soot and smog they form can affect air quality and public health locally, regionally, and in states hundreds of miles downwind.

The CSAPR as finalized in 2011 address interstate transport obligations for affected states for the 2006 24-hour fine particulate NAAQS, the 1997 annual fine particulate NAAQS, and the 1997 8-hour ozone NAAQS. CSAPR replaced EPA's 2005 Clean Air Interstate Rule (CAIR), following the direction of a 2008 court decision that required EPA to issue a replacement regulation. CSAPR implementation began on January 1, 2015.

On September 7, 2016, the EPA revised the CSAPR ozone season NO_x program by finalizing an update to CSAPR for the 2008 ozone National Ambient Air Quality Standards, known as the CSAPR Update.

Arkansas is subject to CSAPR and the CSAPR Update Rule for NO_x during the ozone season.⁶

5. ASBESTOS

EPA delegated authority to DEQ to implement and enforce the part of the NESHAP for the demolition and renovation of building containing asbestos to DEQ. In addition, the Arkansas Pollution Control and Ecology Commission promulgated APC&EC Reg. 21, the Arkansas Asbestos Abatement Regulation, which is applicable to all owners and operators conducting a demolition or renovation activity; persons conducting inspections, air monitoring, developing management plans, and designing and/or conducting response; persons responsible for the management and disposal of asbestos-containing waste materials; and training providers.

APC&EC Reg. 21 also incorporates certain federal regulations by reference.

6. LEAD

The primary and secondary National Ambient Air Quality Standards for lead are 0.15 micrograms per cubic meter Pb in total suspended particles as a 3-month average. On September 16, 2016, based on its review of the air quality criteria for lead (Pb), the Environmental Protection Agency issued a decision to retain the existing 2008 standards without revision. Arkansas is in attainment for the lead National Ambient Air Quality Standards.

⁶ Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208-01; Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 80 FR 75706-01.

7. OTHER AIR RELATED ISSUES

i. MOLD

The Arkansas Department of Health (ADH) has administers the State's mold program. The Arkansas Department of Health identifies and quantifies exposures to environmental contaminants; conducts risk assessments and risk communication; provides surveillance for adverse health effects; and provides health-based guidance on levels of exposure to such contaminants.

j. INDOOR AIR QUALITY

DEQ does not regulate indoor air quality. The Arkansas Department of Health can provide more information on issues affecting indoor air quality in the State of Arkansas.

k. RADON

DEQ does not regulate indoor air quality. The Arkansas Department of Health (ADH) can provide information on the Radon, which affects indoor air quality.

Radon is a radioactive gas that is odorless, colorless, and tasteless. It occurs in nature and is one environmental hazard that is not man-caused. Radon comes from the natural breakdown (radioactive decay) of uranium, which can be found in nearly all soils and rocks. Because radon is a gas, it moves through the ground and seeps into a home through cracks and/or other openings in the floor and foundation. In outdoor air, radon is diluted to such low concentrations that it is usually nothing to worry about. However, once inside an enclosed space (such as a home) radon can accumulate. Indoor levels depend on many factors including how the building is constructed, the severity of the stack effect created by indoor-outdoor temperatures differences, and the concentration of radon in the underlying soil, among others. The amount of radon in the air is normally measured in "picocuries per liter of air" or "pCi/L."

II. ARKANSAS-ADMINISTERED PROGRAMS

A. WHAT TYPE OF AIR POLLUTION IS REGULATED?

DEQ has the authority to regulate a broad range of compounds although the specific compounds that are regulated differ based on the specific regulation.

For example, APC&EC Reg. 18 relies on the definition of “air contaminant,” which “means any solid, liquid, gas, or vapor or any combination thereof. The following shall not be considered air contaminants: water vapor, oxygen, carbon dioxide, nitrogen, hydrogen, and inert gases.” However, APC&EC Reg. 19 relies on the definition of “federally regulated air pollutant,” which includes “any pollutant for which a National Ambient Air Quality Standard has been promulgated.” In contrast to APC&EC Reg. 18, APC&EC Reg. 19 would allow the regulation of carbon dioxide because carbon dioxide is a pollutant for which a National Ambient Air Quality Standard has been promulgated.”

Generally, DEQ regulates the following compounds:

- 187 or so hazardous air pollutants (HAPs) as defined by EPA;
- The six criteria pollutants, as required by the Clean Air Act: particulate matter, carbon monoxide, sulfur dioxide, nitrogen dioxide, ozone and lead;
Volatile organic compounds (VOCs);
Greenhouse gasses (GHG) for sources that are major for other pollutants under the Prevention of Significant Deterioration (PSD) program; and
- Hydrogen sulfide
- Other contaminants that can cause air pollution.
 - Acetone
 - Ammonia

Hydrogen sulfide has an ambient air quality standard set by statute. Ark. Code Ann. § 8-3-101—103. Ark. Code Ann. § 8-3-103 prohibits emissions from any facility in predicted ambient concentrations beyond the fence line of greater than 80 ppb for any eight hour averaging period for residential areas and of greater than 100 ppb for any eight-hour averaging period for nonresidential areas. In addition, the statute prohibits emissions from a facility that would result in actual ambient hydrogen sulfide concentrations at any place beyond the facility's perimeter property boundary greater than twenty parts per million (20 ppm) for any five-minute averaging period.

G. WHAT IS A VOLATILE ORGANIC COMPOUND (VOC), AND IS THERE A LIST OF VOCs?

A Volatile Organic Compound (VOC) is a compound that contains carbon and participates in atmospheric photochemical reactions. If the compound contains carbon and is emitted into the air, it is by default considered a VOC unless it is on the exception list found in the definition in [Regulation 19](#). A VOC can be almost any solvent, such as gasoline, paint thinners, non-water based coatings, cleaners, etc. There isn't a comprehensive list of VOCs.

The following are tips for determine whether a compound is a VOC:

- It is inaccurate to use vapor pressure alone as a means to determine if a compound is a VOC.
- It is safest to assume all compounds with carbon are VOCs, unless included in the exceptions list. There are EPA-approved test methods that can be done on compounds to determine VOC content.
- Some Safety Data Sheets (SDS) will list "volatiles" but be aware that these may include water or omit some compounds. Also, SDS provide only ranges of content. Technical bulletins with detailed VOC content are sometimes available from the supplier/manufacturer of the compound.
- How to determine if something is a VOC? If it contains carbon and you are in doubt, ask the product distributor or DEQ.

EPA defines a VOC as follows in 40 CFR § 51.100(s):

Volatile organic compounds (VOC) means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-

Comment [AB6]: This can go to a Version 2 comment but may want to add some example how to translate VOC content info from SDS. For example: VOC = [volatile compound of carbon] – [exempt compounds] or If VOC weight percent is not available, estimate VOC content by the difference of the total and solids weight percent. Etc...

Comment [AB7]: This can go to a Version 2 comment but may want to add a definition for "exempt solvent" as well. An exempt solvent is a compound of carbon which is not photochemically reactive. Example Acetone

Comment [AB8]: DEQ may want to consolidate a list with name and CAS number. Also insert a link to the table may reduce the document volume and become more user friendly.

trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTf); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$ or HFE-7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$ or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane ($n-C_3F_7OCH_3$, HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane (HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); methyl formate ($HCOOCH_3$); 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300); propylene carbonate; dimethyl carbonate; trans-1,3,3,3-tetrafluoropropene; HCF_2OCF_2H (HFE-134); $HCF_2OCF_2OCF_2H$ (HFE-236cal2); $HCF_2OCF_2CF_2OCF_2H$ (HFE-338pcc13); $HCF_2OCF_2OCF_2CF_2OCF_2H$ (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)); trans 1-chloro-3,3,3-trifluoroprop-1-ene; 2,3,3,3-tetrafluoropropene; 2-amino-2-methyl-1-propanol; t-butyl acetate; 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane; cis-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz-Z); and perfluorocarbon compounds which fall into these classes:

- (i) Cyclic, branched, or linear, completely fluorinated alkanes;
- (ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

- (iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

C. WHAT IS A HAZARDOUS AIR POLLUTANT (HAP)?

Hazardous air pollutants, or HAPs, are pollutants known to cause cancer and other serious health impacts. These HAPs are also called toxic air pollutants or air toxics. A HAP is a hazardous air pollutant as identified under § 112 of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. 40 CFR 61.01 provides a list of hazardous air pollutants.

The following are tips for identifying HAPs:

- For specific compounds, you may find it helpful to identify whether a compound is a HAP using the Chemical Abstracts Service (CAS) Registry Number. Chemicals can have several different names even though they are the same. A link to an explanation of the Chemical Abstracts Service Registry can be found here:
<https://www.cas.org/support/documentation/chemical-substances>
- How the 10 tons per year threshold applies to an aggregate entire group of HAPs?

Where a facility emits or has the potential to emit more than one chemical or substance in an aggregate group of HAPs, the issue has arisen as to whether the 10 tons per year threshold applies to each chemical or substance separately, or to the entire aggregate group of HAPs. EPA has helpful guidance that may be helpful in determining how to apply the major source threshold of HAPs here:
<https://www.epa.gov/sites/production/files/2015-08/documents/agghaps.pdf>

- How the 10 tons per year threshold applies to POM?

Polycyclic organic matter (POM) – POM is a broad class of compounds that is formed primarily from combustion, and is present in the air in particulate form.

The major source threshold for the aggregate groups of is HAPs 10 tons per year of any combination of the HAPs included in the listing, considered in aggregate. One common issue is how to correctly aggregate POM and accurately compare to the major source thresholds. The following is a hypothetical taken from the EPA guidance document referenced above.⁷

For example, Facility A measured their HAPs using a volatile organic sampling train. While none of the individual HAP compounds exceed 10 tons per year, the aggregate POM emission rate is 13 tons per year. Facility A would be considered a major source of HAPs because it emits or has the potential to emit more than 10 tons per year of HAP within a single aggregate group of HAPs.

Facility A

- Benzo(a)pyrene emissions 6 tons per year
- Chrysene emissions 3 tons per year
- Fluoranthene emissions 4 tons per year

Total 13 tons per year of POM emissions

There have been issues regarding the determination of major source status for sources that emit POM and which separately listed HAPs are considered POM.

EPA published guidance, entitled "Locating and Estimating Air Emissions From Sources of Polycyclic Organic Matter" in September 1999, that discusses what kinds of POM can be measured and are likely to be emitted. The following compounds are the POM listed in the guidance:

Naphthalene; Acenaphthene; Acenaphthylene; Fluorene; Phenanthrene; Anthracene; Fluoranthene; Pyrene Benzo(ghi)perylene; Benz(a)anthracene; Chrysene; Benzo(b)fluoranthene; Benzo(k)fluoranthene; Benzo(a)pyrene; Dibenzo(a,h)anthracene; Indeno(1,2,3-cd)pyrene

However, there are also other compounds, besides those listed above, in the section 112(b) HAP list that are considered POM. These other POM (including those listed directly below) meet the criteria listed in footnote 4 of section 112(b), concerning "organic compounds with more than one benzene ring, and

⁷ Guidance on the Major Source Determination for Certain Hazardous Air Pollutants (August 14, 2000); <https://www.epa.gov/sites/production/files/2015-08/documents/agghaps.pdf>

which have a boiling point greater than or equal to 100E C." Further, many of the additional POM, listed below, can be measured using Method 8270C.

2-Acetylaminofluorene; Carbaryl; Dibenzofuran; 3,3'-Dimethylbenzidine; 3,3-Dimethoxybenzidine; 4-Aminobiphenyl; Benzidine; Biphenyl; Dibenzofurans; Chlorobenzilate; DDE; 3,3-Dichlorobenzidine Quinoline; 4,4-Methylene bis(2 Chloroaniline); Methylene Diphenyl Diisocyanate; 4-Nitrobiphenyl; 2,3,7,8-Tetrachlorodibenzo-p-dioxin

Both of the groups listed above are POM and all compounds meeting the definition in footnote 4 are to be considered in aggregate when determining major source applicability

Comment [AB9]: DEQ may want to consolidate a list with name and CAS number. Also insert a link to the table may reduce the document volume and become more user friendly.

1. WHAT ABOUT GLYCOL ETHERS?

On August 2, 2000, EPA redefined the Glycol Ethers category. As described in the Federal Register notice, "this action deletes each individual compound in a group called the surfactant alcohol ethoxylates and their derivatives (SAED) from the glycol ethers category in the list of hazardous air pollutants (HAP)."⁸

On November 29, 2004, EPA amended "the list of hazardous air pollutants (HAP) contained in section 112(b)(1) of the Clean Air Act by removing the compound ethylene glycol monobutyl ether (EGBE) (2-Butoxyethanol) (Chemical Abstract Service (CAS) No. 111-76-2) from the group of glycol ethers" as described in the Federal Register.⁹

The North Carolina Department of Environmental Quality contains a searchable Glycol Ethers Database: <https://deq.nc.gov/about/divisions/air-quality/air-quality-data/glycol-ethers>

While this database is not comprehensive, it may be helpful in determine whether a compound is included in the glycol ethers category.

D. HOW ARE GREENHOUSE GASES REGULATED?

⁸ 69 FR 69320

⁹ [FRL-7841-8](#)

On April 2, 2007, in *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court found that greenhouse gases are air pollutants covered by the Clean Air Act. On December 7, 2009, EPA issued an endangerment finding regarding greenhouse gases under section 202(a) of the Clean Air Act. Specifically, the Administrator of EPA found that the current and projected concentrations of the six key well-mixed greenhouse gases—carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)—in the atmosphere threaten the public health and welfare of current and future generations.

2. EMISSIONS GUIDELINES FOR EXISTING SOURCES UNDER SECTION 111(D) OF THE CLEAN AIR ACT

On July 8, 2019, EPA promulgated Emission Guidelines for Greenhouse Gas Emissions from Existing Electricity Generating Units. A copy of the federal register notice can be found here: <https://www.govinfo.gov/content/pkg/FR-2019-07-08/pdf/2019-13507.pdf>

3. NEW SOURCE PERFORMANCE STANDARDS

Effective October 23, 2015, EPA promulgated a New Source Performance Standard for Electricity Generating Units that covers the emissions of greenhouse gases from new, modified, or reconstructed sources of greenhouse gas emissions. 40 C.F.R. § 60.5509 contains more information on facilities subject to that standard.

On December 6, 2018, EPA proposed to revise the New Source Performance Standards (NSPS) for greenhouse gas emissions from new, modified, and reconstructed fossil fuel-fired power plants. After further analysis and review, EPA proposes to determine that the best system of emission reduction (BSER) for newly constructed coal-fired units, is the most efficient demonstrated steam cycle in combination with the best operating practices. This proposed BSER would replace the determination from the 2015 rule, which identified the BSER as partial carbon capture and storage. The federal register notice for that proposal can be found here:

<https://www.federalregister.gov/documents/2018/12/20/2018-27052/review-of-standards-of-performance-for-greenhouse-gas-emissions-from-new-modified-and-reconstructed>

4. GHGs UNDER THE PREVENTION OF SIGNIFICANT DETERIORATION PROGRAM AND THE GHG TAILORING RULE

On June 3, 2010, EPA promulgated the “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule,” or simply the “Tailoring Rule.” The Tailoring Rule phased in the GHG PSD and title V permitting requirements and set GHG emissions thresholds that define when permits under these permitting programs were required based on the level of GHG emissions from a new or modified source.

- Step 1 (January 2, 2011 to June 30, 2011) only applied to sources that were already required to obtain a PSD or title V permit (i.e., “anyway sources”).
- Step 2 (on or after July 1, 2011) extended the PSD and title V requirements to sources that only emitted GHGs if those emissions exceeded certain levels. (*Invalidated by Utility Air Regulatory Group v. EPA*)
- Step 3 (issued on June 29, 2012) retained the permitting thresholds that were established in Steps 1 and 2 and improved the usefulness of plantwide applicability limitations (PALs) by, among other things, allowing GHG PALs to be established on a carbon dioxide equivalent (CO₂e) basis. In general, a PAL is a facility-wide permit limit or cap for a regulated NSR pollutant.
- Step 4 would have required EPA to study and consider further phasing-in the GHG permitting requirements at lower GHG emission thresholds.

The D.C. Circuit Court ordered that: (1) The regulations under review be vacated to the extent they require a stationary source to obtain a PSD or title V permit solely because the source emits or has the potential to emit GHG above the applicable thresholds and (2) that the EPA consider whether any further revisions to its regulations are appropriate and, if so, that it undertake to make such revisions.

Currently, sources may be subject to PSD requirements for GHGs such as Best Available Control Technology requirements, but if and only if the source emits another non-GHG pollutant above the PSD major source emission thresholds. These sources are sometimes called “Anyway sources,” because they would be subject to PSD review regardless of their GHG emissions.

On October 3, 2016, EPA proposed a rule to remove or revise certain regulatory provisions from the PSD and Title V regulations to conform those regulations to the D.C. Circuit's decision and to establish a 75,000 TPY CO₂e Significant Emission Rate for GHGs. The proposed rule has not yet been finalized.

H. HOW IS PARTICULATE MATTER REGULATED?

1. PM_{2.5} AND PM₁₀ NAAQS

Particulate Matter is a generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids). PM may be emitted from a variety of sources or formed in the atmosphere through chemical reactions. Those formed in the atmosphere are sometime called "secondary particulates."

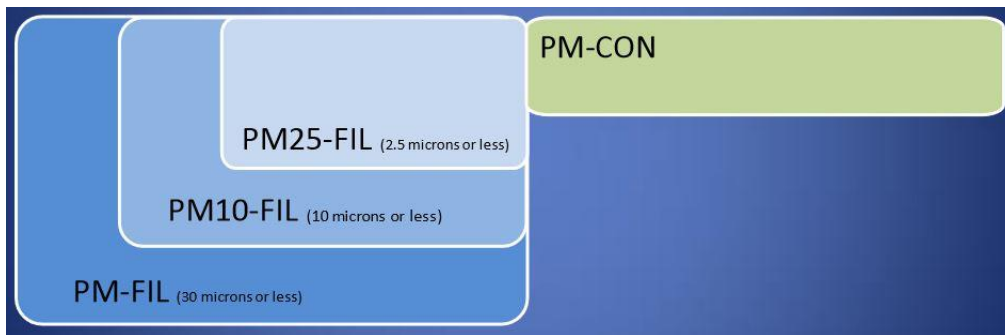
In establishing, the PM NAAQS, EPA specifies the size of the PM, the averaging times and forms of the standards, and the numerical level of the standards.

Pollutant	Type	Standard	Averaging Time	Form	Regulatory Citation
Particulate matter (PM₁₀)	Primary and Secondary	150 µg/m ³	24-hour	Not to be exceeded more than once per year on average over 3 years	40 C.F.R. 50.6a
Fine particulate matter (PM_{2.5})	Primary	12 µg/m ³	annual	Annual mean, averaged over 3 years	40 C.F.R. 50.18a
	Secondary	15 µg/m ³	annual	Annual mean, averaged over 3 years	40 C.F.R. 50.7a
	Primary and Secondary	35 µg/m ³	24-hour	98th percentile, averaged over 3 years	40 C.F.R. 50.18a

2. TYPES OF PARTICULATE MATTER

- Filterable (FIL) – filterable particles include any particulate matter that may be physically captured on a filter during sampling.
- Condensable (CON) – The matter in the gas phase, which condenses to sub-micron particles after cooling.
- Primary (PRI) – Primary particles emitted into the air from a source. This includes filterable and condensable components.
- All condensable PM is smaller than 2.5 microns in diameter. So PM-CON represents condensable matter for PM, PM10, and PM2.5

Here is an illustration of the size relationship between the different types of PM:



3. WHAT TYPES OF PM SHOULD BE REPORTED TO THE EMISSIONS INVENTORY?

Generally, the Arkansas Emissions Inventory requires reporting at a minimum of the following types of PM:

- **PM-PRI** (if there is a permit limit listed for PM for a particular process)
- **PM10-PRI** (if there is a permit limit listed for PM for a particular process)
- **PM25-PRI** (if there is a permit limit listed for PM for a particular process)

In addition, DEQ will also ask for condensable PM or various sizes of filterable components if there are specific permit limits for a particular process.

4. WHAT TYPES OF PM ARE REFERENCED FOR PERMITTING PURPOSES?

Comment [MW10]: To permits

For permitting purposes, PM_{2.5} is the same as PM₁₀ unless otherwise stated in the permit.

Comment [CG11]: Also clarify that condensable PM is included in total PM₁₀ and PM_{2.5} for permitting purposes.

I. WHAT IF I NEED AN INTERPRETATION OF A PARTICULAR REGULATORY REQUIREMENT?

Please contact the Office of Air Quality Permits Branch for information on requesting an interpretation of a specific regulatory requirement.

J. DISPERSION MODELING

1. STATUTORY FRAMEWORK FOR DISPERSION MODELING

Ark. Code Ann. § 8-4-318 delineates when may be performed by DEQ. DEQ may not perform dispersion modeling for any NAAQS pollutant unless:

- it is required by Part C of Title I of the Clean Air Act for the permitting of major source construction (PSD permitting);
- if it pertains to the permitting of a temporary source under 42 USC § 7661c(e);
- Pollutant-specific or facility-specific air dispersion modeling explicitly required by an applicable NAAQS state implementation plan submitted to the United States Environmental Protection Agency;
- the modeling is otherwise voluntarily proposed and agreed to by the owner or operator of a stationary sources;
- the modeling is for the development of a state implementation plan; or
- the modeling is for the development of a general permit.

2. PSD PERMIT MODELING

PSD permits will be modeled in accordance with 40 CFR Appendix W to Part 51, the Guideline on Air Quality Models, for all applicable pollutants and NAAQS.

A link to "Appendix W to 40 CFR Part 51 can be found here:

https://www3.epa.gov/ttn/scram/guidance/guide/appw_17.pdf

EPA Preferred/Recommended Models listed in Appendix W:

<https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models>

EPA Screening Procedures for estimating the Air Quality Impacts of Stationary Sources:

https://www3.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf

3. MINOR NSR MODELING

For minor source (non-PSD) permit modifications, ambient air evaluations are required by the State Implementation Plan as summarized in the DEQ Air Permit Screening Modeling Instructions:

<https://www.DEQ.state.ar.us/air/permits/pdfs/modeling-instruction.pdf>

For permitting actions not subject to PSD, in accordance with Revisions to the Arkansas State Implementation Plan, National Ambient Air Quality Standards, Infrastructure SIPs and NAAQS SIP per Ark Code Ann. § 8-4-318, dated March 2017, unless an alternative demonstration method is approved by the Division, dispersion modeling is required for construction of new stationary sources with emission of, or existing stationary sources proposing a modification with emission increases of:

- 100 tpy or greater PM₁₀, for the 24-hour PM₁₀ NAAQS
- 100 tpy or greater SO₂, for the 1-hour SO₂ NAAQS. Modeling for the 3-hour SO₂ NAAQS is not required.
- 100 tpy or greater NO_x, for the 1-hour NO₂ NAAQS. Modeling for the annual NO₂ NAAQS is not required.

An emission increase is based on the differences between the sum of the proposed permitted rates for all emission units and the sum of previously permitted emission rates for all units.

If required and no analysis is provided with an air permit application, DEQ staff will conduct the screening analysis.

4. NON-CRITERIA POLLUTANT MODELING

For non-criteria pollutant modeling, please refer to the non-criteria pollutant control strategy guidance document:

https://www.DEQ.state.ar.us/air/permits/pdfs/non_criteria_strategy.pdf

5. MODELING UNDER THE CLEAN AIR ACT; THIRD PARTY MODELING WHITE PAPER (2012)

Third parties have produced documents that may be helpful for understanding the context of the statutes affecting DEQ's modeling authority:

[2012 NAAQS Implementation White Paper](#)

K. WHAT IS THE NON-CRITERIA POLLUTANT CONTROL STRATEGY?

The DEQ [non-criteria pollutant control strategy](#) is a tool used by the Division for the evaluation of Hazardous Air Pollutant (HAP) and non-criteria pollutant emissions. It is important to note that the Strategy is not a regulation, but rather a screening methodology used by the Division to determine if the emission of air contaminants from the facility may occur in quantities sufficient to constitute air pollution as defined by the Arkansas Air Pollution Control Code (APC&EC Regulation 18). In practice, the Strategy will begin a regulatory exercise to determine whether additional information concerning proposed non-criteria air emissions from a facility is necessary.

Based on past experience, the Strategy has been revised to limit the scope of pollutants evaluated.

The first two steps of the Strategy are known as the presumptively acceptable emission rate (PAER) and the presumptively acceptable impact level (PAIL). The initial screening of non-criteria emissions is performed by calculating the PAER for each pollutant. If the emissions fail to pass the PAER, then an emission model is developed using the newest version of the AERMOD air quality model approved by the US EPA. If this modeling indicates potential off-site impacts at levels greater than the PAIL for one or more non-criteria pollutants, then the facility may take any combination of the following measures:

1. Use refined modeling to predict lower concentrations
2. Revise emission rate estimates

3. Use alternative risk assessments to develop site specific presumptively acceptable impact levels
4. Propose additional control of emissions of the contaminants of concern
5. Propose alternative operating scenarios that result in lower modeled concentrations
6. Install ambient air monitors at appropriate locations
7. Accept emission limitations in a permit that result in lower modeled concentrations
8. Consideration of (unfenced) property lines and areas where there will be no impact on human health can be considered. Generally, all facility property can be excluded from the model if there is no general access by the public. Other impacted areas, such as roads, rivers and other uninhabited property can be excluded as on a case by case basis.

The full text of the Strategy, including a more detailed description of the determination of PAER and PAIL, can be found by viewing the [Non-Criteria Pollutant Control Strategy](#).

1. WHAT STANDARDS DEQ MAY EVALUATE HAPs AGAINST OTHER THAN THE THRESHOLD LIMIT VALUE (TLV)

Consistent with the Non-Criteria Pollutant Control Strategy, DEQ may evaluate HAPs against standards other than TLVs including Biological Exposure Indices (BEIs), which, like TLVs, are determinations made by a voluntary body of independent experts. They represent the opinion of the scientific community that has reviewed the relevant data that exposure at or below the BEI does not create an unreasonable risk of disease or injury.

DEQ may use relative toxicity in certain specific cases such as when addressing permits that retain specific limits based on a Relative Toxicity screening performed under a previous version of the non-criteria pollutant control strategy. Please see page 9 of the [Non-Criteria Pollutant Control Strategy](#) for more details.

III. PERMITTING

A. DOES MY FACILITY NEED AN APC&EC REG.18.315 REGISTRATION OR A MINOR SOURCE AIR PERMIT?

Generally, a registration is required if a facility's total actual emissions fall within the one of the following ranges:

- 40 tons per year or more but less than 75 tons per year of carbon monoxide
- 25 tons per year or more but less than 40 tons per year of nitrogen oxides
- 25 tons per year or more but less than 40 tons per year of sulfur dioxide;
- 25 tons per year or more but less than 40 tons per year of volatile organic compounds
- 15 tons per year or more but less than 25 tons per year of particulate matter
- 10 tons per year or more but less than 15 tons per year of PM10
- 1 ton per year or more but less than 2 tons per year of any single hazardous air pollutant
- 3 tons per year or more but less than 5 tons per year of a combination of hazardous air pollutants

Comment [AB12]: May want to add an additional bullet item to clarify a Minor Source Reg. 18 permit category per Reg. 18.301(b)(2) facilities.

Please note the following:

- this determination is based on actual emissions, and
- this requirement is expressly set forth in APC&EC Reg. 18.315
- the permit thresholds are based on facility-wide emissions
- A registration requirement is applicable to any new or existing facility that exceeds the registration thresholds.
- A registration is separate and distinct from a permit. Having a registration does not meet a requirement to have a permit.
- Even if a facility is subject to an NSPS or other requirement that does not require a permit, the facility is not exempt from the registration requirement.

B. DOES MY FACILITY REQUIRE A MINOR SOURCE (NON-PART 70) PERMIT?

You need a minor source air permit if your total facility actual emissions are one of the following:

- 75 tons per year or more but less than 100 tons per year of carbon monoxide
- 40 tons per year or more but less than 100 tons per year of nitrogen oxides
- 40 tons per year or more but less than 100 tons per year of sulfur dioxide
- 40 tons per year or more but less than 100 tons per year of volatile organic compounds
- 25 tons per year or more of particulate matter
- 15 tons per year or more but less than 100 tons per year of PM₁₀
- 10 tons per year or more of direct PM_{2.5} but less than 100 tons per year of direct PM_{2.5}
- 0.5 tons per year or more but less than 10 tons per year of lead
- 2 tons per year or more but less than 10 tons per year of any single hazardous air pollutant
- 5 tons per year or more but less than 25 tons per year of any combination of hazardous air pollutants
- 25 tons per year or more of any other air contaminant

Note: Minor Source in this context is a non-part 70 permit. Minor source has various meanings depending on the context.

A facility must obtain a minor source air permit, regardless of emission rates, if the facility falls within one of the following categories:

- Medical waste incinerators
- Rendering plants
- Pathological waste incinerators, including crematories
- Chemical process plants - based on SIC code major group 28, or equivalent NAICS
- Hazardous waste treatment storage or disposal facilities
- Sour gas process plants
- Lead acid battery recycling facilities
- Charcoal plants

In addition, a facility must obtain a minor source air permit, regardless of emission rates, if the facility is one for which DEQ's director determines an air permit is required to protect the public health and welfare or to assist in the abatement or control of air pollution.

You must obtain a minor source permit, regardless of emission rates, if your facility is subject to a regulation under 40 CFR Part 60, Part 61, or Part 63 as of

June 27, 2008, except for: *This means that any standard after June 27, 2008 is not an automatic inclusion for a permit (it has not been evaluated for inclusion, and would require revision of the Regulations.)*

- 40 CFR Part 60, Subpart AAA (Wood Stoves)
- 40 CFR Part 60, Subpart JJJ (Petroleum Dry Cleaners)
- 40 CFR Part 63, Subpart M (Perchloroethylene Dry Cleaners)
- 40 CFR Part 63, Subpart Q (Industrial Cooling Towers)
- Sources subject to 40 CFR Part 60, Subpart Dc (Steam Generating Units that burn only gas)
- 40 CFR Part 63, Subpart ZZZZ (Stationary Reciprocating Internal Combustion Engines) for non-Part 70 sources (minor sources)
- 40 CFR Part 63, Subpart WWWW (Hospital Ethylene Oxide Sterilizers)
- 40 CFR Part 63, Subpart CCCCCC (Gasoline Dispensing Facilities)
- 40 CFR Part 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines) for engines with a displacement of less than 30 liters per cylinder
- 40 CFR Part 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines)
- 40 CFR Part 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources)

C. DOES MY FACILITY REQUIRE A TITLE V PERMIT?

You must obtain a Title V permit if your total actual facility emissions exceed one of the following thresholds:

- 100 tons per year or more of carbon monoxide
- 100 tons per year or more of nitrogen oxides
- 100 tons per year or more of sulfur dioxide
- 100 tons per year or more of volatile organic compounds
- 100 tons per year or more of PM₁₀
- 100 tons per year or more of PM_{2.5}
- 10 tons per year or more of lead
- 10 tons per year or more of any single hazardous air pollutant
- 25 tons per year or more of any combination of hazardous air pollutants

In addition, you must obtain a Title V permit if you are subject to any federal regulation that specifically requires the facility to obtain a Title V permit.

Comment [CG13]: Clarify that for sources already holding a minor source permit due to other qualifiers, then all NSPS/NESHAP regs should be addressed in the permit, regardless of the 6/27/2008 date. This syncs up with the "consolidated permit" concept.

D. GENERAL PERMITS

1. WHAT IS A GENERAL PERMIT?

A general permit is a permit issued to cover numerous similar sources under a common set of permit conditions. If a general permit has developed a general permit, an owner or operator of a source may apply for coverage under the terms of the general permit. The application form is called a "Notice of Intent." However, source that could be covered under a general permit may still choose to obtain an individual permit instead.

All new applications for coverage require a public notice. For new facilities for initial coverage, once a Notice of Intent has been deemed complete and determined to qualify for the general permit, the Division will publish a notice in the statewide newspaper. New facilities will not be issued a confirmation and tracking number until the 10 business day notice period has expired and any comments received have been addressed. Modified facilities submitting revisions to an NOI or renewals will not be subject to the notice requirements

2. WHAT TYPES OF FACILITIES HAVE GENERAL PERMITS?

As of the time of writing, the Division has the following types of general permits available:

- [General Air Permit for Air Curtain Incinerators](#)
- [General Air Permit for Animal/ Human Remains Incinerator Facilities](#)
- [General Air Permit for Cotton Gins](#)
- [General Air Permit for Gasoline Bulk Plants](#)
- [General Air Permit for Hot Mix Asphalt Facilities](#)
- [General Air Permit for Natural Gas Compression Stations](#)
- [General Air Permit for Rock Crushing Facilities](#)

3. WHAT CAN A FACILITY DO TO CONVERT A MINOR SOURCE PERMIT TO A GENERAL PERMIT?

A facility would submit a "Notice of Intent," which is available on the DEQ website. The facility then needs to void its existing minor source permit by sending in a letter to that effect.

E. DO I NEED TO SUBMIT AN APPLICATION TO MAKE A LIKE-FOR-LIKE REPLACEMENT OF EQUIPMENT THAT IS ALREADY IN MY PERMIT?

How to permit a like-for-like replacement of equipment is considered on a case-by-case basis. There is no general exemption for replacement of equipment.

If you are considering a potential like-for-like replacement, please send the Air Permits Branch a letter or email with your AFIN and permit number, describing what you plan to install, what it is replacing, and where to find the existing equipment in your current permit. Like-for-like replacement is not easily defined, so it's difficult to make general statements about exactly what would qualify. Also, some state or federal regulations may be triggered by the date of construction, reconstruction, manufacture, or modification of a piece of equipment, even one of the same kind as what was previously installed at a given facility. Because of this, it's not possible for the Division to give a general authorization for this kind of activity without reviewing it case-by-case.

IV. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) ISSUES

A. CLASS I AREAS

Class I areas are areas of scenic importance as designated by Congress. All facilities undergoing PSD review in Arkansas must consider their potential impacts on one or more of the four Class I areas in or within 100km of Arkansas. The appropriate Federal Land Manager for that Class I area is contacted during or shortly after the initial PSD to evaluate the need for a Class I areas Air Quality Related Value (AQRV) air quality analysis. The applicant's responsibility to conduct a Class I analysis is based on the results of the Class I area preliminary impact or Significant Impact Level (SIL) analysis, and, where appropriate, the Class I PSD increment analysis. If the FLM does not request a Class I analysis, DEQ will not request any further Class I evaluation.

The United States contains 154 Class I areas. Arkansas has two Class I areas in-states: Caney Creek and Upper Buffalo Wilderness Areas. Two Class I areas in

Missouri are within 100 kilometers of Arkansas: Hercules-Glades and Mingo Wilderness Areas.

Map of Arkansas and Southern Missouri Class I Areas: [Class I Map](#)

B. BASELINE DATES

PSD increment is the amount of pollution an area is allowed to increase. PSD increments prevent the air quality in clean areas from deteriorating to the level set by the NAAQS. The NAAQS is a maximum allowable concentration. A PSD increment, on the other hand, is the maximum allowable increase in concentration that is allowed to occur above a baseline concentration for a pollutant.

The baseline concentration is defined for each pollutant and, in general, is the ambient concentration existing at the time that the first complete PSD permit application affecting the area is submitted. A link a table of the minor source baseline dates for Arkansas can be found here:

https://www.adeq.state.ar.us/air/permits/pdfs/minor_source_baseline_dates.pdf

C. CLASS I AREA DESIGNATIONS IN THE CODE OF FEDERAL REGULATIONS

Class I Area designations for Arkansas are specific in 40 CFR § 81.404.

Area name	Acreage	Public Law establishing	Federal Land Manger
Caney Creek Wilderness Area	14,344	93-622	USDA – Forest Service
Upper Buffalo Wilderness Area	9,912	93-622	USDA – Forest Service

Please note that this does not include the Class I areas within 100 km of Arkansas: Hercules-Glades and Mingo Wilderness Areas.

Map of Arkansas and Southern Missouri Class I Areas: [Class I Map](#)

D. AIR QUALITY CONTROL REGIONS (AQCR)

A link to a map of the air quality control regions in Arkansas can be found here:

<https://www.adeq.state.ar.us/air/permits/pdfs/aqcr.pdf>

E. BACKGROUND VALUES FOR CRITERIA POLLUTANTS

You may find the background values for criteria pollutants here:

https://www.adeq.state.ar.us/air/permits/pdfs/background_values.pdf

Comment [AB14]: Background values are up to 2015. DEQ may want to update.

Comment [MW15]: (include map)

Comment [AB16]: Approval timeline (range will be good) will help industry to estimate submission timing.

V. INTERIM AUTHORITY AND VARIANCES

A. Can I operate without a permit or establish a temporary alternative limit?

Generally, a facility that emits above the registration thresholds is required to have a permit and may be subject to legal action if it constructs or operates a stationary source of air emissions without a required permit. If your facility is operating without a permit, you should contact the Office of Air Quality's Compliance Monitoring Branch, and you must submit an application and all information required for permit evaluation.

Under limited circumstances, a facility may be able to obtain interim authority to construct or operate a prior to the effective date of a permit or permit modification. In addition, a facility may be able to obtain a variance from a permit condition. The facility must show good cause to allow such a variance based on certain factors set forth in Ark. Code Ann. § 8-4-230.

Please note the following:

- The statute explicitly prohibits granting interim authority or temporary variance if there is an express requirement for that permit condition under federal law.
- A temporary variance is used when there is an existing limit or permit condition that an applicant requests be altered. An interim authority request is used when the facility does not have existing authority to construct or operate a source.
- Address all applicable factors in Ark. Code Ann. § 8-4-230 in a request.
- Please do not forget to include the \$200 fee for a request for temporary variance or interim authority.
- A temporary variance or a granting of interim authority may not exceed a period of ninety (90) days, unless a longer period is justified by circumstances beyond the applicant's control.

- Approvals may be conditional or unconditional.

VI. THE PERMIT PROCESS

A. TIMEFRAME FOR GETTING PERMITS

The Office of Air Quality's goal is to issue all permits within 180 days.

Minor Modification Approval Letters

The approval for minor modification is given within 15 days receipt of application.

De Minimis Approval Letters

The approval for a de minimis modification is given within 30 days of receipt of application.

Registrations

By regulation, "a facility may construct, operate, or modify a source subject to registration under this section immediately upon submittal of the registration." The facility may choose to await the ADEQ concurrence letter (usually issued within 30 days) in case any issue should arise over the facility's eligibility.

General Permits

Unless a 10-day public notice is required, general permit authorizations are issued within two weeks of receipt of a Notice of Intent.

F. PUBLIC NOTICES/DRAFT PERMITS

1. ACT 163 PUBLIC NOTICE

An Act 163 Public Notice concerns notification to the public that a facility has submitted an air permit application to modify its permit. This notice is sent to the facility, with instructions on publication and payment. The notice is printed for one day, and the public is afforded the opportunity to submit comments on the submittal.

2. DRAFT PERMIT PUBLIC NOTICE

This notice informs the public that a draft permit has been prepared for the facility and is available for public review and comment. A copy of this notice is mailed to the facility and is sent directly to the state and local newspapers with a request to publish and instructions on payment. DEQ sends a copy of this

notice to the facility; DEQ also sends copies of the notice to state and local newspapers with instructions for publication and sends a copy of this communication to the facility. The latest date of publication, either the state newspaper publication date or the local newspaper publication date, begins the 30-day comment period.

3. HOW CAN THE PUBLIC PARTICIPATE IN THIS PROCESS?

Local newspapers publish public notices of proposed permitting actions. The public will have at least thirty days to review the permit and make written comments about the draft permit decision. The public can review current applications and permits at DEQ headquarters in North Little Rock and the public library nearest the facility.

G. PUBLIC HEARING AND COMMENT PROCESS

1. WHAT IS A PUBLIC HEARING?

Under APC&EC Reg. 8.103 (FF), a “public hearing” means a formal meeting held pursuant to the laws or regulations administered by the Arkansas Pollution Control and Ecology Commission or the Division for the purpose of receiving on the record oral or written comments from the public on a permitting decision or on a rulemaking proceeding. A public hearing is not an adjudicatory hearing or a public meeting.

2. WHAT IS THE DIFFERENCE BETWEEN A PUBLIC HEARING AND A PUBLIC MEETING?

Under APC&EC Reg. 8.103 (GG), a “Public Meeting” means an informal meeting held by the Commission or the Division for the purpose of exchanging information with the public on a permitting decision, on a rulemaking, or on any issue of public interest. A public meeting is not an adjudicatory hearing or a public hearing. Any comment made at a public meeting is not made on the record and is therefore not received as a “public comment.”

3. HOW DO I SUBMIT A COMMENT?

H. WILL A FACILITY HAVE A CHANCE TO COMMENT ON A PERMIT BEFORE THE PERMIT BECOMES FINAL?

All modifications, Title V renewals, and initial permits have a public comment period of at least thirty days. The permittee and the public have a chance to comment on the conditions contained in the permit. The Office of Air Quality will

respond to any comments made about the permit when the Office of Air Quality issues the permit. All commenters and the permittee have 30 days after the final issuance of the permit to appeal the permit to the Arkansas Pollution Control and Ecology Commission. [Regulation 8](#) contains the procedures for public notice and appeal of permits.

I. WHERE DO I SEND THE APPLICATION?

Please send the application to:

Division of Environmental Quality
Attention: Office of Air Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

J. WHAT HAPPENS WHEN AN AIR PERMIT APPLICATION IS SUBMITTED?

- The air permit application goes through two processes of review, the administrative review and the technical review.
- The administrative review determines that the permit application contains all required attachments and signatures. An applicant will be notified of what information is necessary for submission before a final decision can be reached on the application. If information missing is small, such as the plot plan is reduced too small, then a request is made by telephone to submit a clearer document, and then the application is determined complete. However, if the application contains only a minimal amount of information, then a letter is mailed to the applicant describing the deficiencies.
- When a new application, a renewal, or a major modification and has been determined complete, a public notice, with instructions for publication, is mailed to the applicant. This notice simply informs the public that the facility has submitted a permit application.
- The technical review begins when an engineer is assigned to perform a detailed technical review of the permit application. If the application is lacking additional information to further review the application, the

engineer will mail a letter to the applicant describing the deficiencies. When all information has been received and the engineer is satisfied, a draft permit decision is prepared.

- Some draft permits require a public notice and comment period. After the comment period, if required, the Division will address any issues and make a final permit decision.

K. HOW LONG DOES IT TAKE TO GET AN AIR PERMIT?

The Office of Air Quality's goal is to issue all permits within 180 days.

Minor Modification Approval Letters

The approval for minor modification is given within 15 days receipt of application.

De Minimis Approval Letters

The approval for a de minimis modification is given within 30 days of receipt of application.

Registrations

By regulation, "a facility may construct, operate, or modify a source subject to registration under this section immediately upon submittal of the registration."

The facility may choose to await the ADEQ concurrence letter (usually issued within 30 days) in case any issue should arise over the facility's eligibility.

General Permits

Unless a 10-day public notice is required, general permit authorizations are issued within two weeks of receipt of a Notice of Intent.

L. WHAT CAN I DO TO EXPEDITE THE PERMIT APPLICATION REVIEW PROCESS?

A common cause for delay in the permit application review process is incomplete or missing forms and additional information (not requested in the application forms) necessary for permit evaluation. The following briefly identifies things you can do to expedite the permit application review process:

- Use ePortal to help ensure administrative completeness (and to check status--ED to clarify this point with TR)
- Be clear with your requested change.
- Make sure all requested information is provided and all of the required application pages are submitted.
- Don't forget to sign and date the signature pages of the application and submit the originals.
- Include any information such as emission calculations, [Safety Data Sheets \(SDS\)](#), modeling reports, stack test data, etc.
- Give prompt feedback if your assigned engineer has requested additional information.
- Include a suggested draft permit [with proposed conditions](#).
- Periodically call your assigned engineer and inquire about the status of your application.
- No provisions to pay for expedited permits
- Completeness and What happens to Admin Incomplete Apps...clock keeps running, etc.
- Don't leave something blank because you don't understand
- Info that isn't publicly available, some still needed
- If your calculations require something that is not publicly available DEQ still needs to be able to review it somehow

M. ARE ANY FEES REQUIRED FOR OBTAINING A PERMIT?

Yes, the permitted emission rate determines the fee. The fee calculation is the tons per year emission rate times a ton per year fee factor. [Regulation 9](#) contains the fee schedule. The applicant must pay all fees before DEQ will issue a permit.

- General permits and registrations are a fixed fee of \$200.
- Reference fee memo (?)
- Fees are based on permit emissions not inventories
- Do not over-permit, increases fee
- Fee due at time of application
- Annual fee same as initial permit fee
- Invoice timing based on initial permit from DEQ (any media)
- Paying online
- EFT payments

VII. PERMIT QUESTIONS

A. CAN I OPERATE A TEMPORARY SOURCE, CONDUCT TESTING, OR DO OTHER THINGS NOT LISTED IN MY PERMIT?

Permit conditions and regulations allow for some temporary emission, testing, or alternative monitoring if a request is submitted and approved in advance. A request must contain the information listed in the general conditions of the permit and/or the regulation section on permit flexibility.

B. WHAT'S IN AN AIR PERMIT?

Air permits contain requirements for all emitting sources at the facility.

Air quality permits are legally binding documents that include enforceable conditions with which the source owner/operator must comply. Some permit conditions are general to all types of emission units, and some permit conditions are specific to the source. Overall, the permit conditions establish limits on the types and amounts of air pollution allowed, operating requirements for pollution control devices or pollution prevention activities, and monitoring and record keeping requirements.

C. WHEN DO I NEED TO APPLY FOR AN AIR PERMIT?

You need to apply for an air permit before you begin construction of the facility that requires a permit or for any addition or modification to an existing facility.

Comment [CG17]: Add "involving air pollutants"

D. WHAT DOCUMENTS DO I SUBMIT TO BEGIN THE PROCESS?

The documents required for new, renewals, and modifications of permits are listed in the checklist provided in the application forms and instructions, available on the [Permit Applications Forms & Instructions](#) page of our website. All permit changes require application forms.

E. CAN I SUBMIT CONFIDENTIAL INFORMATION IN THE PERMIT?

Applicants can submit confidential information. The presumption is that all material submitted to the Office of Air Quality is available for public review unless specific procedures are followed to claim confidentiality. The requirements for confidential information are found in [APC&EC Regulation 19](#), Section 19.413 Confidentiality and in Arkansas Code Annotated § 8-4-308, [APC&EC Regulation 18](#), Chapter 14: Public Information and Confidentiality. Applications and other material claiming confidentiality will be returned to the applicant unprocessed if these requirements are not met.

A DEQ attorney reviews every claim of confidentiality. DEQ must evaluate the submitted information against the following factors:

- The extent to which the information is known outside the business
- The extent to which the information is known by employees and others involved in the business
- The extent of measures taken by a business to guard the secrecy of the information
- The Value of the information to the business and its competitors
- The amount of effort or money expended by the business in developing the information
- The ease or difficulty with which the information could be properly acquired or duplicated by others

The application must be submitted with two copies. One copy of the application and one copy of the application with *only* the information asserted to be a trade secret identified as confidential. In addition, the two copies of the application must include an affidavit with the following language:

"The applicant agrees to act as an indispensable party and to exercise extraordinary diligence in any legal action arising from the Division's denial of public access to the documents or information claimed herein to be a trade secret."

Tips for submitting confidential business information

- Review APC&EC Reg. 19.413
- *Do not email* confidential information.
- Review the following: [Powerpoint presentation on the "Do's and Don'ts of CBI"](#)
- Make sure to include the required language in the Affidavit
- Mark the cover page of the confidential copy of the application as "confidential"

Incorrectly submitted applications may not be held confidential.

F. ARE THERE INSTRUCTIONS TO ASSIST IN COMPLETING AN AIR PERMIT APPLICATION?

Instructions are located with the air application forms, which are available on the [Permit Applications Forms & Instructions page](#) of our website.

G. HOW ARE FEES CALCULATED?

Fees are calculated in accordance with Chapter 5 of [Regulation 9](#).

H. HOW DOES A FACILITY TRANSFER A PERMIT?

Under APC&EC 19.407, permits issued under APC&EC Regulation 19 are freely transferable if (1) the applicant notifies the Director of the Division at least thirty (30) days in advance of the proposed transfer date on such forms as the Division requires; and (2) the applicant submits a disclosure statement in accordance with APC&EC Regulation 8: Administrative Procedures or other documents required by the Division.

The Director may deny the transfer of any permit if it is found that:

- The Applicant has a history of non-compliance with environmental laws or regulations of the state or another jurisdiction;
- An applicant which owns or operates other facilities in the state is not in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, the environmental laws or regulations of this state; or
- A person with a history of non-compliance with environmental laws or regulations of this state or any other jurisdiction is affiliated with the applicant to the extent of being capable of significantly influencing the practices or operations of the applicant which could have an impact upon the environment.

Under APC&EC Regulation 19, Public notice requirements do not apply to changes in ownership or changes in name.

I. WHAT IS A RESPONSIBLE OFFICIAL?

A Responsible Official (RO) is a person of authority at the facility who certifies permit applications and other documents. Not everyone qualifies as an RO; an RO is defined in the regulations and on application forms.

- If you supplement an application that is already-in-progress with new or revised forms, you need an RO signature
- Would an RO signature for another media (i.e., Water or Land) work? No. It doesn't work as a blanket rule. NPDES (Water) and Air are not the same

Clarifications:

- Who can be an RO?

For sources subject to APC&EC Reg. 19, the definition of "Responsible Official" is in APC&EC Reg. 19: Chapter 2, which contains the definitions chapter. It depends on the type of legal entity that is submitting the form.

- For a corporation: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative or such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 United States dollars); or
 - The delegation of authority to such representative is approved in advance by the Division;
- For partnership or sole proprietorship: a general partner or the proprietor, respectively
- For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this regulation, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA)

For sources subject to APC&EC Reg. 26, the definition is in Chapter 2 of APC&EC Reg. 26. However, it is similar to the definition in APC&EC Reg. 19 Chapter 2.

- Is a plant manager automatically an RO?

No, the plant manager is not necessarily an RO. It depends on the type of company or partnership and the plant manager's role in that organization.

Comment [CG18]: Mention that Plant Manager is typically the lowest position that can be the delegated RO.

J. WHAT DOCUMENTS MUST AN RO SIGN?

Most reports and any permit application forms must be submitted or certified by an RO. This includes additional forms submitted for a permit application already in progress.

Comment [CG19]: Clarify that RO's not required to sign each and every bit of supplemental/changed information. This would bog down the quick exchange of info for permit applications. Example: If a figure needs to change on an ERT, does the RO have to be involved?

K. IS THERE ONE NAME CHANGE/OWNERSHIP CHANGE FORM FOR THE DIVISION?

There is not one common name change or ownership change form for all of DEQ due to differing requirements in different media divisions (air, water, etc)

L. HOW LONG WILL MY PERMIT LAST? DO I NEED TO RENEW MY PERMIT?

Air permits for minor sources do not expire. Generally, the permit will remain valid if the equipment and operations do not change and the facility is current on any fees.

Comment [CG20]: Personal opinion: Many minor source permits are outdated and incomplete as compared to modern permits. Minor sources typically only think about permit mods for new equipment, and there is no driver for periodic permit review/updating. (Title V has the 5-year renewal driver to help ensure up-to-date permits.)

Title V permits are for a term of five years. The permittee must submit a complete renewal application at least six months before the Title V permit expiration date.

General air permits are for a term of five years. A facility must apply for a renewed permit before the old permit expires. Notices are sent to facilities when renewal is necessary. DEQ may choose to renew the permit or not. If the permit is not renewed, the facility will need to obtain a standard minor or Title V permit to continue operations.

M. HOW DO I GET AIR EMISSION DATA (FOR MODELING OR OTHER PURPOSES)?

The Office of Air Quality collects emissions and stack parameter data from certain permitted stationary sources in the state in the form of an emission inventory report. Specific facility inventory data can be requested by contacting the SLEIS contacts listed on the [Office of Air Quality Policy & Planning Branch webpage](#).

The actual permits for facilities, available online, have permitted emission data but lack any stack information.

The Office of Air Quality does not maintain an inventory of increment consuming sources.

For emission/stack information beyond these two sources, you will need to consult the actual permit application files. Please contact the [Records Management Section](#) of DEQ.

N. WHERE CAN I FIND EMISSION FACTORS?

Emission factors may be found from a number of sources. The US Environmental Protection Agency maintains an extensive emission factor database, known as [AP-42 emission factors](#).

Other potential sources of emission factors are data from previous stack emission tests performed for a particular source, or information provided by an equipment manufacturer. Most emission control device vendors have access to emission factors for the products that they sell.

O. CAN I CHANGE A PERMIT AFTER THE PERMIT IS EFFECTIVE?

The permittee can request changes to the permit through a permit modification. The type of modification depends on the type of modification and the amount of increase of the emission of the pollutants. See [Regulation 18](#), [Regulation 19](#), or [Regulation 26](#) for additional information about modifications.

P. HAPPENS IF A SOURCE VIOLATES ITS PERMIT?

A source that violates one or more enforceable permit condition(s) is subject to an enforcement action including, but not limited to, penalties and corrective action. DEQ or, in some cases, citizens may initiate an enforcement action.

O. What types of changes does DEQ want to know about?

1. RELOCATION OF EMISSION UNITS?

A facility should notify DEQ if an emission unit is relocated when that relocation could have impacted the results of modeling performed during the permitting or permit modification process.

2. CHANGES IN STACK PARAMETERS?

A facility should notify DEQ of a change in stack parameters when that change could have impacted the results of modeling performed during the permitting or permit modification process.

Comment [CG21]: Insert "What"

Comment [CG22]: Insert "other than installation/modification of air pollutant emitting equipment."

Comment [CG23]: Insert "on site"

3. EQUIPMENT SHUTDOWN/REMOVAL FROM SERVICE?

Generally, it is not required to notify DEQ of equipment shutdown. However, a reduction in sources could reduce permitting fees. So a facility may want to notify DEQ for that reason.

4. EMISSIONS TEST FOR ENGINEERING PURPOSES?

It is required to notify DEQ of an emissions test required by a permit.

It is not required to notify DEQ of an emissions test solely for engineering purposes.

5. ADDITION OF A GROUP B, INSIGNIFICANT ACTIVITY?

It is not required to notify DEQ of a group B insignificant activity in and of itself, but the addition may have permitting implications.

6. DOES ADDING AN INSIGNIFICANT ACTIVITY EVER REQUIRE A PRECONSTRUCTION PERMIT OR OTHER AUTHORIZATION?

Comment [MW24]: D.T.

No. Per 19.408(A) of Regulation 19 and 26.304 of Regulation 26, Insignificant Activities are exempt from permitting requirements. For Regulation 19 sources, Insignificant Activities are not required to be listed in a source's air permit. For Regulation 26 sources, 26.402(A) requires that each air permit application include a list of Insignificant Activities which are exempted from permitting requirements because of their size or production rate. This would include insignificant sources in insignificant categories A-1, A-2, A-3, A-6, A-7, A-8, A-9, A-10, A-11, and A-13, as listed in Appendix A to Regulation 19. If a Regulation 26 source adds an insignificant activity in one of these categories, then the addition of this Insignificant Activity should be included in the next renewal or significant modification application submitted for that source.

Changes to a facility's insignificant activities list may be considered an Administrative Amendment.

Comment [MW25]: added by David Triplett

Q. HOW SHOULD PERMITTEE REQUEST AN ALTERNATIVE STACK TESTING OR MONITORING METHOD?

A permittee should request an alternative stack testing or monitoring method on a test protocol form.

R. FOR A CHANGE AT A SOURCE DECREASING EMISSIONS, IS ANY PERMIT NEEDED?

Comment [MW26]: D.T.

For a change at a Regulation 19 source or a change involving only existing emission units at a Regulation 26 source, no permit is needed to accommodate a decrease in emissions. See the definition of Modification in Chapter 2 of Regulation 19. If the change involves a new emission unit(s) at a Regulation 26 source, then a permit is necessary, even if emissions are decreasing. See 26.301(C) of Regulation 26, which requires a modified Part 70 permit be obtained prior to construction of a new emissions unit.

Comment [MW27]: [DT Note: I suggest that this definition should be incorporated into Regulation 26, or its equivalent, through the EASE regulatory workstream]

S. WHEN IS A PERMIT REQUIRED TO BE REOPENED FOR A NEW APPLICABLE REQUIREMENT FOR A TITLE V SOURCE?

Comment [MW28]: D.T.

APC&EC Reg. 26.1011 governs when a Title V operating permit must be reopened by the Division for cause. The circumstances in which a permit will be reopened will also be included in any Title V permit.

DEQ must reopen a permit to incorporate a new applicable requirement under the following circumstances:

- Additional applicable requirements become applicable to a source with a remaining permit term of three or more years.
- Additional requirements become applicable to an acid rain source under the acid rain program.
- The Division or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing permit limitations or conditions.
- The Administrator or Division determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

Under APC&EC Reg. 26.1011(A)(1), no permit is required to be reopened until the source is provided with notice of intent to re-open the permit at least 30 days in advance of the date that the permit is to be re-opened, except in emergency situations.

T. IS ANY PERMIT REQUIRED FOR A CHANGE IN STACK PARAMETERS? IF SO, WHY?

A permit may be required for change in stack parameters when a facility is nearing modeling an exceedance. A facility should submit a miscellaneous request through email to airpermits@adeq.state.ar.us to determine whether a permit is required for a change in stack parameters.

Comment [CG29]: Or ePortal?

U. WHAT QUALIFIES AS A DE MINIMIS?

Under APC&EC Reg. 19.407, a proposed change to a facility will be considered de minimis if (1) minimal judgement is required to establish the permit requirements for the change and (2) the change will result in a "trivial environmental impact."

Under APC&EC Reg. 19.407(C)(2), the environmental impact of a proposed change generally will be considered trivial if the emission increase, based on the differences between the sum of the proposed permitted rates for all emissions units and the sum of previously permitted emission rates for all units will either:

(a) be less than the following amounts:

- i. Seventy-five (75) tons per year of carbon monoxide;
- ii. Forty (40) tons per year of nitrogen dioxides, sulfur dioxides, or volatile organic compounds;
- iii. Twenty-five (25) tons per year of particulate matter emissions;
- iv. Ten (10) tons per year of direct PM_{2.5};
- v. Fifteen (15) tons per year of PM₁₀ emissions; and
- vi. One-half (0.5) a ton per year of lead;

(b) or, result in an air quality impact less than:

Pollutant	<i>De Minimis</i> Concentration	Averaging Time
carbon monoxide	500 $\mu\text{g}/\text{m}^3$	8-hour
nitrogen dioxide	10 $\mu\text{g}/\text{m}^3$	Annual
PM ₁₀	8 $\mu\text{g}/\text{m}^3$	24-hour
sulfur dioxide	18 $\mu\text{g}/\text{m}^3$	24-hour
lead	0.1 $\mu\text{g}/\text{m}^3$	3-month

Under APC&EC Reg. 19.407(C)(2), the following changes will not be considered *de minimis*:

- any increase in the permitted emission rate at a stationary source without a corresponding physical change or change in the method of operation at the source;
- any change which would result in a violation of the Clean Air Act;
- any change seeking to change a case-by-case determination of an emission limitation established pursuant to Best Available Control Technology (BACT), § 112(g), § 112(i)(5), § 112(j), or § 111(d) of the Clean Air Act as amended as of February 15, 1999;
- a change that would result in a violation of any provision of this regulation;
- any change in a permit term, condition, or limit that a source has assumed to avoid an applicable requirement to which the source would otherwise be subject;
- any significant change or relaxation to existing testing, monitoring, reporting, or recordkeeping requirements; or
- any proposed change which requires more than minimal judgment to determine eligibility.

V. WHAT QUALIFIES AS A MINOR MODIFICATION?

For a source with Title V operating permits under APC&EC Reg. 26, minor permit modifications are used for those permit modifications that:

(A) Involve an emission increase of less than:

- 75 tons per year of carbon monoxide (CO);
- 40 tons per year of nitrogen oxides (NO_x);
- 40 tons per year of sulfur dioxide (SO₂);
- 25 tons per year of particulate matter (PM);
- 10 tons per year of direct PM_{2.5};
- 15 tons per year of PM₁₀;
- 40 tons per year of volatile organic compounds (VOCs);
- 0.6 tons per year of lead;

(B) Involve the installation or modification of emissions units which do not require a title I emissions netting procedure to determine eligibility;

(C) Do not violate any applicable requirement;

(D) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

(E) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(F) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I; and

(2) An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act;

(G) Are not modifications under any provision of title I of the Act.

W. WHAT QUALIFIES AS AN ADMINISTRATIVE AMENDMENT?

The following are the most common situations which qualify as an administrative amendment.

- Correction of typographical errors
- identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change
- Requires more frequent monitoring or reporting
- Allows for a change in ownership or operational control of a source
- Incorporates a change to the permit solely involving the retirement of equipment or an emissions unit
- Incorporates a change to the insignificant activities list

See 19.407(A) of Regulation 19 and 26.901 of Regulation 26.

X. What type(s) of activities can I conduct prior to permit issuance?

Under APC&EC Reg. 26.301, no new Part 70 (Title V) source may begin construction prior to obtaining a Part 70 permit. DEQ adheres to EPA's general guidance that activities such as planning, ordering or equipment and material, site-clearing, grading, and on-site storage of equipment and materials are acceptable. All on-site activities of a permit nature aimed at completing a PSD source (including, but not limited to, installation of building supports and foundations, paving, laying of underground pipe work, construction of permanent storage structures, and activities of a similar nature) are prohibited until the permit is obtained.

In the past, certain facilities have requested written clarification regarding what work may be performed prior to the permit becoming effective. The following is an example of DEQ's response to one such inquiry: [2007 DEQ Letter: Allowable Pre-Permit Activities](#)

Comment [MW30]: S.L. added this link

Please direct specific questions to the DEQ Office of Air Quality Permits Branch.

VIII. COMPLIANCE

Comment [MW31]: PP

A. OPERATING UNDER A PERMIT

1. TYPES OF PERMIT CONDITIONS

- General Conditions: Minor Source Permits Only

Plantwide Conditions only exist in Title V Operating Permits. Plantwide conditions include operating parameters and recordkeeping requirements not found in specific conditions including the following:

- Stack test reporting
- Other opacity
- Additional throughput and usage requirements
- Any applicable federal regulations
- Federal subpart requirements

General Provisions (Title V operating permit term) or General Conditions (minor source term) consist of requirements including:

- Upset condition reporting guidelines
- Submission of monitoring reports
- Notification requirements

- Testing requirements
- Exemption from limits requests

- General Provisions: Title V Operating Permits Only

B. WHAT TO EXPECT IN AN INSPECTION

1. PLANTS PROCESS INSPECTION

Key areas of concern during a facility tour include the following:

- Control equipment
- All listed sources
- Fugitive emissions
- Un-permitted sources
- Potential violations of other media (water, solid waste, etc)

Common types of equipment and key questions regarding that equipment:

- Cyclones
 - What is the physical condition of the cyclone(s) and duct work?
 - Are fugitive emissions occurring from improperly maintained duct work?
 - Are any required maintenance records being kept?
 - Is the opacity within permit limits?
- Baghouses
 - What is the physical condition of baghouse and ductwork?
 - Are required maintenance records being kept? (such as bag replacement?)
 - Does the baghouse have a functional pressure gauge?
 - Are any required pressure drop records being maintained?
- Scrubbers
 - What is the physical condition of the scrubber?
 - Are required maintenance and/or monitoring records being kept?
 - Is the opacity within permit limits?
- Continuous Emissions Monitoring Systems (CEMS)
 - Is the CEMS shelter adequate?
 - Are temperatures being controlled?

Comment [CG32]: Note that many fabric filters now only have VE reading requirements with no pressure drop requirements.

- Have daily calibrations been conducted as required?
Are cylinder gas audits and relative accuracy test audits being conducted as required?

Other potential sources of concern during inspections

- Fugitive emissions
 - Are fugitive emissions being generated? If so, are they leaving the property boundary?
 - When containers are not in use, they should be closed or sealed to prevent emissions?
- Unpermitted Sources
 - Are there any processes or equipment which have been added that are not included in the permit?

Comment [CG33]: "Visible emissions crossing"

2. CONCLUSION OF INSPECTION

This part of the inspection will include a discussion of any compliance issues found and including in recordkeeping or any potential issues involving permit conditions effect equipment. Examples of recordkeeping issues that might be discussed include whether the records were organized in the required format and whether the throughputs are near the permit limits. Examples of discussions that may occur involving equipment include opacity approaching the permit limits or warnings signs such as pressure drops.

3. AFTER THE CONCLUSION OF AN INSPECTION

If there are issues identified in an inspection, then the facility will receive what is called a "30-day letter," which instructs the facility to submit any other information that it wishes DEQ to consider and a corrective action plan, if necessary.

Please note the following:

- A response is due 30 days from the date on the letter and not 30 days from receipt of the letter.
- The response to a 30-day letter will be reviewed by the inspector, who will make a recommendation as to how to proceed to the enforcement branch.
- The inspector does not determine whether an issued is a violation or not. There is a separate enforcement branch that makes that determination.

- If a violation is found, it may be determined to be "informal" if it is sufficiently minor to be resolved with further action by enforcement. "Informal" do not have a civil penalty attached. Alternatively, it may be determined to "formal" in which case the enforcement branch may offer to settle the violations in what is called a "Consent Administrative Order."

C. 12-MONTH ROLLING TOTALS

A "12-month rolling total" means any 12-month total is continuous and consecutive. Records must contain the monthly total and the 12-month rolling total for each individual month's data.

D. GENERAL CONDITIONS

As indicated by name, general conditions are conditions that are standardized and not specific to a particular facility. Examples include:

- Upset condition reporting guidelines
- Submission of monitoring reports
- Notification requirements
- Testing requirements
- Exemption from limits requests

E. RECORDKEEPING

Recordkeeping requirements are found in the specific conditions, plantwide conditions, general provisions (conditions), and certain federal regulations.

The following are some common recordkeeping problems to avoid:

- Tailor records to permit requirements. Keep records simple and concise.
- Records should pertain only to the requirements contained in the permit. Avoid including unrelated information.
- Remember that all collected records are subject to public viewing through a Freedom of Information Act request if one is submitted.

One example of a recordkeeping requirement is general condition five or GC-5: The permittee must keep records for five years to enable the Division to determine compliance with the terms of this permit. Tips for complying with GC-5 include the following:

- These records are not required to be kept on-site unless specifically required to be.

- If you can access the information electronically, then that counts as “on-site.”

F. UPSET CONDITION REPORTING

All upset conditions, resulting in violation of an applicable permit or regulation, must be reported to the Division. Upset Condition reporting requirements are contained in APC&EC Reg. 19.601. An “upset condition” is defined as an exceedance of applicable emission limitations lasting 30 or more minutes, in the aggregate, during a 24-hour period, unless otherwise specified in an applicable permit or regulation (such as New Source Performance Standards [NSPS] regulations). The Division may forego enforcement action for an exceedance if owner or operator demonstrates that:

- I. equipment malfunction or upset and are not the result of negligence or improper maintenance; or
- II. physical constraints on the ability of a source to comply with the emission standard, limitation or rate during startup or shutdown; and
- III. And that all reasonable measures have been taken to immediately minimize or eliminate the excess emissions.

The facility must report the upset or breakdown of equipment to the Division by the end of the next business day after the discovery of the occurrence.

The facility must also submit to the Division, at its request, a full report of such occurrence, including the identification of and location of the process and control equipment involved in the upset and including a statement of all known causes and the scheduling and nature of the actions to be taken to eliminate future occurrences or to minimize the amount by which said limits are exceeded and to reduce the length of time for which said limits are exceeded.

IX. ENFORCEMENT

G. WHAT IS AN INFORMAL ENFORCEMENT ACTION?

An informal enforcement action is reviewed by Enforcement and is provided as a letter detailing violations found of a referenced air permit and/or applicable regulations that at the time do not warrant a formal enforcement action.

You will not be required to do anything other than to correct the violation. In these instances, once you have solved the problem, you are not required to do

anything further because you have come back into compliance with state/federal air regulations. The informal enforcement action letter simply becomes part of your compliance record. However, ADEQ reserves the right to address any violations addressed in an informal enforcement action in the future if it is discovered at a later date that the facility is out of compliance for similar violations.

H. WHAT IS A FORMAL ENFORCEMENT ACTION?

A formal enforcement action, depending upon the circumstances, is provided either as a Consent Administrative Order (CAO) or as a Notice of Violation (NOV). This type of action incorporates an assessment of a civil penalty, corrective actions for violations, and other terms of the agreement into a legally-binding document. Typically, the CAO is the primary response issued in the formal enforcement process for possible violations. When possible violations of state and/or federal regulations are discovered, a CAO is issued.

The NOV is the secondary response issued in the formal enforcement process for possible violations. Both the CAO and NOV will state the area of non-compliance and what needs to be done to return to compliance.

I. HOW SHOULD A RESPONSE BE PROVIDED TO A FORMAL ENFORCEMENT ACTION?

First, a review of the circumstances surrounding the formal enforcement action and corrective actions/measures needed to return to an in compliance status should be determined. This information should be submitted in writing to the Enforcement Section. Then the corrective actions/measures should be implemented.

If corrective actions/measures require additional time to implement, please communicate a timeline to the Enforcement Section for the implementation of these actions/measures. In addition, there is some assistance in understanding the regulations and what needs to be done to demonstrate compliance through the Compliance Monitoring Branch, Permits Branch, and Enforcement Section. For small businesses, DEQ's Enterprise Services can help provide assistance.

Provide all pertinent information that will help make an appropriate final decision about the violations noted in the formal enforcement action. The Enforcement Section strives to ensure that all enforcement actions are resolved in a manner that is fair, consistent, and reasonable. Cooperation in addressing the violations and in communicating throughout the formal enforcement action process is key to any resolution.

J. WHAT DO I DO IF I RECEIVE A PROPOSED CAO?

When you receive a proposed CAO, please review the Findings of Fact and Order and Agreement sections for accuracy. If you agree with the proposed CAO, within 30 days sign and return the original embossed CAO to the Enforcement Section for processing. If you disagree with the proposed CAO, contact the enforcement analyst provided on the proposed CAO cover letter within 30 days. Be prepared to provide a response that contains mitigating information and/or documentation that has not already been considered.

K. WHAT HAPPENS WHEN SETTLEMENT NEGOTIATIONS ARE COMPLETED AFTER THE CAO HAS BEEN INITIALLY PROPOSED?

When a settlement agreement is reached after the proposed CAO has been received, any necessary and appropriate changes will be made, and the CAO will be re-proposed. Within 15 days, the original embossed CAO should be signed and returned to the Enforcement Section for processing.

L. WHAT HAPPENS IF A SETTLEMENT CANNOT BE REACHED?

If a settlement cannot be reached through a CAO, an NOV will be drafted and issued. Upon issuance of a NOV, any disputes should be submitted, in writing, within 30 days to request a hearing to Secretary of the Arkansas Pollution Control and Ecology Commission. Failure to provide a written request for hearing within 30 days will deem the allegations provided in the NOV proven. Providing a written request within the 30 day timeframe, will entitle you to an adjudicatory hearing pertaining to the allegations and matters provided in the NOV.

M. DOES THE OFFICE OF QUALITY HAVE A PENALTY POLICY?

The DEQ Office of Air Quality recently developed its own penalty policy. A copy of the policy is available upon request. Please contact the Office of Air Quality's enforcement branch for more information.

N. CAN I VOLUNTARILY DISCLOSE POTENTIAL VIOLATIONS?

Yes. Information about how to do this is in ADEQ's [Environmental Self-Disclosure Incentive Policy](#).

X. RESOURCES

A. WHERE CAN I ACCESS INFORMATION CONCERNING AIR PERMIT APPLICATIONS AND/OR PERMITS?

Access to a [list of air permit applications](#), [permitted facilities](#), and some permits may be obtained by following the links on our website under the Databases section for [Air Permit Applications Processing Data](#) and [DEQ Facility and Permit Summary \(PDS\)](#).

B. WHERE CAN I OBTAIN A COPY OF THE OFFICE OF AIR QUALITY'S PERMITS?

Electronic copies of most of Air Quality's permits may be downloaded from the DEQ website. All the permit files are in Adobe Acrobat format and can be accessed on the [DEQ Facility and Permit Summary \(PDS\)](#) search page. Use the search criteria and select the entry for the "Active" air permit to obtain the current permit for the facility.

C. IS THERE A LIST OF DRAFT AIR PERMITS?

Yes. A list of draft air permits is updated daily and can be found on the DEQ website on the [Draft Air Permits Listing](#) page.

D. WHERE CAN I OBTAIN A COPY OF DEQ'S AIR REGULATIONS?

Electronic copies of all DEQ air regulations (18, 19, and 26) are available for downloading on the DEQ website: <http://www.adeq.state.ar.us/regs/>

They are available in PDF File format.

XI. APPENDICES

Permit Application instructions

ePortal

Paper instructions

Comment [MW34]: To be added post-finalization of substantial content.

Permit Guidance Manual

Modeling Instructions

NCAPCS

Incorporation by Reference

Flow-chart for permitting scenarios

ⁱⁱ EPA's memorandum, entitled "Guidance for Reclassification of Major Sources as Area Sources under Section 112 of the Clean Air Act" dated January 25, 2018