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**Some provisions in Rule 26 are intended to comply with multiple sections of part 70 requirements. These are not split in this document, so there are instances of repeat citations for some sections of Rule 26.**

40 CFR 70 Citation	CFR Language	Location in Rule 26	Rule 26 Language
§ 70.2	Act means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.	Ch 2	“Clean Air Act” means the federal Clean Air Act, as amended 42 U.S.C. §§ 7401, et seq.
§ 70.2	Affected States are all States: (1) Whose air quality may be affected and that are contiguous to the State in which a part 70 permit, permit modification or permit renewal is being proposed; or (2) That are within 50 miles of the permitted source.	Ch 2	“Affected states” means states: (A) Whose air quality may be affected and that are contiguous to the state in which a Part 70 permit, permit modification, or permit renewal is being proposed; or (B) That are within fifty (50) miles of the permitted Part 70 source.
§ 70.2	Applicable requirement means all of the following as they apply to emissions units in a part 70 source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates): Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in part 52 of this chapter; Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act; (3) Any standard or other requirement under section 111 of the Act, including section 111(d); (4) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act; (5) Any standard or other requirement of the acid rain program under title IV of the Act or the regulations promulgated thereunder; (6) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act; (7) Any standard or other requirement under section 126(a)(1) and (c) of the Act; (8) Any standard or other requirement governing solid waste incineration, under section 129 of the Act; (9) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;	Ch 2	“Applicable requirement” means all of the following as they apply to emissions units in a Part 70 source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates): (A) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Clean Air Act that implements the relevant requirements of the Clean Air Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52; (B) Any term or condition of any preconstruction permits issued pursuant to rules approved or promulgated through rulemaking under Title I, including Parts C or D, of the Clean Air Act; (C) Any standard or other requirement under § 111 of the Clean Air Act, including § 111(d); (D) Any standard or other requirement under § 112 of the Clean Air Act, including any requirement concerning accident prevention under § 112(r)(7) of the Clean Air Act; (E) Any standard or other requirement of the Acid Rain Program under Title IV of the Clean Air Act or the rules promulgated thereunder; (F) Any requirements established pursuant to § 504(b) or § 114(a)(3) of the Clean Air Act; (G) Any standard or other requirement governing solid waste incineration, under § 129 of the Clean Air Act; (H) Any standard or other requirement for consumer and commercial products, under §183(e) of the Clean Air Act;

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	(10) Any standard or other requirement for tank vessels under section 183(f) of the Act; (11) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act; (12) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a title V permit; and (13) Any national ambient air quality standard or increment or visibility requirement under part C of title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.		(I) Any standard or other requirement for tank vessels, under § 183(f) of the Clean Air Act; (J) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under § 328 of the Clean Air Act; (K) Any standard or other requirement of the rules promulgated to protect stratospheric ozone under Title VI of the Clean Air Act, unless EPA has determined that the requirements need not be contained in a Part 70 permit; and (F) Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Clean Air Act, but only as it would apply to temporary sources permitted pursuant to § 504(e) of the Clean Air Act.
§ 70.2	Designated representative shall have the meaning given to it in section 402(26) of the Act and the regulations promulgated thereunder.	Ch 2	“Designated representative” shall have the meaning given to it in § 402(26) of the Clean Air Act and the regulations <sup>1</sup> promulgated thereunder.
§ 70.2	Draft permit means the version of a permit for which the permitting authority offers public participation under § 70.7(h) or affected State review under § 70.8 of this part.	Ch 2	“Draft permit” means the version of a Part 70 permit for which the Division offers public participation and affected state review.
§ 70.2	Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term “unit” for purposes of title IV of the Act.	Ch 2	“Emissions unit” means any part or activity of a stationary source that emits or has the potential to emit any federally regulated air pollutant. This term is not meant to alter or affect the definition of the term “unit” for purposes of Title IV of the Clean Air Act.
§ 70.2	The EPA or the Administrator means the Administrator of the EPA or his designee.	Ch 2	“EPA” means the Administrator of the United States Environmental Protection Agency or his/her designee.
§ 70.2	Final permit means the version of a part 70 permit issued by the permitting authority that has completed all review procedures required by §§ 70.7 and 70.8 of this part.	Ch 2	“Final permit” means the version of a Part 70 permit issued by the Division that has completed all review procedures required by Rule 26.
§ 70.2	Fugitive emissions are those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.	Ch 2	“Fugitive emissions” are those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

<sup>1</sup> Should this be Rules? (generic use of the term)

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§ 70.2	<p>Major source means any stationary source (or any group of stationary sources that are located on one or more continuous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987. State programs may adopt the following provision: For onshore activities belonging to Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, pollutant emitting activities shall be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within 1/4 mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in the introductory text of this definition, has the same meaning as in 40 CFR 63.761.</p> <p>A major source under section 112 of the Act, which is defined as:            (i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units,</p>	Ch 2	<p>“Major source” means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person [or persons under common control]) belonging to a single major industrial grouping and that are described in subsection (A), (B), or (C) of this definition. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the air pollutant emitting activities at the stationary source or group of stationary sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.</p> <p>(A) A major source under § 112 of the Clean Air Act, which is defined as:            (1) For air pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten (10) tons per year or more of any hazardous air pollutant that has been listed pursuant to § 112(b) of the Clean Air Act, twenty-five (25) tons per year or more of any combination of hazardous air pollutants, or a lesser quantity as the EPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from</p>

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	<p>whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or            (ii) For radionuclides, “major source” shall have the meaning specified by the Administrator by rule.</p> <p>A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits, or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:</p> <ul style="list-style-type: none"> <li>(i) Coal cleaning plants (with thermal dryers);</li> <li>(ii) Kraft pulp mills;</li> <li>(iii) Portland cement plants;</li> <li>(iv) Primary zinc smelters;</li> <li>(v) Iron and steel mills;</li> <li>(vi) Primary aluminum ore reduction plants;</li> <li>(vii) Primary copper smelters;</li> <li>(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;</li> <li>(ix) Hydrofluoric, sulfuric, or nitric acid plants;</li> <li>(x) Petroleum refineries;</li> <li>(xi) Lime plants;</li> <li>(xii) Phosphate rock processing plants;</li> <li>(xiii) Coke oven batteries;</li> <li>(xiv) Sulfur recovery plants;</li> <li>(xv) Carbon black plants (furnace process);</li> <li>(xvi) Primary lead smelters;</li> <li>(xvii) Fuel conversion plants;</li> </ul>		<p>other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources; or            (2) For radionuclides, “major source” shall have the meaning specified by the EPA by rule.</p> <p>(B) A major stationary source of air pollutants, as defined in § 302 of the Clean Air Act, that directly emits or has the potential to emit, one hundred (100) tons per year or more of any federally regulated air pollutant (including any major source of fugitive emissions of any federally regulated air pollutant, as determined by rule by EPA). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of § 302(j) of the Clean Air Act, unless the stationary source belongs to one of the following categories of stationary source:</p> <ul style="list-style-type: none"> <li>(1) Coal cleaning plants (with thermal dryers);</li> <li>(2) Kraft pulp mills;</li> <li>(3) Portland cement plants;</li> <li>(4) Primary zinc smelters;</li> <li>(5) Iron and steel mills;</li> <li>(6) Primary aluminum ore reduction plants;</li> <li>(7) Primary copper smelters;</li> <li>(8) Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day;</li> <li>(9) Hydrofluoric, sulfuric, or nitric acid plants;</li> <li>(10) Petroleum refineries;</li> <li>(11) Lime plants;</li> <li>(12) Phosphate rock processing plants;</li> <li>(13) Coke oven batteries;</li> <li>(14) Sulfur recovery plants;</li> <li>(15) Carbon black plants (furnace process);</li> <li>(16) Primary lead smelters;</li> </ul>

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	<p>(xviii) Sintering plants;            (xix) Secondary metal production plants;            (xx) Chemical process plants - The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;            (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;            (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;            (xxiii) Taconite ore processing plants;            (xxiv) Glass fiber processing plants;            (xxv) Charcoal production plants;            (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or            (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.</p> <p>A major stationary source as defined in part D of title I of the Act, including:            (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified or treated as classified as “Marginal” or “Moderate,” 50 tpy or more in areas classified or treated as classified as “Serious,” 25 tpy or more in areas classified or treated as classified as “Severe,” and 10 tpy or more in areas classified or treated as classified as “Extreme”; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;            (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;            (iii) For carbon monoxide nonattainment areas:</p>		<p>(17) Fuel conversion plant;            (18) Sintering plants;            (19) Secondary metal production plants;            (20) Chemical process plants;            (21) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty (250) million British thermal units per hour heat input;            (22) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand (300,000) barrels;            (23) Taconite ore processing plants;            (24) Glass fiber processing plants;            (25) Charcoal production plants;            (26) Fossil-fuel-fired steam electric plants of more than two hundred fifty (250) million British thermal units per hour heat input; or            (27) Any other stationary source category, that, as of August 7, 1980, is being regulated under § 111 or § 112 of the Clean Air Act.</p> <p>(C) A major stationary source as defined in Part D of Title I of the Clean Air Act, including:            (1) For ozone nonattainment areas, stationary sources with the potential to emit:            (a) One hundred (100) tons per year or more of volatile organic compounds or nitrogen oxides in areas classified as “marginal” or “moderate;”            (b) Fifty (50) tons per year or more in areas classified as “serious;”            (c) Twenty-five (25) tons per year or more in areas classified as “severe;” and            (d) Ten (10) tons per year or more in areas classified as “extreme.”            (e) The references in Paragraph (C)(1)(a)–(d) of this definition to one hundred (100), fifty (50), twenty-five (25), and ten (10) tons per year of nitrogen oxides shall not apply with respect to any stationary source for which EPA has made a finding, under § 182(f)(1) or (2) of the Clean Air Act, that requirements under § 182(f) of the Clean Air Act do not apply;</p>

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	<p>(A) That are classified or treated as classified as “Serious,” and            (B) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and            (iv) For particulate matter (PM-10) nonattainment areas classified or treated as classified as “Serious,” sources with the potential to emit 70 tpy or more of PM-10.</p>		<p>(2) For ozone transport regions established pursuant to § 184 of the Clean Air Act, stationary sources with the potential to emit fifty (50) tons per year or more of volatile organic compounds;            (3) For carbon monoxide nonattainment areas that are classified as “serious” and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by EPA, stationary sources with the potential to emit fifty (50) tons per year or more of carbon monoxide; and            (4) For PM10 nonattainment areas classified as “serious,” stationary sources with the potential to emit seventy (70) tons per year or more of PM10.</p>

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<b>40 CFR 70 Citation</b>	<b>CFR Language</b>	<b>Location in Rule 26</b>	<b>Rule 26 Language</b>
§ 70.2	Part 70 permit or permit (unless the context suggests otherwise) means any permit or group of permits covering a part 70 source that is issued, renewed, amended, or revised pursuant to this part.	Ch 2	“Part 70 permit” means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Rule.
§ 70.2	Part 70 program or State program means a program approved by the Administrator under this part.	Ch 2	“Part 70 program” means a program approved by EPA under 40 C.F.R. Part 70.
§ 70.2	Part 70 source means any source subject to the permitting requirements of this part, as provided in §§ 70.3(a) and 70.3(b) of this part.	Ch 2	“Part 70 source” means any stationary source subject to the permitting requirements of this Rule.
§ 70.2	Permit modification means a revision to a part 70 permit that meets the requirements of § 70.7(e) of this part.	Ch 2	“Permit modification” means a revision to a Part 70 permit that meets the requirements of Chapter 10 of Rule 26.
§ 70.2	Permit revision means any permit modification or administrative permit amendment.	Ch 2	“Permit revision” means any permit modification or administrative permit amendment.
§ 70.2	Potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term “capacity factor” as used in title IV of the Act or the regulations promulgated thereunder.	Ch 2	“Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a stationary source to emit an air pollutant; including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed; shall be treated as part of its design if the limitation is enforceable by EPA. This term does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term “capacity factor” as used in Title IV of the Clean Air Act or the regulations <sup>2</sup> promulgated thereunder.

<sup>2</sup> Should this be Rules? (generic use of the term)

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§ 70.2	<p>Regulated air pollutant means the following:            Nitrogen oxides or any volatile organic compounds;            Any pollutant for which a national ambient air quality standard has been promulgated;            Any pollutant that is subject to any standard promulgated under section 111 of the Act;            Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or            Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r) of the Act, including the following:            (i) Any pollutant subject to requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and            (ii) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.</p> <p>Regulated pollutant (for presumptive fee calculation), which is used only for purposes of § 70.9(b)(2), means any regulated air pollutant except the following:            Carbon monoxide;            Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance to a standard promulgated under or established by title VI of the Act;            Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act; or            Greenhouse gases.</p>	Ch 2	<p>“Federally regulated air pollutant” means the following:            (A) Nitrogen oxides or any volatile organic compounds;            (B) Any air pollutant that has a promulgated national ambient air quality standard;            (C) Except as provided in Paragraph (E) of this definition, any air pollutant that is subject to any standard promulgated under the § 111 or § 112 Clean Air Act as of the effective date of Rule 26.            (D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act.            (E) Greenhouse gases, except that greenhouse gases shall not be a federally regulated air pollutant unless the greenhouse gases emissions are regulated under Rule 19.</p>
§ 70.2	Renewal means the process by which a permit is reissued at the end of its term.	Ch 2	“Renewal” means the process of reissuing a Part 70 permit at the end of its term.



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§ 70.2	<p>Responsible official means one of the following:            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 of 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:</p> <p>The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or</p> <p>The delegation of authority to such representatives is approved in advance by the permitting authority;</p> <p>For a partnership or sole proprietorship: a general partner or the proprietor, respectively;</p> <p>For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, 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); or</p> <p>For affected sources:            (i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV of the Act or the regulations promulgated thereunder are concerned; and            (ii) The designated representative for any other purposes under part 70.</p>	Ch 2	<p>“Responsible official” means one of the following:            (A) 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 of the 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:</p> <p>(1) The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 United States dollars); or            (2) The Division approves in advance the delegation of authority to the representative;</p> <p>(B) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;</p> <p>(C) For a municipality, State, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Rule 26, 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); or</p> <p>(D) For acid rain sources:            (1) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the rules promulgated thereunder are concerned; and            (2) The designated representative for any other purposes under Part 70.</p>
§ 70.2	Stationary source means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b)	Ch 2	“Stationary source” means any building, structure, facility, or installation that emits or may emit any federally regulated air pollutant.

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§ 70.2	<p>Greenhouse gases (GHGs), the air pollutant defined in § 86.1818-12(a) of this chapter as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO<sub>2</sub> equivalent emissions.</p> <p>The term tpy CO<sub>2</sub>equivalent emissions (CO<sub>2</sub>e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter - Global Warming Potentials, and summing the resultant value for each to compute a tpy CO<sub>2</sub>e. For purposes of this paragraph, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).</p>	Ch 2	<p>“Greenhouse gases” means the aggregate group of the following six (6) gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.</p>

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§ 70.3	<p>(a) Part 70 sources. A State program with whole or partial approval under this part must provide for permitting of the following sources:</p> <p>(1) Any major source;</p> <p>(2) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the Act;</p> <p>(3) Any source, including an area source, subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of this Act;</p> <p>(4) Any affected source; and</p> <p>(5) Any source in a source category designated by the Administrator pursuant to this section.</p>	26.302(A)-(F)	<p>Rule 26.302 Stationary sources subject to permitting  Unless exempted by Rule 26.303 the following stationary sources shall be subject to permitting under Rule 26:</p> <p>(A) Any major source;</p> <p>(B) Any stationary source, including an area source, subject to a standard, limitation, or other requirement under § 111 of the Clean Air Act (e.g., New Source Performance Standards). However, non-major stationary sources subject to § 111 of the Clean Air Act are exempt from the obligation to obtain a Part 70 permit until EPA completes a rulemaking to determine how Part 70 programs should be structured for non-major stationary sources;</p> <p>(C) Any stationary source, including an area source, subject to a standard or other requirement under § 112 of the Clean Air Act (i.e., hazardous air pollutant rules), except that a stationary source is not required to obtain a permit solely because it is subject to rules or requirements under § 112(r) of the Clean Air Act;</p> <p>(D) Any stationary source subject to Rule 19, Chapter 9;</p> <p>(E) Any acid rain source (which shall be permitted in accordance with the provisions of the Acid Rain Program); and</p> <p>(F) Any stationary source in a stationary source category designated by EPA pursuant to 40 CFR Part 70.</p>

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§ 70.3(b)	<p>(b) Source category exemptions.</p> <p>(1) All sources listed in paragraph (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, may be exempted by the State from the obligation to obtain a part 70 permit until such time as the Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources and the appropriateness of any permanent exemptions in addition to those provided for in paragraph (b)(4) of this section.</p> <p>(2) In the case of nonmajor sources subject to a standard or other requirement under either section 111 or section 112 of the Act after July 21, 1992 publication, the Administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain a part 70 permit at the time that the new standard is promulgated.</p> <p>(3) [Reserved]</p> <p>(4) The following source categories are exempted from the obligation to obtain a part 70 permit:</p> <p>(i) All sources and source categories that would be required to obtain a permit solely because they are subject to part 60, subpart AAA - Standards of Performance for New Residential Wood Heaters; and</p> <p>(ii) All sources and source categories that would be required to obtain a permit solely because they are subject to part 61, subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, § 61.145, Standard for Demolition and Renovation.</p>	26.303	<p>Rule 26.303 Stationary source category exemptions</p> <p>The following stationary source categories are exempt from the obligation to obtain a Part 70 permit:</p> <p>(A) All stationary sources listed in Rule 26.302 that are not major sources, acid rain sources, or solid waste incineration units required to obtain a permit pursuant to § 129(e) of the Clean Air Act, are exempt from the obligation to obtain a Part 70 permit until EPA completes a rulemaking to determine how Part 70 programs should be structured for non-major stationary sources.</p> <p>(B) All stationary sources and stationary source categories that would be required to obtain a permit solely because they are subject to 40 C.F.R. Part 60, Subpart AAA—Standards of Performance for New Residential Wood Heaters; and</p> <p>(C) All stationary sources and stationary source categories that would be required to obtain a permit solely because they are subject to 40 C.F.R. Part 61, Subpart M—National Emission Standard for Hazardous Air Pollutants for Asbestos, 40 CFR § 61.145, Standard for Demolition and Renovation.</p> <p>(D) Any other non-major stationary sources subject to a standard or other requirement under either § 111 or 112 of the Clean Air Act exempted by EPA.</p>
§ 70.3(c)	<p>(c) Emissions units and part 70 sources.</p> <p>(1) For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source.</p> <p>(2) For any nonmajor source subject to the part 70 program under paragraph (a) or (b) of this section, the permitting authority shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the part 70 program.</p>	26.304	<p>Rule 26.304 Emissions units subject to permitting</p> <p>The Division shall include in the Part 70 permit all applicable requirements for all relevant emissions units in the Part 70 source. Some equipment with very small emission rates are exempt from permitting requirements as per Chapter 4 and Appendix A of Rule 19.</p>

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40 CFR 70 Citation	CFR Language	Location in Rule 26	Rule 26 Language
		26.305	Rule 26.305 Emissions subject to permitting All federally regulated air pollutant emissions and recognized air pollutant emissions from a Part 70 source shall be included in a Part 70 permit. Only federally regulated air pollutants may trigger the need for a Part 70 permit or a Part 70 permit modification process. A permit modification involving only air pollutants other than federally regulated air pollutants shall be permitted according to the procedure of Rule 18. These conditions shall be incorporated into the Part 70 permit by administrative permit amendment.
§ 70.3(d)	(d) Fugitive emissions. Fugitive emissions from a part 70 source shall be included in the permit application and the part 70 permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.	26.306	Rule 26.306 Fugitive emissions subject to permitting Fugitive emissions from a Part 70 source shall be included in the Part 70 permit application and the Part 70 permit in the same manner as stack emissions, regardless of whether the stationary source category in question is included in the list of stationary sources contained in the definition of major source.

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§ 70.4(b)(9)- (11)	<p>(9) A commitment from the State to submit, at least annually to the Administrator, information regarding the State's enforcement activities including, but not limited to, the number of criminal and civil, judicial and administrative enforcement actions either commenced or concluded; the penalties, fines, and sentences obtained in those actions; and the number of administrative orders issued.</p> <p>(10) A requirement under State law that, if a timely and complete application for a permit renewal is submitted, consistent with § 70.5(a)(2), but the State has failed to issue or deny the renewal permit before the end of the term of the previous permit, then:</p> <p>(i) The permit shall not expire until the renewal permit has been issued or denied and any permit shield that may be granted pursuant to § 70.6(f) may extend beyond the original permit term until renewal; or</p> <p>(ii) All the terms and conditions of the permit including any permit shield that may be granted pursuant to § 70.6(f) shall remain in effect until the renewal permit has been issued or denied.</p> <p>(11) A transition plan providing a schedule for submittal and final action on initial permit applications for all part 70 sources. This plan shall provide that:</p> <p>(i) Submittal of permit applications by all part 70 sources (including any sources subject to a partial or interim program) shall occur within 1 year after the effective date of the permit program;</p> <p>(ii) Final action shall be taken on at least one-third of such applications annually over a period not to exceed 3 years after such effective date;</p> <p>(iii) Any complete permit application containing an early reduction demonstration under section 112(i)(5) of the Act shall be acted on within 9 months of receipt of the complete application; and</p> <p>(iv) Submittal of permit applications and the permitting of affected sources shall occur in accordance with the deadlines in title IV of the Act and the regulations promulgated thereunder.</p>	26.404, 26.301(B)	<p>Rule 26.404 Applications for proposed new Part 70 sources  The owner or operator proposing to construct a new Part 70 source shall apply for and obtain a Part 70 permit prior to the construction of the Part 70 source, unless the applicable permit application was submitted prior to the effective date of Rule 26 and the Division's draft permitting decision for the Part 70 source has already proceeded to public comment in accordance with Rule 19.</p> <p>Rule 26.301(B)  (B) Construction shall not begin on a proposed new Part 70 source prior to obtaining a Part 70 permit, unless the applicable permit application was submitted prior to the effective date of Rule 26 and the Division's draft permitting decision for the Part 70 source has already proceeded to public notice in accordance with Rule 19.</p>

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§70.4(b) (12)	<p>(12) Provisions consistent with paragraphs (b)(12)(i) through (iii) of this section to allow changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in the terms of total emissions):            Provided, That the facility provides the Administrator and the permitting authority with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different time frame for emergencies. The source, permitting authority, and EPA shall attach each such notice to their copy of the relevant permit. The following provisions implement this requirement of an approvable part 70 permit program:</p> <p>(i) The program shall allow permitted sources to make section 502(b)(10) changes without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).</p> <p>(A) For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.</p> <p>(B) The permit shield described in § 70.6(f) of this part shall not apply to any change made pursuant to this paragraph (b)(12)(i) of this section.</p>	26.802, 26.1013	<p>Rule 26.802 Changes resulting in no emissions increases            (A) A permittee may make a change at the Part 70 source that contravenes terms in the Part 70 permit without a permit revision if the change:            (1) Is not a Title I Modification;            (2) Does not exceed emissions allowable under the Part 70 permit (whether expressed therein as a rate of emissions or in the terms of total emissions);            (3) Does not violate applicable requirements; and            (4) Does not contravene federally enforceable terms and conditions in the Part 70 permit that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;            (B) The permittee shall provide written notice to EPA and the Division at least seven (7) days prior to implementing the proposed changes allowed under Rule 26.802(A), or within a shorter time frame that the Division allows for emergencies. The permittee, Division, and EPA shall attach each notice to their copy of the relevant Part 70 permit. For each change, the written notice shall include a brief description of the change within the permitted Part 70 source, the date when the change will occur, any change in emissions, and any term or condition in the Part 70 permit that is no longer applicable as a result of the change. The permit shield described in Chapter 7 of Rule 26 does not apply to any change made pursuant to Rule 26.802.</p> <p>Rule 26.1013 Part 70 Permit flexibility            (A) The Division may grant an extension to any testing, compliance or other dates in a Part 70 permit. No extensions shall be authorized until the permittee of the Part 70 source receives written approval from the Division. The Division may grant the request, at its discretion, in the following circumstances:            (1) The permittee of the Part 70 source makes a request in writing at least fifteen (15) days in advance of the deadline specified in the Part 70 permit;            (2) The extension does not violate a federal requirement;            (3) The permittee of the Part 70 source demonstrates the need for the extension;</p>

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			<p>and</p> <p>(4) The permittee of the Part 70 source documents that all reasonable measures have been taken to meet the current deadline and documents reasons the current deadline cannot be met.</p> <p>(B) The Division may grant a request to allow temporary emissions and/or testing that would otherwise exceed a permitted emission rate, throughput requirement, or other limit in a Part 70 permit. The requested activities shall not be authorized until the permittee of the Part 70 source receives written approval from the Division. The Division may grant such a request, at its discretion, in the following circumstances:</p> <p>(1) The permittee of the Part 70 source makes the request in writing at least thirty (30) days in advance of the date that temporary emissions and/or testing that would otherwise exceed a permitted emission rate, throughput requirement or other limit in the Part 70 permit;</p> <p>(2) The request does not violate a federal requirement;</p> <p>(3) The request is temporary in nature;</p> <p>(4) The request will not result in conditions of air pollution as defined in Chapter 2 of Rule 18;</p> <p>(5) The request contains the information necessary for the Division to evaluate the request, including but not limited to, quantification of emissions and the date and time emission will occur;</p> <p>(6) The request will result in increased emissions less than five (5) tons of any individual federally regulated air pollutant for which a national ambient air quality standard has been adopted under Chapter 2 of Rule 19, one (1) ton of any single hazardous air pollutant and two and one-half (2.5) tons of total hazardous air pollutants; and</p> <p>(7) The permittee of the Part 70 source maintains records of the dates and results of the temporary emissions and/or testing.</p>



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§ 70.4(b) (12)(i)	<p>(12) Provisions consistent with paragraphs (b)(12)(i) through (iii) of this section to allow changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in the terms of total emissions):            Provided, That the facility provides the Administrator and the permitting authority with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different time frame for emergencies. The source, permitting authority, and EPA shall attach each such notice to their copy of the relevant permit. The following provisions implement this requirement of an approvable part 70 permit program:</p> <p>(i) The program shall allow permitted sources to make section 502(b)(10) changes without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).            (A) For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.            (B) The permit shield described in § 70.6(f) of this part shall not apply to any change made pursuant to this paragraph (b)(12)(i) of this section.</p>	26.803	<p>Rule 26.803 Emissions trading in Part 70 permit            The Division shall, if a Part 70 permit applicant requests it, issue Part 70 permits that contain terms and conditions, including all terms required under 40 C.F.R. § 70.6(a) and (c), to determine compliance, allowing for the trading of emissions increases and decreases in the permitted Part 70 source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the Part 70 permit independent of otherwise applicable requirements. The Part 70 permit applicant shall include in its application proposed replicable procedures and terms that ensure the emissions trades are quantifiable and enforceable. The Division shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The Part 70 permit shall also require compliance with all applicable requirements. The permittee shall provide seven (7) days' written notice to the Division that shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the Part 70 permit. The permit shield described in Chapter 7 of Rule 26 shall extend to terms and conditions that allow increases and decreases in emissions.</p>
§ 70.4(b) (12)(ii)	<p>(ii) The program may provide for permitted sources to trade increases and decreases in emissions in the permitted facility, where the applicable implementation plan provides for such emissions trades without requiring a permit revision and based on the 7-day notice prescribed in this paragraph (b)(12)(ii) of this section. This provision is available in those cases where the permit does not already provide for such emissions trading.            (A) Under this paragraph (b)(12)(ii) of this section, the written notification</p>	26.803, 26.804	<p>Rule 26.803 Emissions trading in Part 70 permit            The Division shall, if a Part 70 permit applicant requests it, issue Part 70 permits that contain terms and conditions, including all terms required under 40 C.F.R. § 70.6(a) and (c), to determine compliance, allowing for the trading of emissions increases and decreases in the permitted Part 70 source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the Part 70 permit independent of otherwise applicable requirements. The Part 70</p>

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	<p>required above shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the applicable implementation plan and that provide for the emissions trade.</p> <p>(B) The permit shield described in § 70.6(f) of this part shall not extend to any change made under this paragraph (b)(12)(ii) of this section. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the applicable implementation plan authorizing the emissions trade.</p>		<p>permit applicant shall include in its application proposed replicable procedures and terms that ensure the emissions trades are quantifiable and enforceable. The Division shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The Part 70 permit shall also require compliance with all applicable requirements. The permittee shall provide seven (7) days' written notice to the Division that shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the Part 70 permit. The permit shield described in Chapter 7 of Rule 26 shall extend to terms and conditions that allow increases and decreases in emissions.</p> <p>Rule 26.804 Emissions trading allowed under Rule 19</p> <p>(A) The permittee may trade increases and decreases in emissions within a<sup>3</sup> permitted Part 70 source, if the trades are allowed under Rule 19 without requiring a permit revision.</p> <p>(B) The permittee shall provide seven (7) days' written notice to the Division. The written notice shall state the following:</p> <ol style="list-style-type: none"> <li>(1) When the proposed change will occur;</li> <li>(2) A description of the change;</li> <li>(3) Any change in emissions;</li> <li>(4) The requirements in the Part 70 permit with which the Part 70 source will comply using the emissions trading provisions of Rule 19,</li> <li>(5) The air pollutants emitted subject to the emissions trade, and</li> <li>(6) The provisions in Rule 19 with which the permittee shall comply and that provide for the emission trade.</li> </ol> <p>(C) The permit shield described in Chapter 7 of Rule 26 shall not extend to any change made pursuant to Rule 26.804.</p>

<sup>3</sup> This is a typo in the strawman draft. Should have "a" here.

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			(D) The Division shall determine compliance with the requirements in the Part 70 permit that the Part 70 source will meet using the emissions trade according to requirements of Rule 19 <sup>4</sup> authorizing the emissions trade.
§ 70.4(b) (12)(iii)	<p>(iii) The program shall require the permitting authority, if a permit applicant requests it, to issue permits that contain terms and conditions, including all terms required under § 70.6 (a) and (c) of this part to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The permitting authority shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements.</p> <p>(A) Under this paragraph (b)(12)(iii) of this section, the written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.</p> <p>(B) The permit shield described in § 70.6(f) of this part may extend to terms and conditions that allow such increases and decreases in emissions.</p>	26.803	<p>Rule 26.803 Emissions trading in Part 70 permit</p> <p>The Division shall, if a Part 70 permit applicant requests it, issue Part 70 permits that contain terms and conditions, including all terms required under 40 C.F.R. § 70.6(a) and (c), to determine compliance, allowing for the trading of emissions increases and decreases in the permitted Part 70 source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the Part 70 permit independent of otherwise applicable requirements. The Part 70 permit applicant shall include in its application proposed replicable procedures and terms that ensure the emissions trades are quantifiable and enforceable. The Division shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The Part 70 permit shall also require compliance with all applicable requirements. The permittee shall provide seven (7) days' written notice to the Division that shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the Part 70 permit. The permit shield described in Chapter 7 of Rule 26 shall extend to terms and conditions that allow increases and decreases in emissions.</p>
§ 70.4(d)(xi)	(xi) Approval of AOSs. The program submittal must include provisions to insure that AOSs requested by the source as approved by the permitting authority are included in the part 70 permit pursuant to § 70.6(a)(9).	26.801	<p>Rule 26.801 Applicant's duty to apply for alternative scenarios</p> <p>The Part 70 permit applicant shall apply for any reasonably anticipated alternative facility operating scenarios at the time of Part 70 permit application. The Division shall include approved alternative operating scenarios in the Part 70 permit. The permittee may implement any operating scenario allowed in a Part 70 permit without the need for a permit revision or notification to the Division.</p>

<sup>4</sup> Rule 19 contains the State Implementation Plan provisions for Arkansas.

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§ 70.5(a) § 70.5 Permit applications	(a) Duty to apply. For each part 70 source, the owner or operator shall submit a timely and complete permit application in accordance with this section.	26.401	Rule 26.401 Duty to apply For each Part 70 source, the owner or operator shall submit a timely and complete Part 70 permit application (on forms supplied by the Division) in accordance with this Chapter.
§ 70.5(a)(1)	(1) Timely application. (i) A timely application for a source applying for a part 70 permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program or on or before such earlier date as the permitting authority may establish. (ii) Part 70 sources required to meet the requirements under section 112(g) of the Act, or to have a permit under the preconstruction review program approved into the applicable implementation plan under part C or D of title I of the Act, shall file a complete application to obtain the part 70 permit or permit revision within 12 months after commencing operation or on or before such earlier date as the permitting authority may establish. Where an existing part 70 permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. (iii) For purposes of permit renewal, a timely application is one that is submitted at least 6 months prior to the date of permit expiration, or such other longer time as may be approved by the Administrator that ensures that the term of the permit will not expire before the permit is renewed. In no event shall this time be greater than 18 months. (iv) Applications for initial phase II acid rain permits shall be submitted to the permitting authority by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.	26.403, 26.406	Rule 26.403 Initial applications from existing Part 70 sources A timely application for an initial Part 70 permit for an existing Part 70 source is one that is submitted within twelve (12) months after the Part 70 source becomes subject to the Part 70 permit program, or on or before an earlier date that the Division may establish. The earliest that the Division may require an initial application from an existing Part 70 source is six (6) months after the Department Division notifies the owner or operator of the existing Part 70 source in writing of its duty to apply for an initial Part 70 permit. Rule 26.406 Renewal permit applications For the purposes of a renewal permit, a timely application is one that is received by the Division at least six (6) months prior to the date of Part 70 permit expiration or another longer time as may be approved by EPA that ensures that the term of the Part 70 permit will not expire before the Part 70 permit is renewed. This time shall not be greater than eighteen (18) months. Renewal permits are subject to the same procedural requirements that apply to initial permit issuance. Part 70 permit expiration terminates the owner's or operator's right to operate a Part 70 source unless the Division has received a timely and complete renewal application, in which case the existing Part 70 permit shall remain in effect until the Division takes final action on the renewal permit application. If the Division fails to act in a timely way on a renewal permit, EPA may invoke its authority under § 505(e) of the Clean Air Act to terminate or revoke and reissue the Part 70 permit.

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§ 70.5(a)(2)- (3)	<p>(2) Complete application. The program shall provide criteria and procedures for determining in a timely fashion when applications are complete. To be deemed complete, an application must provide all information required pursuant to paragraph (c) of this section, except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under paragraph (c) of this section must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. The program shall require that a responsible official certify the submitted information consistent with paragraph (d) of this section. Unless the permitting authority determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in § 70.7(a)(4) of this part. If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. The source's ability to operate without a permit, as set forth in § 70.7(b) of this part, shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the permitting authority.</p> <p>(3) Confidential information. In the case where a source has submitted information to the State under a claim of confidentiality, the permitting authority may also require the source to submit a copy of such information directly to the Administrator.</p>	26.407, 26.408	<p>Rule 26.407 Complete application To be deemed complete, an application shall provide all information required by Rule 26.402, except that applications for permit revision need supply only that information related to the proposed change. Unless the Division determines that an application is not complete within sixty (60) days of receipt of the application, the application shall be deemed to be complete. If, while processing an application that has been determined or deemed to be complete, the Division determines that additional information is necessary to evaluate or take final action on that application, the Division may request the information in writing and set a reasonable deadline for a response.</p> <p>Rule 26.408 Confidential information If an applicant has submitted information to the State under a claim of confidentiality, the Division may also require the applicant to submit a copy of the information directly to EPA.</p>

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§ 70.5(b)	(b) Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.	26.409	Rule 26.409 Applicant's duty to supplement or correct application Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a Part 70 permit application shall, upon becoming aware of the failure or incorrect submittal, promptly submit supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the Part 70 source after the date the applicant filed a complete application but prior to release of a draft permit.
§ 70.5(c)(1)- (2)	(c) Standard application form and required information. The State program under this part shall provide for a standard application form or forms. Information as described below for each emissions unit at a part 70 source shall be included in the application. The Administrator may approve as part of a State program a list of insignificant activities and emissions levels which need not be included in permit applications. However, for insignificant activities which are exempted because of size or production rate, a list of such insignificant activities must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule approved pursuant to § 70.9 of this part. The permitting authority may use discretion in developing application forms that best meet program needs and administrative efficiency. The forms and attachments chosen, however, shall include the elements specified below: (1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact. (2) A description of the source's processes and products (by Standard Industrial Classification (SIC) Code) including those associated with any proposed AOS identified by the source.	26.402(A) (1)-(3)	Rule 26.402 Standard application form and required information (A) The Division shall provide a standard application form or forms for Part 70 sources to the owners and operators of Part 70 sources. The Division may use its discretion in developing application forms that best meet program needs and administrative efficiency. The forms and attachments to the forms shall include: (1) A list of insignificant activities that are exempt because of size or production rate;  (2) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact; (3) A description of the Part 70 source's processes and products (by Standard Industrial Classification Code or the North American Industry Classification System) including any associated with any alternate scenario identified for the Part 70 source;

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§ 70.5(c)(3)	<p>(3) The following emission-related information:</p> <p>(i) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this paragraph (c) of this section. The permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to § 70.9(b) of this part.</p> <p>(ii) Identification and description of all points of emissions described in paragraph (c)(3)(i) of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Act.</p> <p>(iii) Emissions rate in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with an applicable requirement.</p> <p>(iv) The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules.</p> <p>(v) Identification and description of air pollution control equipment and compliance monitoring devices or activities.</p> <p>(vi) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the part 70 source.</p> <p>(vii) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to section 123 of the Act).</p> <p>(viii) Calculations on which the information in paragraphs (c)(3) (i) through (vii) of this section is based.</p>	26.402(A) (4) – (B)	<p>(4) The following emission-related information:</p> <p>(a) All federally regulated air pollutants emitted from any emissions unit, except for those units included in the insignificant activities list pursuant to Rule 26.402(A).</p> <p>(b) Any additional information related to the emissions of air pollutants sufficient to verify requirements that are applicable to the Part 70 source, and other information necessary to collect any permit fees owed under the fee schedule in Rule 9;</p> <p>(c) Identification and description of all points of emissions described above in sufficient detail to establish the basis for fees and applicability of requirements of the Clean Air Act;</p> <p>(d) Emissions rate in tons per year and in terms as are necessary to establish compliance consistent with the applicable standard reference test method;</p> <p>(e) The following information to the extent it is needed to determine or regulate emissions:</p> <p>(i) Fuels;</p> <p>(ii) Fuel use;</p> <p>(iii) Raw materials;</p> <p>(iv) Production rates; and</p> <p>(v) Operating schedules;</p> <p>(f) Identification and description of air pollution control equipment and compliance monitoring devices or activities;</p> <p>(g) Limitations on Part 70 source operation affecting emissions or any work practice standards, where applicable, for all federally regulated pollutants at the Part 70 source;</p> <p>(h) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to § 123 of the Clean Air Act); and</p> <p>(i) Calculations used to determine the information in Rule 26.402(A)(4);</p> <p>(B) The applicant shall include in the Part 70 permit application the information</p>

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			specified in Rule 26.402(A) for each emissions unit at a Part 70 source. The applicant shall not omit any information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required by Rule 9.
§ 70.5(c)(4)- (7)	<p>(4) The following air pollution control requirements:</p> <p>(i) Citation and description of all applicable requirements, and</p> <p>(ii) Description of or reference to any applicable test method for determining compliance with each applicable requirement.</p> <p>(5) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this part or to determine the applicability of such requirements.</p> <p>(6) An explanation of any proposed exemptions from otherwise applicable requirements.</p> <p>(7) Additional information as determined to be necessary by the permitting authority to define proposed AOSs identified by the source pursuant to § 70.6(a)(9) of this part or to define permit terms and conditions implementing any AOS under § 70.6(a)(9) or implementing § 70.4(b)(12) or § 70.6(a)(10) of this part. The permit application shall include documentation demonstrating that the source has obtained all authorization(s) required under the applicable requirements relevant to any proposed AOSs, or a certification that the source has submitted all relevant materials to the appropriate permitting authority for obtaining such authorization(s).</p>	26.402(A) (5)-(8)	<p>(5) The following air pollution control requirements:</p> <p>(a) Citation and description of all applicable requirements; and</p> <p>(b) Description of or reference to any applicable test method for determining compliance with each applicable requirement;</p> <p>(6) Other specific information that may be necessary to implement and enforce other applicable requirements of the Clean Air Act, of Part 70 or to determine the applicability of the requirements;</p> <p>(7) An explanation of any proposed exemptions from otherwise applicable requirements;</p> <p>(8) Additional information as determined to be necessary by the Division to define alternative operating scenarios identified by the applicant pursuant to Rule 26.701(I) or to define terms and conditions in the Part 70 permit implementing Rule 26.802 or Rule 26.701(J);</p>



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§ 70.5(c)(8)	<p>(8) A compliance plan for all part 70 sources that contains all the following:</p> <ul style="list-style-type: none"> <li>(i) A description of the compliance status of the source with respect to all applicable requirements.</li> <li>(ii) A description as follows: <ul style="list-style-type: none"> <li>(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.</li> <li>(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.</li> <li>(C) For requirements for which the source is not in compliance at the time or permit issuance, a narrative description of how the source will achieve compliance with such requirements.</li> <li>(D) For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.</li> </ul> </li> <li>(iii) A compliance schedule as follows: <ul style="list-style-type: none"> <li>(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.</li> <li>(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.</li> <li>(C) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in</li> </ul> </li> </ul>	26.402(A) (9)	<p>(9) A compliance plan for the Part 70 source that contains all the following:</p> <ul style="list-style-type: none"> <li>(a) A description of the compliance status of the Part 70 source with respect to all applicable requirements;</li> <li>(b) A description as follows: <ul style="list-style-type: none"> <li>(i) For applicable requirements with which the Part 70 source is in compliance, a statement that the Part 70 source will continue to comply with the requirements;</li> <li>(ii) For applicable requirements that will become effective during the Part 70 permit term, a statement that the Part 70 source will meet the requirements on a timely basis;</li> <li>(iii) For requirements with which the Part 70 source is not in compliance at the time of Part 70 permit issuance, a narrative description of how the Part 70 source will achieve compliance with the requirements;</li> </ul> </li> <li>(c) A compliance schedule as follows: <ul style="list-style-type: none"> <li>(i) For applicable requirements with which the Part 70 source is in compliance, a statement that the Part 70 source will continue to comply with the requirements;</li> <li>(ii) For applicable requirements that will become effective during the Part 70 permit term, a statement that the Part 70 source will meet the requirements on a timely basis. A statement that the Part 70 source will meet in a timely manner applicable requirements that become effective during the Part 70 permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement; and</li> <li>(iii) A schedule of compliance for the Part 70 source if the Part 70 source is not in compliance with all applicable requirements at the time of Part 70 permit issuance. The schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the Part 70 source will be in noncompliance at the time of Part 70 permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the Part 70 source is subject. Any schedule of compliance shall be supplemental to, and shall not sanction noncompliance with,</li> </ul> </li> </ul>

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	<p>any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.</p> <p>(D) For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term will satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.</p> <p>(iv) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.</p> <p>(v) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.</p>		<p>the applicable requirements on which it is based;</p> <p>(d) A schedule for submission of certified progress reports no less frequently than every six (6) months if the Part 70 source is required to have a schedule of compliance to remedy a violation.</p> <p>(e) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an acid rain source, except as specifically superseded by rules promulgated under Title IV of the Clean Air Act with regard to the schedule and method(s) the Part 70 source will use to achieve compliance with the acid rain emissions limitations.</p>
§ 70.5(c)(9)	<p>(9) Requirements for compliance certification, including the following:</p> <p>(i) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (d) of this section and section 114(a)(3) of the Act;</p> <p>(ii) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;</p> <p>(iii) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and</p>	26.402(A) (10)	<p>(10) Requirements for compliance certification, including the following:</p> <p>(a) A certification of compliance with all applicable requirements by a responsible official consistent with Rule 26.410 and § 114(a)(3) of the Clean Air Act;</p> <p>(b) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;</p> <p>(c) A schedule for submission of compliance certifications during the Part 70 permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Division; and</p>

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	(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.		(d) A statement indicating the Part 70 source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Clean Air Act.
§ 70.5(c) (10)	(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under title IV of the Act.	26.402(A) (11)	(11) The use of nationally-standardized forms for acid rain portions of Part 70 permit applications and compliance plans, as required by rules promulgated under Title IV of the Clean Air Act.
§ 70.5(d)	(d) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.	26.410	Rule 26.410 Certification by responsible official Any application form, report, or compliance certification submitted pursuant to Rule 26 shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under Rule 26 shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
§ 70.6(a)(1)	§ 70.6 Permit content. (a) Standard permit requirements. Each permit issued under this part shall include the following elements: (1) Emissions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. Such requirements and limitations may include ARMs identified by the source in its part 70 permit application as approved by the permitting authority, provided that no ARM shall contravene any terms needed to comply with any otherwise applicable requirement or requirement of this part or circumvent any applicable requirement that would apply as a result of implementing the ARM. (i) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. (ii) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under title IV	26.701(A)	Rule 26.701 Standard Part 70 permit requirements Each Part 70 permit issued under Rule 26 shall include the following elements:  (A) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of Part 70 permit issuance.  (1) The Part 70 permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. (2) The Part 70 permit shall state that, where an applicable requirement of the Clean Air Act is more stringent than an applicable requirement of rules

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	<p>of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.</p> <p>(iii) If an applicable implementation plan allows a determination of an alternative emission limit at a part 70 source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the State elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.</p>		<p>promulgated under Title IV of the Clean Air Act, both provisions shall be incorporated into the Part 70 permit and shall be enforceable by EPA.</p> <p>(3) If allowed under an applicable implementation plan, the Division may make a determination that an alternative emission limit at a Part 70 source, equivalent to that contained in the applicable implementation plan, may be made in the Part 70 permit issuance, renewal, or significant modification process. Any Part 70 permit containing an equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.</p>
§ 70.6(a)(2)	<p>(2) Permit duration. The permitting authority shall issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources. Notwithstanding this requirement, the permitting authority shall issue permits for solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act for a period not to exceed 12 years and shall review such permits at least every 5 years.</p>	26.701(B)	<p>(B) Part 70 Permit Duration: The Division shall issue the Part 70 permit for a fixed term as specified in Rule 26.701(B)(1) through (3):</p> <p>(1) Five (5) years for acid rain sources;</p> <p>(2) A period not to exceed twelve (12) years for solid waste incineration units combusting municipal solid waste subject to the standards under § 129(e) of the Clean Air Act. The Division shall review each Part 70 permit for solid waste incineration units at least every five (5) years; and</p> <p>(3) A period not to exceed five (5) years for all other Part 70 sources.</p>
§ 70.6(a)(3) (i)-(ii)	<p>(3) Monitoring and related recordkeeping and reporting requirements.</p> <p>(i) Each permit shall contain the following requirements with respect to monitoring:</p> <p>(A) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including part 64 of this chapter</p>	26.701(C)	<p>(C) Monitoring and related recordkeeping and reporting requirements:</p> <p>(1) Each Part 70 permit shall contain the following requirements with respect to monitoring:</p> <p>(a) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including 40 C.F.R. Part 64 and</p>

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	<p>and any other procedures and methods that may be promulgated pursuant to sections 114(a)(3) or 504(b) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;</p> <p>(B) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to paragraph (a)(3)(iii) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph (a)(3)(i)(B) of this section; and</p> <p>(C) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.</p> <p>(ii) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:</p> <p>(A) Records of required monitoring information that include the following:</p> <ol style="list-style-type: none"> <li>(1) The date, place as defined in the permit, and time of sampling or measurements;</li> <li>(2) The date(s) analyses were performed;</li> <li>(3) The company or entity that performed the analyses;</li> <li>(4) The analytical techniques or methods used;</li> <li>(5) The results of such analyses; and</li> <li>(6) The operating conditions as existing at the time of sampling or measurement;</li> </ol> <p>(B) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample,</p>		<p>any other procedures and methods that may be promulgated pursuant to § 114(a)(3) or § 504(b) of the Clean Air Act. If more than one monitoring or testing requirement applies, the Part 70 permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the Part 70 permit as a result of streamlining;</p> <p>(b) If the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the permittee's compliance with the Part 70 permit, as reported pursuant to Rule 26.701(C)(3). The monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and</p> <p>(c) As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.</p> <p>(2) With respect to recordkeeping, the Part 70 permit shall incorporate all applicable recordkeeping requirements and require, as applicable, the following:</p> <p>(a) Records of required monitoring information that include the following:</p> <ol style="list-style-type: none"> <li>(i) The date, place as defined in the Part 70 permit, and time of sampling or measurements;</li> <li>(ii) The date(s) analyses were performed;</li> <li>(iii) The company or entity that performed the analyses;</li> <li>(iv) The analytical techniques or methods used;</li> <li>(v) The results of the analyses; and</li> <li>(vi) The operating conditions as existing at the time of sampling or measurement;</li> </ol> <p>(b) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample,</p>

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	measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.		measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the Part 70 permit.
§ 70.6(a)(3) (iii)	(iii) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following: (A) Submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with § 70.5(d) of this part. (B) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The permitting authority shall define “prompt” in relation to the degree and type of deviation likely to occur and the applicable requirements.	26.701(C) (3)	(3) With respect to reporting, the Part 70 permit shall incorporate all applicable reporting requirements and require the following: (a) Submittal of reports of any required monitoring at least every six (6) months. The reports shall clearly identify all instances of deviations from permit requirements. A responsible official shall certify all required reports consistent with Rule 26.410 and § 114(a)(3) of the Clean Air Act. (b) Prompt reporting of deviations from Part 70 permit requirements, including those attributable to upset conditions as defined in the Part 70 permit, the probable cause of the deviations, and any corrective actions or preventive measures taken. The Division shall define in each Part 70 permit “prompt” in relation to the degree and type of deviation likely to occur and the applicable requirements.
§ 70.6(a)(4)- (5)	(4) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under title IV of the Act or the regulations promulgated thereunder. (i) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. (ii) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. (iii) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under title IV of the Act. (5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.	26.701(D)- (E)	(D) A condition in the Part 70 permit prohibiting emissions exceeding any allowances that the Part 70 source lawfully holds under Title IV of the Clean Air Act or the rules promulgated thereunder. (1) The Division shall not require a Part 70 permit revision for increases in emissions that are authorized by allowances acquired pursuant to the Acid Rain Program if the increases do not require a permit revision under any other applicable requirement. (2) The Division shall not limit the number of allowances held by the Part 70 source. Allowances shall not constitute a defense to non-compliance with any other applicable requirement. (3) Any allowance shall be accounted for according to the procedures established in rules promulgated under Title IV of the Clean Air Act. (E) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the Part 70 permit.

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§ 70.6(a)(6)	<p>(6) Provisions stating the following:</p> <p>(i) The permittee must comply with all conditions of the part 70 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.</p> <p>(ii) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.</p> <p>(iii) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.</p> <p>(iv) The permit does not convey any property rights of any sort, or any exclusive privilege.</p> <p>(v) The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality.</p>	26.701(F)	<p>(F) Provisions stating the following:</p> <p>(1) The permittee shall comply with all conditions of the Part 70 permit. Failure to comply with any condition of the Part 70 permit constitutes a violation of the Clean Air Act and is grounds for enforcement action; for Part 70 permit termination, Part 70 permit revocation and reissuance, or permit modification; or for denial of a renewal permit application.</p> <p>(2) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Part 70 permit.</p> <p>(3) The Part 70 permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated non-compliance does not stay any condition in the Part 70 permit.</p> <p>(4) The Part 70 permit does not convey any property rights of any sort, or any exclusive privilege.</p> <p>(5) The permittee shall furnish to the Division, within a reasonable time, any information that the Division may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the Part 70 permit or to determine compliance with the Part 70 permit. Upon request, the permittee shall also furnish to the Division copies of records required to be kept by the Part 70 permit or, for information claimed to be confidential, the permittee may furnish the records directly to the EPA along with a claim of confidentiality.</p>

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40 CFR 70 Citation	CFR Language	Location in Rule 26	Rule 26 Language
§ 70.6(a)(7)- (9)	<p>(7) A provision to ensure that a part 70 source pays fees to the permitting authority consistent with the fee schedule approved pursuant to § 70.9 of this part.</p> <p>(8) Emissions trading. A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.</p> <p>(9) Terms and conditions for reasonably anticipated AOSs identified by the source in its application as approved by the permitting authority. Such terms and conditions:</p> <p>(i) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the AOS under which it is operating;</p> <p>(ii) May extend the permit shield described in paragraph (f) of this section to all terms and conditions under each such AOS; and</p> <p>(iii) Must ensure that the terms and conditions of each AOS meet all applicable requirements and the requirements of this part. The permitting authority shall not approve a proposed AOS into the part 70 permit until the source has obtained all authorizations required under any applicable requirement relevant to that AOS.</p>	26.701(G)- (I)	<p>(G) A provision to ensure that a Part 70 source pays fees to the Division consistent with the fee schedule approved pursuant to Rule 9.</p> <p>(H) A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the Part 70 permit.</p> <p>(I) Terms and conditions for reasonably anticipated operating scenarios identified by the applicant for the Part 70 source in its application as approved by the Division. The terms and conditions:</p> <p>(1) Shall require the permittee, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted Part 70 source a record of the scenario under which it is operating;</p> <p>(2) May extend the permit shield described in Rule 26.704 to all terms and conditions under each operating scenario; and</p> <p>(3) Shall ensure that the terms and conditions of each alternative scenario meet all applicable requirements and the requirements of Rule 26.</p>
§ 70.6(a) (10)	<p>(10) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:</p> <p>(i) Shall include all terms required under paragraphs (a) and (c) of this section to determine compliance;</p> <p>(ii) May extend the permit shield described in paragraph (f) of this section to all terms and conditions that allow such increases and decreases in emissions; and</p> <p>(iii) Must meet all applicable requirements and requirements of this part.</p>	26.701(J)	<p>(J) Terms and conditions, if the Part 70 permit applicant requests them, for the trading of emissions increases and decreases in the permitted Part 70 source, to the extent that the applicable requirements provide for trading increases and decreases without a case-by-case approval of each emissions trade. The terms and conditions:</p> <p>(1) Shall include all terms required under Rule 26.701 and Rule 26.703 to determine compliance;</p> <p>(2) May extend the permit shield described in Rule 26.704 to all terms and conditions that allow increases and decreases in emissions; and</p> <p>(3) Shall meet all applicable requirements and requirements of Rule 26.</p>



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40 CFR 70 Citation	CFR Language	Location in Rule 26	Rule 26 Language
§ 70.6(b)	<p>(b) Federally-enforceable requirements.</p> <p>(1) All terms and conditions in a part 70 permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Act.</p> <p>(2) Notwithstanding paragraph (b)(1) of this section, the permitting authority shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of §§ 70.7, 70.8, or of this part, other than those contained in this paragraph (b) of this section.</p>	26.702(A)-(B)	<p>Rule 26.702 Federally enforceable requirements</p> <p>(A) All terms and conditions in a Part 70 permit, including any provisions designed to limit a Part 70 source's potential to emit, are enforceable by the EPA and citizens under the Clean Air Act.</p> <p>(B) Notwithstanding Rule 26.702(A), the Division shall specifically designate as not being federally enforceable under the Clean Air Act any terms and conditions included in the Part 70 permit that are not required under the Clean Air Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of Chapters 6 and 10 of Rule 26<sup>5</sup>, other than those contained in this Chapter.</p>

<sup>5</sup> "Or this chapter" needed? Is not in the currently effective version of Rule 26, but may need to be added to the Strawman draft.

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§ 70.6(c)(1)- (2)	<p>(c) Compliance requirements. All part 70 permits shall contain the following elements with respect to compliance:</p> <p>(1) Consistent with paragraph (a)(3) of this section, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a part 70 permit shall contain a certification by a responsible official that meets the requirements of § 70.5(d) for this part.</p> <p>(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:</p> <p>(i) Enter upon the permittee's premises where a part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;</p> <p>(ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;</p> <p>(iii) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and</p> <p>(iv) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.</p>	26.703(A)- (B)	<p>Rule 26.703 Compliance requirements</p> <p>All Part 70 permits shall contain the following elements with respect to compliance:</p> <p>(A) Consistent with Rule 26.701(C), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the Part 70 permit. Any document (including reports) required by a Part 70 permit shall contain a certification by a responsible official consistent with Rule 26.410 and § 114(a)(3) of the Clean Air Act.</p> <p>(B) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Division or an authorized representative to perform the following:</p> <p>(1) Enter upon the permittee's premises where a Part 70 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the Part 70 permit;</p> <p>(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the Part 70 permit;</p> <p>(3) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the Part 70 permit; and</p> <p>(4) As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the Part 70 permit or applicable requirements.</p>

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§ 70.6(c)(3)- (4)	<p>(3) A schedule of compliance consistent with § 70.5(c)(8) of this part.</p> <p>(4) Progress reports consistent with an applicable schedule of compliance and § 70.5(c)(8) of this part to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the permitting authority. Such progress reports shall contain the following:</p> <p>(i) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and</p> <p>(ii) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.</p>	26.703(C)- (D)	<p>(C) A schedule of compliance consistent with Rule 26.402(B)(8).</p> <p>(D) Progress reports consistent with an applicable schedule of compliance and Rule 26.402(B)(8) to be submitted at least semiannually, or more frequently if specified in the applicable requirement or by the Division. The progress reports shall contain the following:</p> <p>(1) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when the activities, milestones or compliance were achieved; and</p> <p>(2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.</p>
§ 70.6(c)(5)- (6)	<p>(5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:</p> <p>(i) The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by the permitting authority) of submissions of compliance certifications;</p> <p>(ii) In accordance with § 70.6(a)(3) of this part, a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;</p> <p>(iii) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may cross-reference the permit or previous reports, as applicable):</p> <p>(A) The identification of each term or condition of the permit that is the basis of the certification;</p> <p>(B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under paragraph (a)(3) of this section. If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section</p>	26.703(E)- (F)	<p>(E) Requirements for compliance certification with terms and conditions contained in the Part 70 permit, including emission limitations, standards, or work practices. Part 70 permits shall include each of the following:</p> <p>(1) The frequency (not less than annually or more frequently if specified in the applicable requirement or by the Division) of submissions of compliance certifications;</p> <p>(2) In accordance with Rule 26.701(C), a means for monitoring the compliance of the Part 70 source with its emissions limitations, standards, and work practices;</p> <p>(3) A requirement that the compliance certification include all of the following (provided that the identification of applicable information may cross-reference the Part 70 permit or previous reports, as applicable):</p> <p>(a) The identification of each term or condition of the Part 70 permit that is the basis of the certification;</p> <p>(b) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, and whether the methods or other means provide continuous or intermittent data. The methods and other means shall include, at a minimum, the methods and means required under Rule 26.701(C). If necessary, the owner or operator also shall identify any other material information that must</p>

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<b>40 CFR 70 Citation</b>	<b>CFR Language</b>	<b>Location in Rule 26</b>	<b>Rule 26 Language</b>
	<p>113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;</p> <p>(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred; and</p> <p>(D) Such other facts as the permitting authority may require to determine the compliance status of the source.</p> <p>(iv) A requirement that all compliance certifications be submitted to the Administrator as well as to the permitting authority.</p> <p>(6) Such other provisions as the permitting authority may require.</p>		<p>be included in the certification to comply with § 113(c)(2) of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information;</p> <p>(c) The status of compliance with the terms and conditions of the Part 70 permit for the period covered by the certification, based on the method or means designated in Rule 26.703(E)(3)(b). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance occurred; and</p> <p>(d) Any other facts as the Division may require to determine the compliance status of the Part 70 source.</p> <p>(4) A requirement that all compliance certifications be submitted to the EPA as well as to the Division.</p> <p>(F) Any other provisions as the Division may require.</p>

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§ 70.6(d)	<p>(d) General permits.</p> <p>(1) The permitting authority may, after notice and opportunity for public participation provided under § 70.7(h) of this part, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other part 70 permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the permitting authority shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions of paragraph (f) of this section, the source shall be subject to enforcement action for operation without a part 70 permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under title IV of the Act.</p> <p>(2) Part 70 sources that would qualify for a general permit must apply to the permitting authority for coverage under the terms of the general permit or must apply for a part 70 permit consistent with § 70.5 of this part. The permitting authority may, in the general permit, provide for applications which deviate from the requirements of § 70.5 of this part, provided that such applications meet the requirements of title V of the Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures required under § 70.7(h) of this part, the permitting authority may grant a source's request for authorization to operate under a general permit, but such a grant shall not be a final permit action for purposes of judicial review.</p>	26.705(A)-(B)	<p>Rule 26.705 General permits</p> <p>(A) The Division may, after notice and opportunity for public participation provided under Chapter 6 of Rule 26, issue a general permit covering numerous similar Part 70 sources. Any general permit shall comply with all requirements applicable to other Part 70 permits and shall identify criteria by which Part 70 sources may qualify for the general permit. To Part 70 sources that qualify, the Division shall grant the conditions and terms of the general permit. Notwithstanding the permit shield provisions of this Rule 26.704, the Part 70 source shall be subject to enforcement action for operation without a Part 70 permit if the Part 70 source is later determined not to qualify for the conditions and terms of the general permit. The Division shall not authorize a general permit for acid rain sources under the Acid Rain Program unless otherwise provided in rules promulgated under Title IV of the Clean Air Act.</p> <p>(B) For Part 70 sources that would qualify for a general permit, the owner or operator shall apply to the Division for coverage under the terms of the general permit or shall apply for a Part 70 permit consistent with Chapter 4 of Rule 26. The Division may, in the general permit, provide for applications that deviate from the requirements of Chapter 4 of Rule 26 if the applications meet the requirements of Title V of the Clean Air Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures, the Division may grant a request for authorization to operate under a general permit, but the grant shall not be a final permit action for purposes of judicial review.</p>

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§ 70.6(e)	<p>(e) Temporary sources. The permitting authority may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:</p> <p>(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;</p> <p>(2) Requirements that the owner or operator notify the permitting authority at least 10 days in advance of each change in location; and</p> <p>(3) Conditions that assure compliance with all other provisions of this section.</p>	26.706	<p>Rule 26.706 Temporary sources  The Division may issue a single Part 70 permit authorizing emissions from similar operations by the same Part 70 source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the Part 70 permit. The Division shall not permit an acid rain source as a temporary source. Each Part 70 permit for temporary sources shall include the following:</p> <p>(A) Conditions that will assure compliance with all applicable requirements at all authorized locations;</p> <p>(B) Requirements that the owner or operator notify the Division at least ten (10) days in advance of each change in location; and</p> <p>(C) Conditions that assure compliance with all other provisions of this Chapter.</p>

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§ 70.6(f)	<p>(f) Permit shield.</p> <p>(1) Except as provided in this part, the permitting authority may expressly include in a part 70 permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:</p> <p>(i) Such applicable requirements are included and are specifically identified in the permit; or</p> <p>(ii) The permitting authority, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.</p> <p>(2) A part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.</p> <p>(3) Nothing in this paragraph or in any part 70 permit shall alter or affect the following:</p> <p>(i) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;</p> <p>(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;</p> <p>(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or</p> <p>(iv) The ability of EPA to obtain information from a source pursuant to section 114 of the Act.</p>	26.704	<p>Rule 26.704 Permit shield</p> <p>(A) Except as provided in Rule 26, the Division shall, if requested by the applicant, expressly include in a Part 70 permit a provision stating that compliance with the conditions of the Part 70 permit shall be deemed compliance with any applicable requirements as of the date of Part 70 permit issuance if:</p> <p>(1) The applicable requirements are included and are specifically identified in the Part 70 permit; or</p> <p>(2) The Division, in acting on the Part 70 permit application or permit revision, determines in writing that other requirements specifically identified are not applicable to the Part 70 source, and the Part 70 permit includes the determination or a concise summary thereof.</p> <p>(B) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide a permit shield.</p> <p>(C) Nothing in this subsection or in any Part 70 permit shall alter or affect the following:</p> <p>(1) The provisions of § 303 of the Clean Air Act (emergency orders), including the authority of the EPA under that § 303 of the Clean Air Act;</p> <p>(2) The liability of an owner or operator of a Part 70 source for any violation of applicable requirements prior to or at the time of Part 70 permit issuance;</p> <p>(3) The applicable requirements of the Acid Rain Program, consistent with § 408(a) of the Clean Air Act; or</p> <p>(4) The ability of EPA to obtain information from a Part 70 source pursuant to § 114 of the Clean Air Act.</p> <p>(D) Permit shield provisions shall not extend to minor permit modifications.</p>

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§ 70.6(g)(1)- (5)	<p>(g) Emergency provision -</p> <p>(1) Definition. An “emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.</p> <p>(2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (g)(3) of this section are met.</p> <p>(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:</p> <p>(i) An emergency occurred and that the permittee can identify the cause(s) of the emergency;</p> <p>(ii) The permitted facility was at the time being properly operated;</p> <p>(iii) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and</p> <p>(iv) The permittee submitted notice of the emergency to the permitting authority within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of paragraph (a)(3)(iii)(B) of this section. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.</p> <p>(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.</p> <p>(5) This provision is in addition to any emergency or upset provision contained in any applicable requirement.</p>	26.707(A)- (D)	<p>Rule 26.707 Emergency provision</p> <p>(A) An “emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the Part 70 source that causes the Part 70 source to exceed a technology-based emission limitation under the Part 70 permit, due to unavoidable increases in emissions attributable to the emergency, and that requires immediate corrective action to restore normal operation. An emergency shall not include non-compliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.</p> <p>(B) An emergency constitutes an affirmative defense to an action brought for non-compliance with a technology-based emission limitations if the conditions of Rule 26.707(B)(1) through (4) are met. The permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:</p> <p>(1) An emergency occurred and that the permittee can identify the cause(s) of the emergency;</p> <p>(2) The permitted Part 70 was at the time being properly operated;</p> <p>(3) During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the Part 70 permit; and</p> <p>(4) The permittee submitted notice of the emergency to the Division by the next working day after the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.</p> <p>(C) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.</p> <p>(D) This provision is in addition to any emergency or upset provision contained in any applicable requirement.</p>



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40 CFR 70 Citation	CFR Language	Location in Rule 26	Rule 26 Language
§ 70.7(a)(1)	<p>(a) Action on application.</p> <p>(1) A permit, permit modification, or renewal may be issued only if all of the following condition have been met:</p> <p>(i) The permitting authority has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under § 70.6(d) of this part;</p> <p>(ii) Except for modifications qualifying for minor permit modification procedures under paragraphs (e) (2) and (3) of this section, the permitting authority has complied with the requirements for public participation under paragraph (h) of this section;</p> <p>(iii) The permitting authority has complied with the requirements for notifying and responding to affected States under § 70.8(b) of this part;</p> <p>(iv) The conditions of the permit provide for compliance with all applicable requirements and the requirements of this part; and</p> <p>(v) The Administrator has received a copy of the proposed permit and any notices required under §§ 70.8(a) and 70.8(b) of this part, and has not objected to issuance of the permit under § 70.8(c) of this part within the time period specified therein.</p>	26.501, 26.601	<p>Rule 26.501 Action on Part 70 permit applications</p> <p>The Division may issue a Part 70 permit, permit modification, or renewal permit only if all of the following conditions have been met:</p> <p>(A) The Division has received a complete application for a Part 70 permit, permit modification, or renewal permit, except that a complete application need not be received before issuance of a general permit;</p> <p>(B) Except for changes qualifying for minor permit modification procedures under Chapter 10 of Rule 26, the Division has complied with the requirements under Chapter 6 of Rule 26 for public participation and for notifying and responding to affected states;</p> <p>(C) The processing of the Part 70 permit application and the conditions of the Part 70 permit provide for compliance with all applicable requirements and the requirements of Rule 26; and</p> <p>(D) EPA has received a copy of the proposed Part 70 permit and any notices required under Chapter 6 of Rule 26 and has not objected to issuance of the Part 70 permit within the time period specified therein.</p> <p>Rule 26.601 Applicability</p> <p>All initial permits, renewal permits, and significant permit modifications shall meet the permit review requirements of this Chapter.</p>
§ 70.7(a)(2)- (6)	<p>(2) Except as provided under the initial transition plan provided for under § 70.4(b)(11) of this part or under regulations promulgated under title IV of title V of the Act for the permitting of affected sources under the acid rain program, the program shall provide that the permitting authority take final action on each permit application (including a request for permit modification or renewal) within 18 months, or such lesser time approved by the Administrator, after receiving a complete application.</p> <p>(3) The program shall also contain reasonable procedures to ensure priority is given to taking action on applications for construction or modification under title I,</p>	26.502- 26.504, 26.505, & 26.506	<p>Rule 26.502 Final action on Part 70 permit application</p> <p>The Division shall take final action on each Part 70 permit application (including a request for permit modification or renewal permit) as expeditiously as practicable, but no later than eighteen (18) months after receiving a complete application, unless a different time period is provided for in Rule 26 (i.e., initial permitting of existing Part 70 sources and minor permit modifications). Failure of the Division to act upon an application shall not constitute approval of the Part 70 permit application. An aggrieved applicant may seek relief from Division inaction on a Part 70 permit application in accordance with the procedures of Ark. Code Ann. §</p>

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	<p>parts C and D of the Act.</p> <p>(4) The permitting authority shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. For modifications processed through minor permit modification procedures, such as those in paragraphs (e) (2) and (3) of this section, the State program need not require a completeness determination.</p> <p>(5) The permitting authority shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The permitting authority shall send this statement to EPA and to any other person who requests it.</p> <p>(6) The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under title I of the Act.</p>		<p>8-4-311 (b)(10)(F).</p> <p>Rule 26.503 Priority for application review  The Division shall give priority to taking action on applications for construction and modification over renewal permit applications to the extent practicable.</p> <p>Rule 26.504 Notification of application completeness  The Division shall promptly provide notice to the applicant of whether the application is complete. Unless the Division requests additional information or otherwise notifies the applicant of incompleteness within sixty (60) days of receipt of an application, the application shall be deemed complete. For changes processed through minor permit modification procedures, the program shall not require a completeness determination, but the change shall be subject to an eligibility determination.</p> <p>Rule 26.506 Basis for draft permit conditions  The Division shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Division shall send this statement to EPA and to any other person who requests it.</p> <p>Rule 26.505 Ability to operate a Part 70 source prior to final permit action  The ability to operate a Part 70 source without a Part 70 permit prior to initial permit issuance (to existing Part 70 sources) or renewal permit issuance shall be in effect from the date that the Division determines or deems the timely and complete application for initial permit or renewal permit to be complete until the final permit is issued if the applicant submits any requested additional information by the deadline specified by the Division. <b>However, the installation of new emissions units and the modification of existing emissions units may not commence until the Division issues a final permit for the activity, unless the activity involves</b></p>

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			equipment exempt from permitting requirements or changes eligible to be processed through minor permit modification procedures. <sup>6</sup>
§ 70.7(b)	(b) Requirement for a permit. Except as provided in the following sentence, § 70.4(b)(12)(i), and paragraphs (e) (2)(v) and (3)(v) of this section, no part 70 source may operate after the time that it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a part 70 program. The program shall provide that, if a part 70 source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a part 70 permit is not a violation of this part until the permitting authority takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to paragraph (a)(4) of this section, and as required by § 70.5(a)(2) of this part, the applicant fails to submit by the deadline specified in writing by the permitting authority any additional information identified as being needed to process the application.	26.301(A)	Rule 26.301 Requirement for a Part 70 permit (A) A Part 70 source shall not operate unless it is operating in compliance with a Part 70 permit, or unless the owner or operator of the Part 70 source has filed a timely and complete application for an initial permit or renewal permit as required under Rule 26. The owner or operator of an existing Part 70 source shall submit an initial application according to the provisions of Chapter 4. If the owner or operator of a Part 70 source submits a timely and complete application for an initial permit or renewal permit, the Part 70 source's failure to have a Part 70 permit is not a violation of Rule 26 until the Division takes final action on the Part 70 permit application, except as noted in this Chapter. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit by the deadline specified in writing by the Division any additional information identified as necessary to process the application. If the Division fails to act in a timely way on a renewal permit, EPA may invoke its authority under § 505(e) of the Clean Air Act to terminate or revoke and reissue the Part 70 permit.

<sup>6</sup> Highlight indicates this part of the provision is related to Title I requirements

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§ 70.7(c)	<p>(c) Permit renewal and expiration.</p> <p>(1) The program shall provide that:</p> <p>(i) Permits being renewed are subject to the same procedural requirements, including those for public participation, affected State and EPA review, that apply to initial permit issuance; and</p> <p>(ii) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with paragraph (b) of this section and § 70.5(a)(1)(iii) of this part.</p> <p>(2) If the permitting authority fails to act in a timely way on a permit renewal, EPA may invoke its authority under section 505(e) of the Act to terminate or revoke and reissue the permit.</p>	26.406	<p>Rule 26.406 Renewal permit applications</p> <p>For the purposes of a renewal permit, a timely application is one that is received by the Division at least six (6) months prior to the date of Part 70 permit expiration or another longer time as may be approved by EPA that ensures that the term of the Part 70 permit will not expire before the Part 70 permit is renewed. This time shall not be greater than eighteen (18) months. Renewal permits are subject to the same procedural requirements that apply to initial permit issuance. Part 70 permit expiration terminates the owner's or operator's right to operate a Part 70 source unless the Division has received a timely and complete renewal application, in which case the existing Part 70 permit shall remain in effect until the Division takes final action on the renewal permit application. If the Division fails to act in a timely way on a renewal permit, EPA may invoke its authority under § 505(e) of the Clean Air Act to terminate or revoke and reissue the Part 70 permit.</p>
§ 70.7(d)(1)	<p>(d) Administrative permit amendments.</p> <p>(1) An "administrative permit amendment" is a permit revision that:</p> <p>(i) Corrects typographical errors;</p> <p>(ii) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;</p> <p>(iii) Requires more frequent monitoring or reporting by the permittee;</p> <p>(iv) Allows for a change in ownership or operational control of a source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority;</p> <p>(v) Incorporates into the part 70 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of §§ 70.7 and 70.8 of this part that would be applicable to the change if it were subject to review as a permit modification, and compliance</p>	26.901	<p>Rule 26.901 Administrative permit amendment applicability</p> <p>An "administrative permit amendment" is a permit revision, requested by the permittee, that:</p> <p>(A) Corrects typographical errors;</p> <p>(B) Identifies a change in the name, address, or phone number of any person identified in the Part 70 permit, or provides a similar minor administrative change at the Part 70 source;</p> <p>(C) Requires more frequent monitoring or reporting by the permittee;</p> <p>(D) Allows for a change in ownership or operational control of a Part 70 source, which has been permitted under Rule 19, if the Division determines that no other change in the Part 70 permit is necessary and the permittee submits to the Division a written agreement containing a specific date for transfer of Part 70 permit responsibility, coverage, and liability between the current and new permittee;</p> <p>(E) Incorporates a change in the Part 70 permit involving air pollutants other than federally regulated air pollutants that has been processed under permitting provisions of Rule 18 and Rule 19;</p>

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	requirements substantially equivalent to those contained in § 70.6 of this part; or (vi) Incorporates any other type of change which the Administrator has determined as part of the approved part 70 program to be similar to those in paragraphs (d)(1)(i) through (iv) of this section.		(F) Incorporates a change in the Part 70 permit solely involving the retiring of an emissions unit; or (G) Incorporates a change to the Part 70 source’s insignificant activities list.
§ 70.7(d)(2)- (4)	(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act. (3) Administrative permit amendment procedures. An administrative permit amendment may be made by the permitting authority consistent with the following: (i) The permitting authority shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph. (ii) The permitting authority shall submit a copy of the revised permit to the Administrator. (iii) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request. (4) The permitting authority may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in § 70.6(f) for administrative permit amendments made pursuant to paragraph (d)(1)(v) of this section which meet the relevant requirements of §§ 70.6, 70.7, and 70.8 for significant permit modifications.	26.902 26.903	Rule 26.902 Acid Rain Program administrative permit amendments The rules promulgated under Title IV of the Clean Air Act shall govern administrative permit amendments for purposes of the acid rain portion of the Part 70 permit. Rule 26.903 Administrative permit amendment procedures The Division shall make an administrative permit amendment consistent with the following: (A) The Division shall take no more than sixty (60) days from receipt of a request for an administrative permit amendment to take final action on the request, and may incorporate the changes without providing notice to the public or affected states if the Division designates the permit revision as having been made pursuant to Rule 26.903. (B) The Division shall submit a copy of the permit revision to EPA. (C) The permittee may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

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§ 70.7(e)(1)	<p>(e) Permit modification. A permit modification is any revision to a part 70 permit that cannot be accomplished under the program's provisions for administrative permit amendments under paragraph (d) of this section. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act.</p> <p>(1) Program description. The State shall provide adequate, streamlined, and reasonable procedures for expeditiously processing permit modifications. The State may meet this obligation by adopting the procedures set forth below or ones substantially equivalent. The State may also develop different procedures for different types of modifications depending on the significance and complexity of the requested modification, but EPA will not approve a part 70 program that has modification procedures that provide for less permitting authority, EPA, or affected State review or public participation than is provided for in this part.</p>	26.1001	<p>Rule 26.1001 Permit modification  This Chapter establishes criteria and procedures for permit modifications. The rules promulgated under Title IV of the Clean Air Act shall govern permit modifications for purposes of the acid rain portion of the Part 70 permit.</p>
§ 70.7(e)(2) (i)	<p>(2) Minor permit modification procedures -</p> <p>(i) Criteria.</p> <p>(A) Minor permit modification procedures may be used only for those permit modifications that:</p> <p>(1) Do not violate any applicable requirement;</p> <p>(2) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;</p> <p>(3) 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;</p> <p>(4) 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:</p> <p>(A) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I; and</p> <p>(B) An alternative emissions limit approved pursuant to regulations promulgated</p>	26.1002	<p>Rule 26.1002 Minor permit modification applicability  The minor permit modification process is an expedited procedure that allows the permittee of a Part 70 source to make trivial changes involving limited emission increases, 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, without a public notice process or a preconstruction permit. The Division may only use minor permit modification procedures if the permit modification:</p> <p>(A) Involves an emission increase of less than:</p> <p>(1) Seventy-five (75) tons per year of carbon monoxide;</p> <p>(2) Forty (40) tons per year of nitrogen oxides;</p> <p>(3) Forty (40) tons per year of sulfur dioxide;</p> <p>(4) Twenty-five (25) tons per year of particulate matter;</p> <p>(5) Ten (10) tons per year of direct PM2.5;</p> <p>(6) Fifteen (15) tons per year of PM10;</p> <p>(7) Forty (40) tons per year of volatile organic compounds; and</p> <p>(8) Six-tenths (0.6) tons per year of lead.</p> <p>(B) Involves the installation of or change(s) to emissions units that do not require a</p>

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	<p>under section 112(i)(5) of the Act;            (5) Are not modifications under any provision of title I of the Act; and            (6) Are not required by the State program to be processed as a significant modification.            (B) Notwithstanding paragraphs (e)(2)(i)(A) and (e)(3)(i) of this section, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.</p>		<p><b>Title I emissions netting procedure to determine eligibility;<sup>7</sup></b>            (C) Does not violate any applicable requirement;            (D) Does not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the Part 70 permit;            (E) Does 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) Does not seek to establish or change a term or condition in the Part 70 permit for which there is no corresponding underlying applicable requirement and that the Part 70 source has assumed to avoid an applicable requirement to which the Part 70 source would otherwise be subject. The terms and conditions include:            (1) A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and            (2) An alternative emissions limit approved pursuant to rules promulgated under § 112(i)(5) of the Clean Air Act; and            (G) Is not a Title I modification.</p>
<p>§ 70.7(e)(2) (ii)</p>	<p>(ii) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of § 70.5(c) of this part and shall include the following:            (A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;            (B) The source's suggested draft permit;            (C) Certification by a responsible official, consistent with § 70.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and            (D) Completed forms for the permitting authority to use to notify the Administrator and affected States as required under § 70.8.</p>	<p>26.1004</p>	<p>Rule 26.1004 Minor permit modification application            An application requesting the use of minor permit modification procedures shall meet the standard Part 70 permit application requirements and shall additionally include the following:            (A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;            (B) The permittee's suggested draft permit conditions;            (C) Certification by a responsible official that the proposed change meets the criteria for use of minor permit modification procedures and a request that minor permit modification procedures be used; and            (D) Completed forms for the Division to use to notify EPA and affected states as required under Chapter 6 of Rule 26.</p>

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§ 70.7(e)(2) (iii)	(iii) EPA and affected State notification. Within 5 working days of receipt of a complete permit modification application, the permitting authority shall meet its obligation under § 70.8 (a)(1) and (b)(1) to notify the Administrator and affected States of the requested permit modification. The permitting authority promptly shall send any notice required under § 70.8(b)(2) to the Administrator.	26.1005	Rule 26.1005 EPA and affected state notification of minor permit modification application Within five (5) working days of receipt of a complete minor permit modification application, the Division shall meet its obligation to notify EPA and affected states of the requested permit modification. The Division promptly shall send any notice required under Chapter 6 of Rule 26 to EPA.
§ 70.7(e)(2) (iv)	(iv) Timetable for issuance. The permitting authority may not issue a final permit modification until after EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to issuance of the permit modification, whichever is first, although the permitting authority can approve the permit modification prior to that time. Within 90 days of the permitting authority's receipt of an application under minor permit modification procedures or 15 days after the end of the Administrator's 45-day review period under § 70.8(c), whichever is later, the permitting authority shall: (A) Issue the permit modification as proposed; (B) Deny the permit modification application; (C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or (D) Revise the draft permit modification and transmit to the Administrator the new proposed permit modification as required by § 70.8(a) of this part.	26.1006	Rule 26.1006 Timetable for issuance of minor permit modification The Division shall not issue a final minor permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Division that EPA will not object to issuance of the permit modification, although the Division can approve the permit modification prior to that time. Within ninety (90) days of the Division's receipt of an application under minor permit modification procedures or fifteen (15) days after the end of the EPA's forty-five (45) day review period under Chapter 6 of Rule 26, whichever is later, the Division shall: (A) Issue the permit modification as proposed; (B) Deny the permit modification application; (C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or (D) Revise the draft permit modification and transmit to EPA the new proposed permit modification as required by Chapter 6 of Rule 26.



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§ 70.7(e)(2) (v)	(v) Source's ability to make change. The State program may allow the source to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions specified in paragraphs (e)(2)(v) (A) through (C) of this section, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.	26.1007	Rule 26.1007 Permittee's ability to make minor permit modification changes The permittee of a Part 70 source may make the change proposed in its minor permit modification application upon receipt of written notification from the Division. The Division shall have fifteen (15) days after its receipt of the application to determine if the minor permit modification application is complete and is eligible for minor permit modification procedures. If the Division does not respond within this fifteen (15) day period, the permittee may proceed with the proposed change at its own risk. After the permittee makes the change allowed by the preceding sentence, and until the Division takes action on the application, the permittee shall comply with both the applicable requirements governing the change and the proposed terms and conditions. During this time period, the permittee need not comply with the existing terms and conditions of the Part 70 permit that the permittee seeks to modify. However, if the permittee fails to comply with its proposed terms and conditions during this time period, the existing terms and conditions of the Part 70 permit the permittee seeks to modify may be enforced against it.
§ 70.7(e)(2) (vi)	(vi) Permit shield. The permit shield under § 70.6(f) of this part may not extend to minor permit modifications.	26.1009	Rule 26.1009 Permit shield not applicable to minor permit modifications The permit shield under Chapter 7 of Rule 26 does not extend to minor permit modifications.
§ 70.7(e)(3) (i)	(3) Group processing of minor permit modifications. Consistent with this paragraph, the permitting authority may modify the procedure outlined in paragraph (e)(2) of this section to process groups of a source's applications for certain modifications eligible for minor permit modification processing. (i) Criteria. Group processing of modifications may be used only for those permit modifications: (A) That meet the criteria for minor permit modification procedures under paragraph (e)(2)(i)(A) of this section; and (B) That collectively are below the threshold level approved by the Administrator as part of the approved program. Unless the State sets an alternative threshold consistent with the criteria set forth in paragraphs (e)(3)(i)(B) (1) and (2) of this	26.1008, 26.1003	Rule 26.1008 Group processing of minor permit modifications The Division may process multiple applications for different minor permit modifications as a single minor permit modification if the group of multiple minor permit modification applications as a whole meets the eligibility requirements of Rule 26.1002.  Rule 26.1003 Prohibition on multiple related minor permit modification application submittals The permittee of a Part 70 source shall not submit multiple minor permit modification applications that are designed to conceal a larger modification that would not be eligible for minor permit modification procedures. The Division

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	<p>section, this threshold shall be 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in § 70.2 of this part, or 5 tons per year, whichever is least. In establishing any alternative threshold, the State shall consider:</p> <p>(1) Whether group processing of amounts below the threshold levels reasonably alleviates severe administrative burdens that would be imposed by immediate permit modification review, and</p> <p>(2) Whether individual processing of changes below the threshold levels would result in trivial environmental benefits.</p>		<p>may, in its discretion, require that multiple related minor permit modification applications be processed as a significant permit modification.</p>
<p>§ 70.7(e)(3) (ii)</p>	<p>(ii) Application. An application requesting the use of group processing procedures shall meet the requirements of § 70.5(c) of this part and shall include the following:</p> <p>(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.</p> <p>(B) The source's suggested draft permit.</p> <p>(C) Certification by a responsible official, consistent with § 70.5(d) of this part, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.</p> <p>(D) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under paragraph (e)(3)(i)(B) of this section.</p> <p>(E) Certification, consistent with § 70.5(d) of this part, that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modification.</p> <p>(F) Completed forms for the permitting authority to use to notify the Administrator and affected States as required under § 70.8 of this part.</p>	<p>26.1004</p>	<p>Rule 26.1004 Minor permit modification application  An application requesting the use of minor permit modification procedures shall meet the standard Part 70 permit application requirements and shall additionally include the following:</p> <p>(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;</p> <p>(B) The permittee's suggested draft permit conditions;</p> <p>(C) Certification by a responsible official that the proposed change meets the criteria for use of minor permit modification procedures and a request that minor permit modification procedures be used; and</p> <p>(D) Completed forms for the Division to use to notify EPA and affected states as required under Chapter 6 of Rule 26.</p>

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§ 70.7(e)(3) (iii)	(iii) EPA and affected State notification. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under paragraph (e)(3)(i)(B) of this section, whichever is earlier, the permitting authority promptly shall meet its obligations under §§ 70.8 (a)(1) and (b)(1) to notify the Administrator and affected States of the requested permit modifications. The permitting authority shall send any notice required under § 70.8(b)(2) of this part to the Administrator.	26.1005	Rule 26.1005 EPA and affected state notification of minor permit modification application Within five (5) working days of receipt of a complete minor permit modification application, the Division shall meet its obligation to notify EPA and affected states of the requested permit modification. The Division promptly shall send any notice required under Chapter 6 of Rule 26 to EPA.
§ 70.7(e)(3) (iv)	(iv) Timetable for issuance. The provisions of paragraph (e)(2)(iv) of this section shall apply to modifications eligible for group processing, except that the permitting authority shall take one of the actions specified in paragraphs (e)(2)(iv) (A) through (D) of this section within 180 days of receipt of the application or 15 days after the end of the Administrator's 45-day review period under § 70.8(c) of this part, whichever is later.		Rule 26.1006 Timetable for issuance of minor permit modification  The Division shall not issue a final minor permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Division that EPA will not object to issuance of the permit modification, although the Division can approve the permit modification prior to that time. Within ninety (90) days of the Division's receipt of an application under minor permit modification procedures or fifteen (15) days after the end of the EPA's forty-five (45) day review period under Chapter 6 of Rule 26, whichever is later, the Division shall:  (A) Issue the permit modification as proposed; (B) Deny the permit modification application; (C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or (D) Revise the draft permit modification and transmit to EPA the new proposed permit modification as required by Chapter 6 of Rule 26.
§ 70.7(e)(3) (v)-(vi)	(v) Source's ability to make change. The provisions of paragraph (e)(2)(v) of this section shall apply to modifications eligible for group processing. (vi) Permit shield. The provisions of paragraph (e)(2)(vi) of this section shall also apply to modifications eligible for group processing.	26.1007, 26.1009	Rule 26.1007 Permittee's ability to make minor permit modification changes The permittee of a Part 70 source may make the change proposed in its minor permit modification application upon receipt of written notification from the Division. The Division shall have fifteen (15) days after its receipt of the

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			<p>application to determine if the minor permit modification application is complete and is eligible for minor permit modification procedures. If the Division does not respond within this fifteen (15) day period, the permittee may proceed with the proposed change at its own risk. After the permittee makes the change allowed by the preceding sentence, and until the Division takes action on the application, the permittee shall comply with both the applicable requirements governing the change and the proposed terms and conditions. During this time period, the permittee need not comply with the existing terms and conditions of the Part 70 permit that the permittee seeks to modify. However, if the permittee fails to comply with its proposed terms and conditions during this time period, the existing terms and conditions of the Part 70 permit the permittee seeks to modify may be enforced against it.</p> <p>Rule 26.1009 Permit shield not applicable to minor permit modifications  The permit shield under Chapter 7 of Rule 26 does not extend to minor permit modifications.</p>

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§ 70.7(e)(4)	<p>(4) Significant modification procedures -</p> <p>(i) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. The State program shall contain criteria for determining whether a change is significant. At a minimum, every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant. Nothing herein shall be construed to preclude the permittee from making changes consistent with this part that would render existing permit compliance terms and conditions irrelevant.</p> <p>(ii) The State program shall provide that significant permit modifications shall meet all requirements of this part, including those for applications, public participation, review by affected States, and review by EPA, as they apply to permit issuance and permit renewal. The permitting authority shall design and implement this review process to complete review on the majority of significant permit modifications within 9 months after receipt of a complete application.</p>	26.1010	<p>Rule 26.1010 Significant modification procedures</p> <p>Significant modifications involving the procedures of Chapter 6 of Rule 26 shall be used if the permit modification:</p> <p>(A) Involves new applicable requirements;</p> <p>(B) Is a Title I modification;</p> <p>(C) Involves significant changes to existing monitoring, reporting, or recordkeeping requirements in the Part 70 permit;</p> <p>(D) Requires or changes 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;</p> <p>(E) Involves an increase in federally regulated air pollutant emissions that cannot be processed under the procedures in Rule 26.1002 through Rule 26.1009</p> <p>(F) Seeks to establish or change a term or condition in the Part 70 permit for which there is no corresponding underlying applicable requirement and that the Part 70 source has assumed to avoid an applicable requirement to which the Part 70 source would otherwise be subject. The terms and conditions include:</p> <p>(1) A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and</p> <p>(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the Clean Air Act.</p>

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§ 70.7(f)	<p>(f) Reopening for cause.</p> <p>(1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:</p> <p>(i) Additional applicable requirements under the Act become applicable to a major part 70 source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to § 70.4(b)(10) (i) or (ii) of this part.</p> <p>(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.</p> <p>(iii) The permitting authority or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.</p> <p>(iv) The Administrator or the permitting authority determines that the permit must be revised or revoked to assure compliance with the applicable requirements.</p> <p>(2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.</p> <p>(3) Reopenings under paragraph (f)(1) of this section shall not be initiated before a notice of such intent is provided to the part 70 source by the permitting authority at least 30 days in advance of the date that the permit is to be reopened, except that the permitting authority may provide a shorter time period in the case of an emergency.</p>	26.1011	<p>Rule 26.1011 Reopening for cause by the Division</p> <p>(A) Each issued Part 70 permit shall include provisions specifying the conditions under which the Part 70 permit will be reopened prior to the expiration of the Part 70 permit. A Part 70 permit shall be reopened and revised under any of the following circumstances:</p> <p>(1) Additional applicable requirements under the Clean Air Act become applicable to a major Part 70 source with a remaining Part 70 permit term of three (3) or more years. The Division shall complete the reopening no later than eighteen (18) months after promulgation of the applicable requirement. The reopening is not required if the effective date of the requirement is later than the date on which the Part 70 permit is due to expire, unless the original Part 70 permit or any of its terms and conditions has been extended due to failure of the Division to take action on a renewal permit;</p> <p>(2) Additional requirements (including excess emissions requirements) become applicable to an acid rain source under the Acid Rain Program. Upon approval by EPA, the Division shall deem excess emissions offset plans to be incorporated into the Part 70 permit;</p> <p>(3) The Division or EPA determines that the Part 70 permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the Part 70 permit; or</p> <p>(4) EPA or the Division determines that the Part 70 permit must be revised or revoked to assure compliance with the applicable requirements.</p> <p>(B) Proceedings to reopen and issue a Part 70 permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the Part 70 permit for which cause to reopen exists. The Division shall make the reopening as expeditiously as practicable.</p> <p>(C) If reopening is required, the Division shall provide a notice of intent to reopen the Part 70 permit to the permittee of the Part 70 source at least 30 days in advance of the date that the Part 70 permit is to be reopened, except that the Division may provide a shorter time period in the case of an emergency.</p>

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§ 70.7(g)	<p>(g) Reopenings for cause by EPA.</p> <p>(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to paragraph (f) of this section, the Administrator will notify the permitting authority and the permittee of such finding in writing.</p> <p>(2) The permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the permitting authority must require the permittee to submit additional information.</p> <p>(3) The Administrator will review the proposed determination from the permitting authority within 90 days of receipt.</p> <p>(4) The permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the Administrator's objection.</p> <p>(5) If the permitting authority fails to submit a proposed determination pursuant to paragraph (g)(2) of this section or fails to resolve any objection pursuant to paragraph (g)(4) of this section, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:</p> <p>(i) Providing at least 30 days' notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in paragraphs (g) (1) through (4) of this section.</p> <p>(ii) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.</p>	26.1012	<p>Rule 26.1012 Reopenings for cause by EPA</p> <p>(A) If EPA finds that cause exists to terminate, modify, or revoke and reissue a Part 70 permit, EPA shall notify the Division and the permittee of the finding in writing.</p> <p>(B) The Division shall, within ninety (90) days after receipt of the notification, forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. EPA may extend this ninety (90) day period for an additional ninety (90) days if EPA finds that a new or revised Part 70 permit application is necessary or that the Division must require the permittee to submit additional information.</p> <p>(C) The Administrator will review the proposed determination from the Department Division within ninety (90) days of receipt.</p> <p>(D) The Division shall have ninety (90) days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, modify, or revoke and reissue the Part 70 permit in accordance with EPA's objection.</p> <p>(E) If the Department Division fails to submit a proposed determination pursuant to this subsection, or fails to resolve any objection pursuant to this subsection, the Administrator will terminate, modify, or revoke and reissue the permit after the following actions:</p> <p>(1) Providing at least thirty (30) days' notice to the permittee in writing of the reasons for any such action.</p> <p>(2) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.</p>

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§ 70.7(h)(1)	<p>(h) Public participation. Except for modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:</p> <p>(1) Notice shall be given by one of the following methods: By publishing the notice in a newspaper of general circulation in the area where the source is located (or in a State publication designed to give general public notice) or by posting the notice, for the duration of the public comment period, on a public Web site identified by the permitting authority, if the permitting authority has selected Web site noticing as its “consistent noticing method.” The consistent noticing method shall be used for all draft permits subject to notice under this paragraph. If Web site noticing is selected as the consistent noticing method, the draft permit shall also be posted, for the duration of the public comment period, on a public Web site identified by the permitting authority. In addition, notice shall be given to persons on a mailing list developed by the permitting authority using generally accepted methods (e.g., hyperlink sign-up function or radio button on an agency Web site, sign-up sheet at a public hearing, etc.) that enable interested parties to subscribe to the mailing list. The permitting authority may update the mailing list from time to time by requesting written indication of continued interest from those listed. The permitting authority may delete from the list the name of any person who fails to respond to such a request within a reasonable timeframe. The permitting authority may use other means to provide adequate notice to the affected public;</p>	26.602(A)	<p>Rule 26.602 Public participation<sup>8</sup></p> <p>All initial permit issuances, significant modifications, minor permit modifications, and renewal permits shall afford the public the opportunity to comment.</p> <p>(A) Public notice shall be given:</p> <p>(1) By publication of notice of application receipt by the Division, in a newspaper of general circulation in the county where the proposed Part 70 source or activity is to be located, in accordance with Rule 8.</p> <p>(a) If the local newspaper is unable or unwilling to publish the notice, notice may be published in a newspaper in general circulation through the State;</p> <p>(b) Minor permit modifications are exempt from Rule 26.602(A)(1).</p> <p>(2) By the availability for public inspection in at least one location in the area where the Part 70 source is located and in the Division's central offices of the Part 70 permit application submitted by the owner or operator and the Division's draft permitting decision and analysis of the effect of the proposed emissions on air quality;</p> <p>(3) By publication of a notice of the Division's draft permitting decision in a newspaper of general circulation in the county where the proposed Part 70 source or activity is to be located, in accordance with Rule 8. If the local newspaper is unable or unwilling to publish the notice, notice may be published in a newspaper in general circulation through the State;</p> <p>(4) To the mayor of the community where the Part 70 source is located;</p> <p>(5) To the county judge of the county where the Part 70 source is located;</p> <p>(6) To persons on a mailing list developed by the Division, including those who request in writing to be on the list; and</p> <p>(7) By other means if necessary to assure adequate notice to the affected public.</p>

<sup>8</sup> APC&EC Rule 8 dictates requirements for public participation



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§ 70.7(h)(2)	(2) The notice shall identify the affected facility; the name and address of the permittee; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or Web site address) from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including those set forth in § 70.4(b)(3)(viii) of this part, and all other materials available to the permitting authority (except for publicly-available materials and publications) that are relevant to the permit decision; a brief description of the comment procedures required by this part; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);	26.602(B)	(B) The notice of Rule 26.602(A)(3) shall identify: (1) The affected Part 70 source; (2) The name and address of the permittee; (3) The name and address of the Division; (4) The activity or activities involved in the Part 70 permit action; (5) The emissions change involved in any permit modification; (6) The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials and all other materials available to the Division that are relevant to the Part 70 permit decision; (7) A brief description of the comment procedures required by Rule 26; and (9) <sup>9</sup> A statement of procedures to request a hearing.
§ 70.7(h)(3)- (5)	(3) The permitting authority shall provide such notice and opportunity for participation by affected States as is provided for by § 70.8 of this part; (4) Timing. The permitting authority shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing. (5) The permitting authority shall keep a record of the commenters and also of the issues raised during the public participation process so that the Administrator may fulfill his obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted, and such records shall be available to the public.	26.602(C)- (E)	(C) The Division shall provide notice and opportunity for participation by affected states in accordance with Rule 26.604. (D) The Division shall provide at least thirty (30) days for public comment on its draft permitting decision and shall give notice of any public hearing at least thirty (30) days in advance of the hearing. (E) The Division shall keep a record of the commenters and issues raised during the public participation process so that EPA may fulfill its obligation under § 505(b)(2) of the Clean Air Act to determine whether a citizen petition may be granted. The Division shall make the records available to the public.

<sup>9</sup> Should be renumbered in Strawman draft of Rule 26, and/or may need to add “the time and place of any hearing that may be held” phrasing from Part 70

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§ 70.8(a)(1)	(a) Transmission of information to the Administrator. (1) The permit program shall require that the permitting authority provide to the Administrator a copy of each permit application (including any application for permit modification), each proposed permit, and each final part 70 permit. The applicant may be required by the permitting authority to provide a copy of the permit application (including the compliance plan) directly to the Administrator. Upon agreement with the Administrator, the permitting authority may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.	26.603	Rule 26.603 Transmission of Part 70 permit information to EPA (A) The Division shall provide to EPA a copy of each Part 70 permit application (including any application for permit modification), each proposed permit, and each final permit. The Division may require the applicant to provide a copy of the Part 70 permit application (including the compliance plan) directly to EPA. Upon agreement with EPA, the Division may submit to EPA a Part 70 permit application summary form, and any relevant portion of the Part 70 permit application and compliance plan, in place of the complete Part 70 permit application and compliance plan.
§ 70.8(a)(3)	(3) Each State permitting authority shall keep for 5 years such records and submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the State program complies with the requirements of the Act or of this part.	26.603	(B) The Division shall keep for five (5) years the records and submit to EPA any information that EPA may reasonably require to ascertain whether the State's Part 70 program complies with the requirements of the Clean Air Act or of 40 C.F.R. Part 70.
§ 70.8(b)	(b) Review by affected States. (1) The permit program shall provide that the permitting authority give notice of each draft permit to any affected State on or before the time that the permitting authority provides this notice to the public under § 70.7(h) of this part, except to the extent § 70.7(e) (2) or (3) of this part requires the timing of the notice to be different. (2) The permit program shall provide that the permitting authority, as part of the submittal of the proposed permit to the Administrator [or as soon as possible after the submittal for minor permit modification procedures allowed under § 70.7(e) (2) or (3) of this part], shall notify the Administrator and any affected State in writing of any refusal by the permitting authority to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the permitting authority's reasons for not accepting any such recommendation. The permitting authority is	26.604	Rule 26.604 Review of draft permit by affected states (A) The Division shall give notice of each draft permit to any affected state on or before the time that the Division provides this notice to the public, except to the extent that minor permit modification procedures requires the timing of the notice to be different.  (B) The Division, as part of the submittal of the proposed permit to EPA (or as soon as possible after the submittal for minor permit modification procedures), shall notify EPA and any affected state in writing of any refusal by the Division to accept all recommendations for the proposed permit that the affected state submitted during the public or affected state review period. The notice shall include the Division's reasons for not accepting any recommendation. The Division is not required to accept recommendations that are not based on applicable requirements or the requirements of 40 C.F.R. Part 70.

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	not required to accept recommendations that are not based on applicable requirements or the requirements of this part.		
§ 70.8(c)(1)	(c)(1) The Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with applicable requirements or requirements under this part. No permit for which an application must be transmitted to the Administrator under paragraph (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.	26.605	Rule 26.605 EPA objection to proposed permit (A) The Division shall not issue a Part 70 permit for which an application is required to be transmitted to EPA if, pursuant to 40 CFR § 70.8(c), EPA objects to the Part 70 permit issuance in writing within forty-five (45) days of receipt of the proposed permit and all necessary supporting information.
§ 70.8(c)(2)	(2) Any EPA objection under paragraph (c)(1) of this section shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections. The Administrator will provide the permit applicant a copy of the objection.	26.605	(B) Any EPA objection will include a statement of the Administrator's reasons for objection and a description of the terms and conditions that the permit must include to respond to the objections. The Administrator will provide the permit applicant a copy of the objection.
§ 70.8(c)(3)	(3) Failure of the permitting authority to do any of the following also shall constitute grounds for an objection: (i) Comply with paragraphs (a) or (b) of this section; (ii) Submit any information necessary to review adequately the proposed permit; or (iii) Process the permit under the procedures approved to meet § 70.7(h) of this part except for minor permit modifications.	26.605	(C) Failure of the Division to follow proper Part 70 permit issuance procedural requirements or to submit required information necessary to review the proposed permit also shall constitute grounds for an objection by EPA.
§ 70.8(c)(4)	(4) If the permitting authority fails, within 90 days after the date of an objection under paragraph (c)(1) of this section, to revise and submit a proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of the Federal program promulgated under title V of this Act.	26.605	(D) If the Division fails, within ninety (90) days after the date of an objection to submit a revised proposed permit in response to the objection, 40 CFR § 70.8(c) provides that EPA will issue or deny the Part 70 permit in accordance with the requirements of the federal program promulgated under Title V of the Clean Air Act.

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§ 70.8(d)	<p>(d) Public petitions to the Administrator. The program shall provide that, if the Administrator does not object in writing under paragraph (c) of this section, any person may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in § 70.7(h) of this part, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the permitting authority shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the permitting authority has issued a permit prior to receipt of an EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in § 70.7(g) (4) or (5) (i) and (ii) of this part except in unusual circumstances, and the permitting authority may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.</p>	26.606	<p>Rule 26.606 Public petitions to EPA            If EPA does not object in writing to a proposed Part 70 permit, any person may petition EPA within sixty (60) days after the expiration of EPA's forty-five (45) day review period to make an objection.            (A) The petition shall be based only on objections to the Part 70 permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise the objections within the public comment period, or unless the grounds the objection arose after the period.            (B) If EPA objects to the Part 70 permit as a result of a petition filed under Rule 26.606, the Division shall not issue the Part 70 permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a Part 70 permit or its requirements if the Part 70 permit was issued after the end of the forty-five-day review period and prior to an EPA objection. If the Division has issued a Part 70 permit prior to receipt of an EPA objection under Rule 26.606, EPA will modify, terminate, or revoke the Part 70 permit consistent with the procedures in 40 CFR § 70.7(g)(4) or (5)(i) and (ii) except in unusual circumstances, and the Division may thereafter issue only a revised Part 70 permit that satisfies EPA's objection. In any case, the Part 70 source will not be in violation of the requirement to have submitted a timely and complete application.</p>
§ 70.8(e)	<p>(e) Prohibition on default issuance. Consistent with § 70.4(b)(3)(ix) of this part, for the purposes of Federal law and title V of the Act, no State program may provide that a part 70 permit (including a permit renewal or modification) will issue until affected States and EPA have had an opportunity to review the proposed permit as required under this section. When the program is submitted for EPA review, the State Attorney General or independent legal counsel shall certify that no applicable provision of State law requires that a part 70 permit or renewal be issued after a certain time if the permitting authority has failed to take action on the application (or includes any other similar provision providing for default issuance of a permit), unless EPA has waived such review for EPA and affected States.</p>	26.607	<p>Rule 26.607 Prohibition on default issuance            The Division shall not issue a Part 70 permit (including a renewal permit or modification) until affected states and EPA have had an opportunity to review the proposed permit as required under this Chapter.</p>

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§ 70.9(a)	(a) Fee requirement. The State program shall require that the owners or operators of part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this section will be used solely for permit program costs.	26.1101	Rule 26.1101 Fee requirement In accordance with 40 C.F.R. § 70.9, the owners or operators of Part 70 sources shall pay initial and annual fees that are sufficient to cover the State's Part 70 program costs. The Division shall ensure that any fee required by Rule 26 will be used solely for Part 70 program costs.

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The following Part 70 rules apply to EPA and state authorities, responsibilities, and duties, or correspond with APC&EC Rules other than Rule 26:

- § 70.4(a)-(b)(2)
- § 70.4(b)(3)(i)-(xiii)
- § 70.4(b)(4)-(8)
- § 70.4(b)(13)-(16)
- § 70.4(c)
- § 70.4(d)(1)-(3)(xi)
- § 70.4(e)-(j)
- § 70.8(a)(2)
- § 70.9(b)(1)
- § 70.9(b)(2)(i)-(v)
- § 70.9(b)(3)-§ 70.9(d)
- § 70.10(a)-(d)
- § 70.11(a)-(c)

### **Title I Requirements**

Rule 26.405, part of 26.505, 26.1002(A), and 26.1201 are not analogous to any provisions in Part 70. They pertain to Title I requirements.

### **40 CFR 72 and 76 for Acid Rain sources**

Rule 26.1202 incorporates by reference provisions of 40 C.F.R. Parts 72 and 76 (including all provisions of Parts 73, 74, 75, 77, and 78 referenced therein) to include requirements for Acid Rain Program that meets the requirements of Title IV of the Clean Air Act. Part 72 or 76 provisions and requirements take precedence over Rule 26 provisions if there is conflict (or omission) of requirements.