

## EXECUTIVE SUMMARY FOR REGULATION 26 AMENDMENTS

On November 27, 2001, the Environmental Protection Agency (EPA) published a final rule which promulgated a change to the definition of “major source.” The change no longer requires States to provide that sources in categories subject to standards under section 111 or 112 promulgated after August 7, 1980, must include fugitive emissions in determining major source status under section 302 or part D of title I of the Act. The federal definition of “major source” is “(xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.” The proposed amendment to Regulation No. 26 of the definition of “major source” mirrors the federal requirement. Other proposed amendments include typographical, grammatical, or housekeeping corrections.

The following changes to Regulation No. 26 are proposed:

**(Page 1-1)**

**Section 26.102 Purpose**

Promulgation and enforcement of these regulations is intended to meet the requirements of title V of the federal Clean Air Act, 42 U.S.C. §§7401, *et seq.*, and 40 CFR part 70, as promulgated July 21, 1992 and last modified ~~October 22, 1997~~ November 27, 2001, by establishing a comprehensive state air quality permitting program for major sources of air contaminant emissions.

**(Page 2-2)**

**CHAPTER 2: DEFINITIONS**

**“Department”** means Arkansas Department of Environmental Quality or its successor.

**(Page 2-5)**

**“Major source”** means ....

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, ....

~~(27) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category~~ Any other stationary source category, which as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

**(Page 2-6)**

**“Part 70 program”** or **“State program”** means a program approved by the Administrator under 40 CFR Part 70, as promulgated July 21, 1992 and last modified ~~October 22, 1997~~ November 27, 2001.

**(Page 2-7)**

**“Responsible official”** means one of the following:

(C) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this ~~regulations~~ regulation, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

**(Page 3-1)**

**Section 26.302** Sources subject to permitting

The following sources shall be subject to permitting under these regulations, unless exempted by ~~subsection (C)~~ §26.303 below:

**(Page 4-1)**

**Section 26.401** Duty to apply

For each source subject to 40 CFR part 70, as promulgated July 21, 1992 and last modified ~~October 22, 1997~~ November 27, 2001, the owner or operator shall submit a timely and complete permit application (on forms supplied by the Department) in accordance with this section.

**(Page 4-3)**

**Section 26.402** **(B)(8)(b)**

(iii) For requirements for which the source is not in compliance at the time ~~of~~ of permit issuance, a narrative description of how the source will achieve compliance with such requirements. **(Page 6-2)**

**Section 26.603** Transmission of permit information to the Administrator

(B) The Department 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 40 CFR part 70, as promulgated July 21, 1992 and last modified ~~October 22, 1997~~ November 27, 2001.

**(Page 6-3)**

**Section 26.604** Review of draft permit by affected States.

(B) The Department, .... The Department is not required to accept recommendations that are not based on applicable requirements or the requirements of 40 CFR part 70, as promulgated July 21, 1992 and last modified ~~October 22, 1997~~ November 27, 2001.

**(Page 7-5)**

**Section 26.701** Standard permit requirements

(J) (1) Shall include all terms required under §26.701 and §26.703 to determine compliance;

**(Page 7-5)**

**Section 26.702** Federally-enforceable requirements

(B) Notwithstanding subsection (A), the Department 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 chapters 6, and 10 of this ~~chapter~~ regulation, other than those contained in this section.

**(Page 8-1)**

**Section 26.802** Changes resulting in no emissions increases

A permitted part 70 source may make changes within the facility that contravene permit terms without a part 70 permit revision if the changes: ....

provided that the facility provides the Administrator and the Department with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, or such shorter time frame that Department allows for emergencies;. The source, ....

**(Page 8-1)**

**Section 26.803** Emissions trading in permit

The Department shall, if a permit applicant requests it, issue permits that contain terms and conditions, including all terms required under 40 CFR 70.6(a) and (c), as promulgated July 21, 1992 and last modified ~~October 22, 1997~~ November 27, 2001, 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.

**(Page 11-1)**

**Section 26.1101** Fee requirement

In accordance with 40 CFR 70.9, as promulgated July 21, 1992 and last modified ~~October 22, 1997~~ November 27, 2001, the owners or operators of part 70 sources shall pay initial and annual fees that are sufficient to cover the permit program costs.

**(Page 12-1)**

**Section 26.1202 Adoption by reference**

The Arkansas Pollution Control and Ecology Commission.... If the provisions or requirements of 40 CFR parts 72 or 76 conflict with or are not included in Regulation #26, the part 72 or 76 provisions and requirements shall apply and take precedence.