

Time: 1:00 p.m. – 3:00 p.m.

Location: ADEQ Headquarters, 4th Floor Large Conference Room

Attendees: Mark Allison – DOH
 Stan Chivers – Entergy
 David Clark – ADEQ
 Ann Faitz – FLF, PLLC
 Courtney Garland – Trinity Consultants (by telephone)
 Ben Holden – GBMC
 Kelly Jobe – ADEQ
 Will Montgomery – ADEQ
 Paula Parker – ADEQ
 Iris Pennington – ADEQ
 Tom Rheume – ADEQ
 Christian Scott – ADEQ
 Tricia Treece – ADEQ
 David Triplett – Entergy
 Jacob Wesson – Flywheel Energy

1. Meeting Agenda

- Discuss how to simplify non-PSD new source review (minor NSR) regulatory structure, including addressing inconsistencies in Regulations 19 and 26
- Follow-up of PSD/IBR issues deferred to next meeting

2. Minor NSR-related issues with the current regulations

Two post-it boards were used to facilitate identification of issues with the current APC&EC regulatory structure for minor NSR and potential solutions. The table below summarizes issues and some possible solutions identified by the workgroup.

<u>Issues</u>	<u>Possible Solutions</u>
<p><i>Appendix W References</i></p> <ul style="list-style-type: none"> • Regulation 19, Chapter 4 (Appendix W incorporated by reference (IBR'd) as of 2005) • Regulation 19, Chapter 9 (IBR with no date within an IBR as of 2005) 	<ul style="list-style-type: none"> • Interpretation of an IBR within an IBR • Restructure and/or • Update
<p><i>Chapter 11</i></p> <ul style="list-style-type: none"> • Which portions of Regulation No. 26 IBR'd as "procedures?" • Potential for interpretation that all of Regulation No. 26 is IBR'd in Regulation No. 19 	<ul style="list-style-type: none"> • Specify specific provisions IBR'd • Remove IBR (not necessary if portions of Reg. 26 submitted as SIP), and/or • Restructure
<p><i>De Minimis Changes for Title V Sources</i> Minor modification applicability in Reg. 26</p>	<ul style="list-style-type: none"> • More Direct Language in Regulation No. 26 and/or 19

<p>(must not be a Title I modification) → Definition of Title I modification in Reg. 19 (de minimis changes are not Title I modifications) → 19.407(C) (de minimis changes)</p>	
<p><i>Chapter 4 scope – ambiguity</i></p> <ul style="list-style-type: none"> • What applies to all sources above permit thresholds? • What qualifies as permitting procedures that don't apply to Title V sources? 	<p>Restructure or clarify applicability</p> <p>Example of restructuring concept below:</p> <p>Separate generally applicable permitting provisions from new source review</p> <p><u>General</u></p> <ul style="list-style-type: none"> • Application Process • Permit Flexibility/Operational Flexibility • Confidentiality, etc. • Public Participation <p><u>NSR each with Separate Chapter</u></p> <ul style="list-style-type: none"> • Minor NSR – Approval Criteria (Models required if dispersion modeling submitted) • PSD – IBR w/ exceptions • Nonattainment NSR - reserved <p><u>Additional Requirements for Title V Permitting Program</u></p>
<p><i>Insignificant Activities – Require Pre-Construction Approval?</i></p> <ul style="list-style-type: none"> • Regulation 19.408(A) & Regulation 26.304 • Must be listed in application for Title V, but does this mean they need to be listed in permit? 	<p><i>Will not require a permit</i></p> <ul style="list-style-type: none"> • List or not to list in permit? • Amend or combine Reg. 26.304 language with 19.408(A)?
<p><i>Some Title I-related definitions are normally only found in Regulation 19</i></p>	<ul style="list-style-type: none"> • Add new definitions to Regulation No. 26 or • Restructure with common definitions applying throughout regulation, including Title V sections
<p><i>What does Major mean?</i></p> <p>It depends on which section of the Clean Air Act and APC&EC Regulations you are looking at</p> <ul style="list-style-type: none"> • PSD Major 	<p>Establish better nomenclature for permit types avoid ambiguity in what “Major” means</p>

<ul style="list-style-type: none"> • Nonattainment Major • Title V Major 	
--	--

Workgroup recommendations:

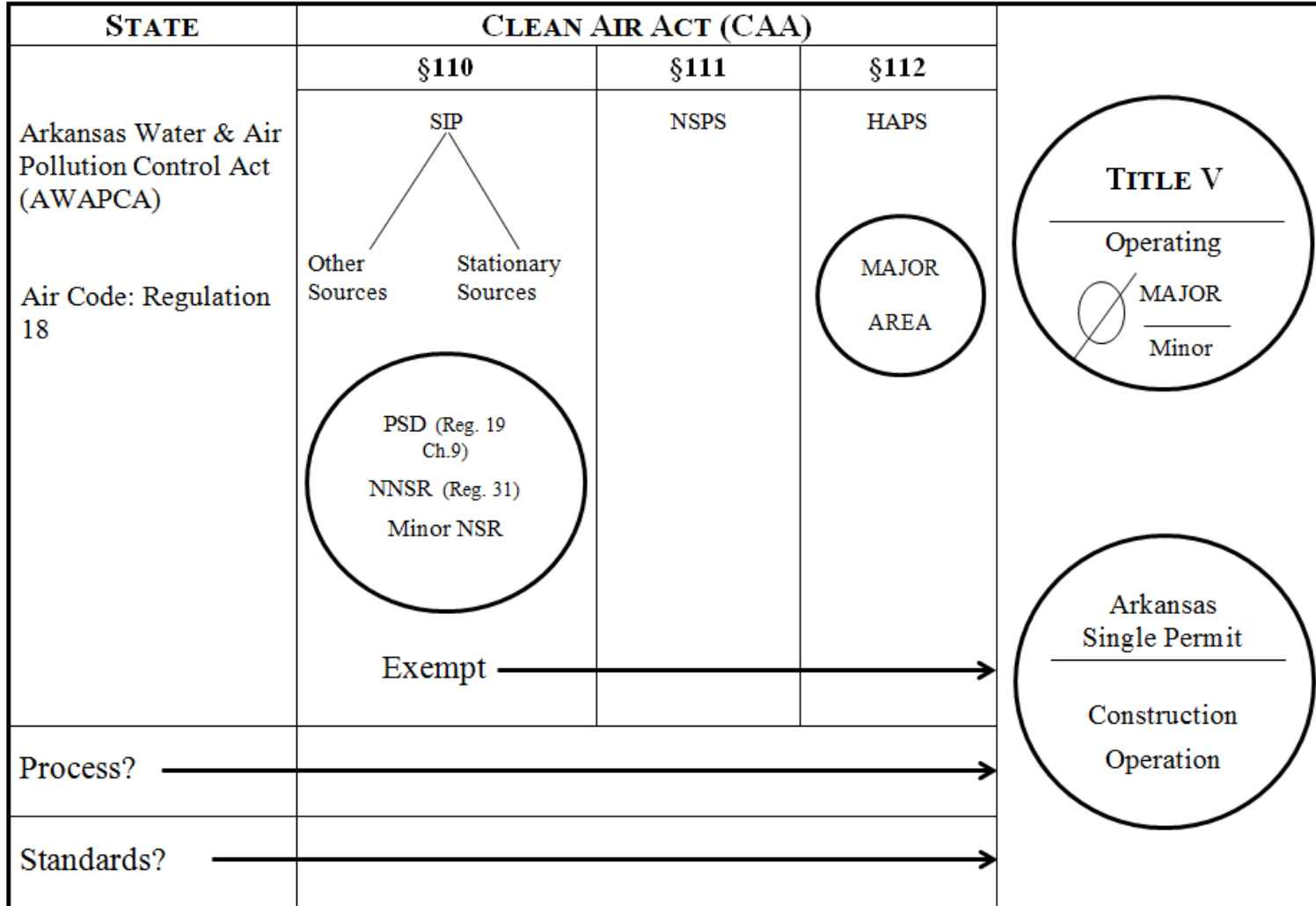
- Update Chapter 4 IBR of Appendix W and Chapter 9 IBR of IBR
- Interpret IBR within IBR consistent with current interpretation (word for word the language incorporated by reference into APC&EC regulations, any internal reference is not tied to a date).
- Update Regulation 19, Chapter 11 to clarify which provisions are IBR'd, remove IBR language, or restructure so that it is not necessary
- Simplify applicability of de minimis to Title V sources
- Group to further evaluate possible restructure approach for Minor NSR
 - Use cross-reference to EPA's Subpart I checklist
 - Consider other state's structure, including naming separate permit types (e.g. New York structure)
 - Identify inconsistencies
 - An example of inconsistencies between the regulations is the public notice requirement.
 - Attendees were referred to House Bill 1904, "To Create A Study of Public Notice and Participation In The Environmental Permitting Process."
 - Evaluate opportunities to merge analogous provisions (group indicated that in some places Regulation No. 26 has clearer language).

3. Other Topics Discussed

- Regulation 19.416 (B) requires a 30-day notice when seeking to temporarily increase emissions or testing
 - 30-days may not be needed for Department to approve
 - Add discretion provision that would allow the Department to shorten the 30-day notice period
- Regulation 26.1001—ADEQ notice requirements regarding facility operating permits responsibilities
- Workgroup members suggested that perhaps ADEQ should think about petitioning APC&EC to reopen regulations for review on a yearly basis. It was stated that the idea was worth considering and that there was actually an act that requires periodic review of regulations by Arkansas state agencies.

4. Clean Air Act Program Relationships Diagram

One of the attendees thought it would be helpful in clarifying the EPA’s thought process by creating diagramming the relationships between air programs and the Clean Air Act. This diagram is summarized in the image below.



5. Topics for next meeting

- Continued discussion of NSR structure
- Regulation 26 IBR
- PSD/IBR meeting follow-up

Next Workgroup meeting set for September 10, 2019 from 1–3 pm.