

startup, shutdown, unavoidable breakdown of process or control equipment, an upset of operations, or if greater or more extended excess emissions would result unless scheduled maintenance is performed, provided the source takes certain steps. Fully approvable part 70 programs may only allow for an affirmative defense for violations which are the result of an emergency as defined in § 70.6.

(7) Revise AAC R18-2-322 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(8) Revise AAC R18-2-330(C) to include a provision for giving public notice "by other means if necessary to assure adequate notice to the affected public." (§ 70.7(h)(1))

(9) As discussed in II.A.3. above, A.R.S. § 49-464(Q) and § 49-514(P) provide an affirmative defense to a criminal prosecution for violations of emission and opacity limits if the violation is promptly reported and corrective measures are taken to control and minimize emissions until compliance is achieved. So that ADEQ may charge violators with alternative violations in appropriate instances as discussed in II.A.3., it must revise the definition of "Material Permit Condition" in AAC R18-2-331 as follows:

(a) Revise R18-2-331(A)(1) to provide that "the condition is in a permit or permit revision issued by the Director or the Control Officer after the effective date of this Section."

(b) Delete the requirement in R18-2-331(A)(2) that the condition must be identified within the permit as a material permit condition.

(c) Revise R18-2-331(A)(3)(c) to provide that a material permit condition includes a "requirement for the installation, operation, maintenance, or certification of a monitoring device."

(d) Revise R18-2-331(A)(3)(e) to provide that a material permit condition includes a "requirement for the operation or maintenance of air pollution control equipment."

(e) Revise R18-2-331(A)(3) to include the following:

i. A requirement for or prohibition on the use of a particular fuel or fuels, including a requirement for fuel consumption;

ii. A requirement to meet an operational limit, including, but not limited to, hours of operation, throughput, production rates, or limits or specifications for raw materials;

iii. A requirement to comply with a work practice standard that is intended to reduce emissions (e.g., covering solvents, wetting unpaved roads).

(10) Revise AAC R18-2-331(A)(3) to include fee and filing requirements in the definition of "Material Permit Condition." Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 464(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 464(G) provides for criminal enforcement of a knowing violation of a "material permit condition" as defined by the Director by rule. Thus, defining "Material Permit Condition" to include fee and filing requirements will give ADEQ the authority to bring criminal charges for knowing violations of fee and filing requirements.

(11) Revise AAC R18-2-504, which contains public notice procedures for the issuance of general permits, to include requirements that ADEQ shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

b. *Maricopa County Environmental Management and Transportation Agency, Division of Air Pollution Control.* If EPA finalizes this interim approval, Maricopa must make the following changes, or changes that have the same effect, to receive full approval:

(1) Delete the following language from MAPC Regulation I, Rule 100, section 224:

Properties shall not be considered contiguous if they are connected only by property upon which is located equipment utilized solely in transmission of electrical energy.

This language, which is part of the definition of a stationary source, is not consistent with the stationary source definition in § 70.2.

(2) Revise MAPC Regulation I, Rule 100, § 251.2 to clarify that fugitive emissions of hazardous air pollutants

must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year major source thresholds. The phrase "including any major source of fugitive emissions" in the submitted § 251.2 appears to modify only the 25 ton per year threshold. This phrase could also imply that fugitives are included in the potential to emit determination only if the source emits major amounts of fugitive emissions. The EPA expects, however, that Maricopa will implement this provision consistent with the EPA policy that all fugitive emissions of hazardous air pollutants at a source must be considered in determining whether the source is major for purposes of section 112 of the CAA.

(3) A.R.S. § 49-514(G) provides for criminal enforcement of a knowing violation of a "material permit condition" as defined by the Director of ADEQ by rule. Maricopa is therefore required to use ADEQ's definition of "Material Permit Condition." For this reason and the reasons discussed above in II.A.3. and II.B.1.a.(9), revise MAPC Regulation I, Rule 100, section 253 in the same way as required for ADEQ in II.B.1.a.(9).

(4) For the same reasons discussed above in II.A.B.1.a.(10) and II.A.B.1.b.(3), revise MAPC Regulation I, Rule 100, section 253.1(c) to include fee and filing requirements in the definition of "Material Permit Condition." Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 514(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 514(G) provides for criminal enforcement of a knowing violation of a "material permit condition" as defined by the Director by rule. Thus, defining "Material Permit Condition" to include fee and filing requirements will give Maricopa the authority to bring criminal charges for knowing violations of fee and filing requirements.

(5) Revise MAPC Regulation I, Rule 100, section 505 to clarify that for Title V sources, records of all required monitoring data and support information must be retained for a period of five years, as provided in Regulation II, Rule 210, section 302.1(d)(2). (§ 70.6(a)(3)(ii)(B))

(6) Revise MAPC Regulation I, Rule 100, section 506 to clarify that for Title V sources, all permits, including all elements of permit content specified in Rule 210, section 302, shall be available to the public, as provided in Regulation