

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

##### PREAMBLE

- 1. Sections Affected**

	<b><u>Rulemaking Action</u></b>
R18-2-210	Amend
R18-2-333	Amend
R18-2-901	Amend
R18-2-1101	Amend
Appendix 2	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing and implementing statutes: A.R.S. §§ 49-104(A)(11), 49-404(A) and 49-425(A)
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: April 2, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Kevin Force, Air Quality Division
Address:	Department of Environmental Quality 1110 W. Washington Phoenix, AZ 85007
Telephone:	(602) 771-4480 (Any ADEQ number may be reached in-state by dialing 1-800-234-5677, and asking for that extension.)
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E-mail:	kfl@ev.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**

In this rule, the Arizona Department of Environmental Quality (ADEQ) is proposing to adopt new and updated incorporations by reference of the following federal regulations in state rules: New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Acid Rain, and other parts of 40 CFR. The federal regulations would be incorporated as of July 1, 2003.

**NSPS and NESHAP regulations.** Federal regulations already incorporated by reference from 40 CFR Parts 60, 61, and 63, have been updated from July 1, 2001, to July 1, 2003, in R18-2-901 and R18-2-1101. As explained further below, ADEQ has also incorporated by reference new subparts in Parts 60 and 63, adopted as of July 1, 2003.

**Acid Rain.** Federal regulations already incorporated by reference from 40 CFR Part 72, 74, 75, and 76 have been updated from July 1, 2001, to July 1, 2003, in R18-2-333. ADEQ is obligated under state and federal law to incorporate federal acid rain requirements in the permits issued by ADEQ (R18-2-306(A)(2); 40 CFR 70.6(a)(1)) ADEQ further discusses these revisions below.

**Miscellaneous Incorporations by Reference in R18-2-210 and Appendix 2.** The provisions in Appendix 2 have been updated from July 1, 2001, to July 1, 2003. These provisions are cited throughout 18 A.A.C. 2, but are incorporated by reference once in Appendix 2 for convenience. R18-2-210 incorporates by reference area attainment status designations for Arizona approved or designated by EPA pursuant to section 107 of the Clean Air Act (CAA).

ADEQ's intention in updating all of the incorporations by reference is to continue its delegated authority from EPA to implement and enforce the NSPS, NESHAP, and acid rain programs in Arizona.

Below are descriptions of new federal subparts recently incorporated into Arizona's rules, taken from EPA's Notices of Final Rulemakings.

NEW SOURCE PERFORMANCE STANDARDS (NSPS), PART 60:

Subparts Added: None

Subparts Significantly Revised: None

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) - PART 61:

Subparts Added: None

Subparts Significantly Revised: None

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) - PART 63:

Subparts Added:

**Part 63, Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production** [Added at 67 FR 45886, 07/10/2002] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for the Polyvinyl Chloride (PVC) and Copolymers Production source category. These NESHAP require that PVC and copolymers production facilities, which already must comply with the existing Vinyl Chloride NESHAP, continue to comply with that existing NESHAP. This rule reflects EPA's determination that the hazardous air pollutants (HAP) control level resulting from compliance with the existing Vinyl Chloride NESHAP already reflects the application of maximum achievable control technology (MACT) and, thus, meets the requirements of section 112(d) of the Clean Air Act (CAA), except for equipment leaks at new sources, for the PVC and Copolymers Production source category. For equipment leaks, new sources must comply with the most current technology standards in the Generic MACT rule. By requiring compliance with the Vinyl Chloride NESHAP, the EPA is promoting regulatory consistency and eliminating the costs that would be incurred by enforcing a new set of standards that likely would result in no additional HAP emissions reductions.

**Part 63, Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations** [Added at 67 FR 46258, 07/12/2002] This action added national emission standards for hazardous air pollutants (NESHAP) for four additional source categories: Cyanide Chemicals Manufacturing, Carbon Black Production, Ethylene Production, and Spandex Production. EPA identified these four source categories as major sources of hazardous air pollutants (HAP), including cyanide compounds, acrylonitrile, acetonitrile, carbonyl sulfide, carbon disulfide, benzene, 1,3 butadiene, toluene, and 2,4 toluene diisocyanate (TDI). Benzene is a known human carcinogen, and 1,3 butadiene is considered to be a probable human carcinogen. The other pollutants can cause noncancer health effects in humans. This action also promulgated NESHAP for the heat exchange systems and wastewater operations at ethylene manufacturing facilities.

(This action also revised **Subpart YY, Generic Maximum Achievable Control Technology**. See "Subparts Significantly Revised," below.)

**Part 63, Subpart QQQ - National Emission Standards For Hazardous Air Pollutants For Primary Copper Smelting** [Added at 67 FR 40478, 06/12/2002] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for primary copper smelting. Primary copper smelters can potentially emit significant amounts of certain toxic metals listed as hazardous air pollutants (HAP) in Clean Air Act (CAA) section 112(b)(1). These metals include antimony, arsenic, beryllium, cadmium, cobalt, lead, manganese, nickel and selenium. Exposure to these substances has been demonstrated to cause adverse health effects such as diseases of the lung, kidney, central nervous system, and cancer. The final rule established emissions limitations and work practice standards for primary copper smelters that are (or are part of) a major source of HAP emissions and that use batch copper converters. The standards reflect the application of the maximum achievable control technology (MACT). When fully implemented, EPA estimated the rule will reduce annual nationwide HAP emissions from the source category by approximately 23 percent or 22 megagrams per year.

**Part 63, Subpart UUU - National Emission Standards For Hazardous Air Pollutants For Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, And Sulfur Recovery Units** [Added at 67 FR 17762, 04/11/2002] This action established final national emission standards for hazardous air pollutants (NESHAP) for certain types of affected sources at petroleum refineries. The affected sources include catalytic cracking units (CCU), catalytic reforming units, and sulfur recovery units, as well as associated by-pass lines. The EPA has identified petroleum refineries as major sources of hazardous air pollutants (HAP). Hazardous air pollutants that would be reduced by this final rule include organics (acetaldehyde, benzene, formaldehyde, hexane, phenol, toluene, and xylene); reduced sulfur compounds (carbonyl sulfide, carbon disulfide); inorganics (hydrogen chloride, chlorine); and particulate metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, and nickel). The health effects of exposure to these HAP can include cancer, respiratory irritation, and damage to the nervous system. These final standards implement section 112(d) of the Clean Air Act (CAA) by requiring all petroleum refineries that are

major sources to meet standards reflecting the application of the maximum achievable control technology (MACT). When fully implemented, this rule will reduce HAP emissions from the affected sources by nearly 11,000 tons per year tpy—an 87 percent reduction from current levels. Emissions of other pollutants such as volatile organic compounds (VOC), particulate matter (PM), carbon monoxide (CO), and hydrogen sulfide will be reduced by about 60,000 tpy.

**Part 63, Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills** [Added at 68 FR 2227, 01/16/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for municipal solid waste (MSW) landfills. The final rule is applicable to both major and area sources and contains the same requirements as the Emission Guidelines and New Source Performance Standards (EG/NSPS). The final rule added startup, shutdown, and malfunction (SSM) requirements, added operating condition deviations for out-of-bounds monitoring parameters, required timely control of bioreactor landfills, and changed the reporting frequency for one type of report.

The final rule fulfilled the requirements of section 112(d) of the Clean Air Act (CAA), which requires the Administrator to regulate emissions of hazardous air pollutants (HAP) listed in section 112(b), and helps implement the Urban Air Toxics Strategy developed under section 112(k) of the CAA. The intent of the standards is to protect the public health by requiring new and existing sources to control emissions of HAP to the level reflecting the maximum achievable control technology (MACT).

The HAP emitted by MSW landfills include, but are not limited to, vinyl chloride, ethyl benzene, toluene, and benzene. Each of the HAP emitted from MSW landfills can cause adverse health effects provided sufficient exposure. For example, vinyl chloride can adversely affect the central nervous system and has been shown to increase the risk of liver cancer in humans, while benzene is known to cause leukemia in humans.

**Part 63, Subpart HHHH - National Emission Standards For Hazardous Air Pollutants For Wet-Formed Fiberglass Mat Production** [Added at 67 FR 17824, 04/11/2002] This action added wet-formed fiberglass mat production to the list of categories of major sources of hazardous air pollutants (HAP) published under section 112(c) of the Clean Air Act (CAA) and to the source category schedule for national emission standards for hazardous air pollutants (NESHAP).

This action promulgated the NESHAP for new and existing sources at wet-formed fiberglass mat production facilities. The primary organic HAP emitted by these facilities are formaldehyde, methanol, and vinyl acetate. Exposure to these HAP can cause reversible or irreversible adverse health effects including carcinogenic, respiratory, nervous system, developmental, reproductive, and/or dermal health effects. These NESHAP will reduce nationwide emissions of HAP from the drying and curing ovens at these facilities by 199 megagrams per year (Mg/yr) (219 tons per year or tons/yr), an approximate 74 percent reduction from the current level of emissions.

**Part 63, Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating** [Added at 67 FR 72330, 12/04/2002] This action finalized national emission standards for hazardous air pollutants (NESHAP) for facilities that coat paper and other web substrates and are major sources of hazardous air pollutants (HAP) emissions. The standards implement section 112(d) of the Clean Air Act (CAA) to protect public health and the environment by reducing HAP emissions from new and existing facilities. The CAA requires these sources to achieve the maximum degree of reduction in HAP emissions that is achievable. The final standards will eliminate approximately 80 percent of nationwide HAP emissions from facilities that coat paper and other web substrates.

**Part 63, Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances** [Added at 67 FR 48254, 07/23/2002] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for existing and new facilities that apply surface coatings to large appliances. These final standards implement section 112(d) of the Clean Air Act (CAA) which requires the Administrator to regulate emissions of hazardous air pollutants (HAP) listed in section 112(b) of the CAA. The intent of the standards is to protect the public by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT).

Sources typically emit the following HAP: glycol ethers, methylene diphenyl diisocyanate, methyl ethyl ketone, toluene, and xylene. These compounds account for over 80 percent of the nationwide HAP emissions from this source category. These pollutants can cause reversible or irreversible toxic effects to people following exposure.

**Part 63, Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles** [Added at 68 FR 32172, 05/29/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for existing and new fabric and other textile coating, printing, slashing, dyeing, and finishing operations. The final standards implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet the hazardous air pollutants (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT).

The EPA has estimated that there are approximately 135 major source facilities in the printing, coating, and dyeing of fabrics and other textiles source category. The principal HAP emitted by these sources include toluene, methyl ethyl ketone (MEK), methanol, xylenes, methyl isobutyl ketone (MIBK), methylene chloride, trichloroethylene, n-hexane,

glycol ethers (ethylene glycol), and formaldehyde. The final rule will reduce nationwide organic HAP emissions from major sources by approximately 4,100 tons per year or about 60 percent from baseline emissions.

Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the eye, lung, and mucous membranes, effects on the central nervous system, and damage to the liver. The EPA has classified two of the HAP, methylene chloride and trichloroethylene, as probable or possible human carcinogens.

**Part 63, Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products** [Added at 68 FR 31746, 05/28/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for wood building products surface coating operations. The final standards establish emission limitations, operating limits, and work practice requirements for all major sources that apply a surface coating to a wood building product to reduce certain organics listed as hazardous air pollutants (HAP) in section 112 of the Clean Air Act (CAA). These standards implement section 112(d) of the CAA by requiring all major sources to meet the HAP emission standards reflecting the application of the maximum achievable control technology (MACT).

Wood building products surface coating operations emit several HAP, including xylenes, toluene, ethyl benzene, ethylene glycol monobutyl ether (EGBE), other glycol ethers, methyl ethyl ketone (MEK), methyl isobutyl ketone (MIBK), methanol, styrene, and formaldehyde. The final rule will reduce HAP emissions by approximately 4,400 megagrams per year (Mg/yr) (4,900 tons per year (tpy)) or by 63 percent from baseline.

**Part 63, Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture** [Added 68 FR 28606, 05/23/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing metal furniture surface coating operations located at major sources of hazardous air pollutant (HAP) emissions. The final standards implement section 112(d) of the Clean Air Act (CAA) which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the CAA. The intent of the standards is to protect public health and the environment by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT). The final standards will eliminate approximately 73 percent of nationwide HAP emissions from major sources that coat metal furniture. Metal furniture surface coating operations emit HAP such as xylene, toluene, ethylene glycol monobutyl ether and other glycol ethers, ethylbenzene, and methyl ethyl ketone. Health effects associated with these pollutants include eye, nose, throat, and skin irritation; nausea, vomiting, headache, and dizziness; and liver and kidney damage.

**Part 63, Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil** [Added at 67 FR 39794, 06/10/2002] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing sources that coat metal coil. EPA identified metal coil surface coating as a major source of hazardous air pollutant (HAP) emissions such as methyl ethyl ketone, glycol ethers, xylenes (isomers and mixtures), toluene, and isophorone. Each of these major HAP can cause reversible or irreversible toxic effects following sufficient exposure. The potential toxic effects include eye, nose, throat, and skin irritation, and blood cell, heart, liver, and kidney damage.

**Part 63, Subpart TTTT - National Emission Standards For Hazardous Air Pollutants For Leather Finishing Operations** [Added at 67 FR 9156, 02/27/2002] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for leather finishing operations. EPA identified these facilities as major sources of emissions of hazardous air pollutants (HAP), such as glycol ethers, toluene, and xylene. These NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all leather finishing operations that are major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). EPA estimated the final NESHAP will reduce nationwide emissions of HAP from leather finishing operations by 375 tons per year (tpy). In addition, the final NESHAP will reduce non-HAP emissions of volatile organic compounds (VOC) by 750 tpy. The emissions reductions achieved by these final NESHAP, when combined with the emissions reductions achieved by other similar standards, will provide protection to the public and achieve a primary goal of the CAA.

**Part 63, Subpart UUUU - National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing** [Added at 67 FR 40044, 06/11/2002] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for cellulose products manufacturing. Cellulose products manufacturing includes both the Miscellaneous Viscose Processes source category and the Cellulose Ethers Production source category. The Miscellaneous Viscose Processes source category comprises the cellulose food casing, rayon, cellulosic sponge, and cellophane manufacturing industries. The Cellulose Ethers Production source category comprises the methyl cellulose, hydroxypropyl methyl cellulose, hydroxypropyl cellulose, hydroxyethyl cellulose, and carboxymethyl cellulose manufacturing industries. EPA identified the Miscellaneous Viscose Processes source category and the Cellulose Ethers Production source category as including major sources of emissions of hazardous air pollutants (HAP), such as carbon disulfide (CS<sub>2</sub>), carbonyl sulfide, ethylene oxide, methanol, methyl chloride, propylene oxide, and toluene. The final rule will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The final rule will reduce HAP emissions by approximately 1,600 megagrams per year (Mg/yr) (1,700 tons per year (tpy)). In addition, the final rule will reduce hydrogen sulfide (H<sub>2</sub>S) emissions by approximately 410 Mg/yr (450 tpy).

**Part 63, Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing** [Added at 66 FR 44218, 08/22/2001] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing boat manufacturing facilities. The processes regulated include fiberglass resin and gel coat operations, carpet and fabric adhesive operations, and aluminum recreational boat painting operations. The EPA has identified boat manufacturing as a major source of hazardous air pollutants (HAP), such as styrene, methyl methacrylate (MMA), methylene chloride (dichloromethane), toluene, xylene, n-hexane, methyl ethyl ketone (MEK), methyl isobutyl ketone (MIBK), and methyl chloroform (1,1,1-trichloroethane). The NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). EPA estimated the final NESHAP will reduce nationwide emissions of HAP from these facilities by 3,450 tons per year (tpy) (approximately 35 percent from the 1997 level of emissions).

**Part 63, Subpart WWWW - National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production** [Added at 68 FR 19375, 04/21/2003] This action promulgated national emissions standards for hazardous air pollutants (NESHAP) for new and existing reinforced plastic composites production facilities. The NESHAP regulate production and ancillary processes used to manufacture products with thermoset resins and gel coats. Reinforced plastic composites production facilities emit hazardous air pollutants (HAP), such as styrene, methyl methacrylate (MMA), and methylene chloride (dichloromethane). These HAP have adverse health effects including headache, fatigue, depression, irritation of skin, eyes, and mucous membranes. Methylene chloride has been classified as a probable human carcinogen. The NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources in this category to meet HAP emissions standards reflecting the application of the maximum achievable control technology (MACT). EPA estimated the final NESHAP will reduce nationwide emissions of HAP from these facilities by approximately 7,682 tons per year (tpy) (43 percent).

**Part 63, Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing** [Added at 67 FR 45588, 07/09/2002] This action finalized national emission standards for hazardous air pollutants (NESHAP) for new and existing sources at rubber tire manufacturing facilities. EPA identified rubber tire manufacturing facilities as major sources of hazardous air pollutants (HAP) emissions. These standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all such major sources to meet HAP emission standards that reflect the application of maximum achievable control technology (MACT). The primary HAP that will be controlled with this action include toluene and hexane. These HAP are associated with a variety of adverse health effects including chronic health disorders (e.g., polyneuropathy, degenerative lesions of the nasal cavity) and acute health disorders (e.g., respiratory irritation, headaches).

**Part 63, Subpart BBBB - National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing** [Added at 68 FR 27913, 05/22/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing semiconductor manufacturing operations located at major sources of emissions of hazardous air pollutants (HAP). The final standards implement section 112(d) of the Clean Air Act (CAA), which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the CAA. The intent of the standards is to protect public health and the environment by requiring new and existing major sources to control emissions to the level attainable by implementing the maximum achievable control technology (MACT). The primary HAP that will be controlled with this action include hydrochloric acid (HCl), hydrogen fluoride (HF), methanol, glycol ethers, and xylene. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, eye, and mucous membranes; effects on the central nervous system; liver and kidney damage; and, possibly cancer.

**Part 63, Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks** [Added at 68 FR 18008, 04/14/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for coke ovens. The final standards establish emission limitations and work practice requirements for control of hazardous air pollutants (HAP) from pushing, quenching, and battery stacks at new and existing coke oven batteries. The HAP emitted from pushing, quenching, and battery stacks include coke oven emissions, as well as polycyclic organic matter (POM) and volatile organic compounds (VOC) such as benzene and toluene. Exposure to these substances has been demonstrated to cause chronic and acute health effects. These final standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting application of the maximum achievable control technology (MACT). The EPA previously promulgated emission standards addressing emissions from coke oven charging, top-side leaks, and door leaks.

**Part 63, Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing** [Added at 68 FR 27646, 05/20/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for integrated iron and steel manufacturing facilities. The final standards establish emission limitations for hazardous air pollutants (HAP) emitted from new and existing sinter plants, blast furnaces, and basic oxygen process furnace (BOPF) shops. The final standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting application of the maximum achievable control technology (MACT).

The HAP emitted by integrated iron and steel manufacturing facilities include metals (primarily manganese and lead with small quantities of other metals) and trace amounts of organic HAP (such as polycyclic organic matter, benzene, and carbon disulfide). Exposure to these substances has been demonstrated to cause adverse health effects, including chronic and acute disorders of the blood, heart, kidneys, reproductive system, and central nervous system.

**Part 63, Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing** [Added at 68 FR 26690, 05/16/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing sources at brick and structural clay products (BSCP) manufacturing facilities and NESHAP for new and existing sources at clay ceramics manufacturing facilities. This action will implement section 112(d) of the Clean Air Act (CAA) by requiring major sources to meet hazardous air pollutant (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT). The two subparts will protect air quality and promote the public health by reducing emissions of several of the HAP listed in section 112(b)(1) of the CAA. The rules will reduce HAP emissions from existing sources by 2,300 tons per year nationwide, with hydrogen fluoride (HF) and hydrogen chloride (HCl) accounting for 2,290 tons per year (99.6 percent) of the total HAP emissions reductions from existing sources. The associated metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium) reductions from existing sources account for approximately 6 tons per year nationwide (0.4 percent). Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, skin, and mucus membranes, effects on the central nervous system, and kidney damage. The EPA has classified three of the HAP as known human carcinogens, four as probable human carcinogens, and one as a possible human carcinogen. We estimate that the two subparts will reduce nationwide emissions of HAP from these facilities by approximately 2,100 megagrams per year (Mg/yr)(2,300 tons per year (tpy)), a reduction of approximately 35 percent from the current level of emissions.

**Part 63, Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing** [Added at 68 FR 22976, 04/29/2003; corrected at 68 FR 24562, 05/07/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for existing and new asphalt processing and asphalt roofing manufacturing facilities. The EPA has identified asphalt processing and asphalt roofing manufacturing facilities as major sources of hazardous air pollutants (HAP) such as formaldehyde, hexane, hydrogen chloride (HCl), phenol, polycyclic organic matter (POM), and toluene. The final standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The total HAP reduction resulting from compliance with the rule is expected to be 86 megagrams per year (Mg/yr).

A variety of HAP are emitted from asphalt processing and asphalt roofing manufacturing source categories. The following HAP account for the majority (approximately 98 percent, based on the emission factors developed for the final rule) of the total HAP emissions: Formaldehyde, hexane, HCl (at asphalt processing facilities that use chlorinated catalysts), phenol, and toluene. The remaining two percent of the total HAP emissions is a combination of several different organic HAP, each contributing less than 0.5 percent to the total HAP emissions.

**Part 63, Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations** [Added at 68 FR 18062, 04/14/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing sources at flexible polyurethane foam fabrication facilities. The EPA has identified flexible polyurethane foam fabrication facilities as major sources of hazardous air pollutants (HAP) emissions. These standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all such major sources to meet HAP emission standards that reflect the application of maximum achievable control technology (MACT). The primary HAP that will be controlled with this action include hydrochloric acid (HCl), 2,4-toluene diisocyanate (TDI), and hydrogen cyanide (HCN). This action will also preclude the use of methylene chloride. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, eye, and mucous membranes, effects on the central nervous system, and cancer. This final rule will reduce HAP emissions by 6.5 tons per year (tpy) from each new or reconstructed affected source performing flame lamination.

**Part 63, Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production** [Added at 68 FR 19076, 04/17/2003] This action finalized national emission standards for hazardous air pollutants (NESHAP) for hydrochloric acid (HCl) production facilities, including HCl production at fume silica facilities. EPA has identified hydrochloric acid production facilities as major sources of hazardous air pollutant (HAP) emissions. These standards will implement section 112(d) of the Clean Air Act (CAA) by requiring all such major sources to meet HAP emission standards and implement work practice standards that reflect the application of maximum achievable control technology (MACT). The primary HAP that will be controlled with this action is hydrochloric acid. This HAP is associated with a variety of adverse health effects including chronic health disorders (for example, effects on the central nervous system, blood, and heart) and acute health disorders (for example, irritation of eyes, throat, and mucous membranes and damage to the liver and kidneys).

**Part 63, Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands** [Added at 68 FR 28774, 05/27/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for engine test cells/stands. EPA identified engine test cells/stands as major sources of hazard-

ous air pollutants (HAP) such as toluene, benzene, mixed xylenes, and 1,3-butadiene. The final NESHAP will implement section 112(d) of the Clean Air Act (CAA), which requires all major sources of HAP to meet emission standards reflecting the application of the maximum achievable control technology (MACT).

**Part 63, Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities** [Added at 67 FR 64498, 10/18/2002] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing friction materials manufacturing facilities. Some of these facilities, specifically those that perform solvent mixing, have been identified as major sources of hazardous air pollutants (HAP) including n-hexane, toluene, and trichloroethylene. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lungs, skin, mucous membranes, and effects on the central nervous system, liver, and kidney. This rule will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). Implementation of this final rule will reduce HAP emissions by approximately 290 tons per year (tpy).

**Part 63, Subpart SSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing** [Added at 68 FR 18730, 04/16/2003] This action promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing refractory products manufacturing facilities and implements section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of maximum achievable control technology (MACT). The final rule will protect air quality and promote the public health by reducing emissions of several of the HAP listed in section 112(b)(1) of the CAA, including ethylene glycol, formaldehyde, hydrogen fluoride (HF), hydrochloric acid (HCl), methanol, phenol, and polycyclic organic matter (POM). Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, skin, and mucous membranes, effects on the central nervous system, and damage to the liver, kidneys, and skeleton. The EPA has classified the HAP formaldehyde and POM as probable human carcinogens. The final rule will reduce nationwide emissions of HAP from these facilities by an estimated 124 megagrams per year (Mg/yr) (137 tons per year (tpy)).

Subparts Significantly Revised:

**Part 63, Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry** [67 FR 72580, 12/06/2002] The EPA took direct final action on targeted amendments to the national emission standards for the portland cement manufacturing industry promulgated on June 14, 1999 under the authority of section 112 of the Clean Air Act (CAA). The amendments made improvements to the implementation of the emission standards, primarily in the areas of applicability, testing, and monitoring to resolve issues and questions raised since promulgation of the rule.

**Part 63, Subparts A and B - National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions; and Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)** [Amended at 68 FR 32586, 05/30/2003] Subpart B was amended by adding Tables 1 and 2 to the end of the subpart to read as follows: "Table 1 to Subpart B of Part 63.- Section 112(j) Part 2 Application Due Dates; Table 2 to Subpart B of Part 63.--MON Source Categories." EPA adopted final amendments to the General Provisions for national emission standards for hazardous air pollutants (NESHAP) and to the rule which establishes criteria and procedures for equivalent emission limitations adopted pursuant to Clean Air Act (CAA) section 112 (j). These final amendments establish a new timetable for the submission of section 112 (j) Part 2 applications, which is based on the timetable EPA agreed to follow for promulgation of the remaining NESHAP, and modify the content requirements for Part 2 applications. These final rule amendments also establish revised procedures for requests for applicability determination previously submitted under the section 112 (j) rule, and for section 112 (j) applications submitted by sources that previously obtained a case-by-case determination under CAA section 112(g). These final rule amendments also adopt various amendments to the NESHAP General Provisions governing startup, shutdown, and malfunction (SSM) plans, some of which were proposed by EPA pursuant to a settlement agreement in a judicial action concerning the prior amendments published on April 5, 2002.

**Part 63, Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology** [Amended at 67 FR 46258, 07/12/2002] This action promulgated amendments to the "generic" maximum achievable control technology (MACT) standards. The generic MACT standards provide a structural framework that allows source categories with similar emission types and MACT control requirements to be covered under one subpart, thus promoting regulatory consistency in NESHAP development. These standards implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of MACT. (This action also added a new subpart, **Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations**. See "Subparts Added," above.)

**Part 63, Subpart RRR - National Emissions Standards for Hazardous Air Pollutants for Secondary Aluminum Production** [Amended at 67 FR 59787, 09/24/02 and 67 FR 79808,12/30/02] On March 23, 2000, the EPA issued national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production facilities under section 112 of the Clean Air Act (CAA). These actions amended the applicability provisions for aluminum die casters, foundries, and extruders. The amendments also add new provisions governing control of commonly-ducted

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units; revise the procedures for adoption of operation, maintenance, and monitoring plans; revise the criteria concerning testing of representative emission units; revise the standard for unvented in-line flux boxes; and clarify the control requirements for sidewall furnaces. These changes are being made pursuant to settlement agreements in two cases seeking judicial review of the NESHAP for secondary aluminum production.

A separate rule to clarify compliance dates and defer certain early compliance obligations which might have otherwise come due before completion of this rulemaking was published on September 24, 2002.

ACID RAIN REVISIONS, (40 CFR 72, 74, 75, and 76)

**40 CFR Parts 72 and 75 - Definitions and the Continuous Emission Monitoring Provisions of the Acid Rain Program and the NO[X] Budget Trading Program** [Amended at 67 FR 40394, 06/12/2002] In this action, EPA took final action on the portions of the June 13, 2001 proposed rule revisions that modified the existing requirements for sources affected by the Acid Rain Program and by the NO[X] Budget Trading Program under the October 27, 1998 NO[X] SIP Call. Certain changes to the proposed rule revisions were made based on the public comments received. EPA did not finalize the proposed changes at this time to the Appeal Procedures or to the Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport. Today's final rule established additional flexibility and options for sources in meeting the continuous emission monitoring system (CEMS) requirements under programs to reduce sulfur dioxide and nitrogen oxides emissions. These revisions may apply to sources that monitor and report emissions only during the ozone season, as well as to sources that monitor and report emissions for the entire year. The provisions in this final rule benefit the environment by ensuring that sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and carbon dioxide (CO<sub>2</sub>) emissions are accurately monitored and reported, even as they benefit the affected industrial sources by creating opportunities to adopt cost saving procedures.

R18-2-210, ATTAINMENT, NONATTAINMENT, AND UNCLASSIFIABLE AREA DESIGNATIONS REVISIONS

**40 CFR 81.303 - Designation Of Areas For Air Quality Planning Purposes; Attainment Status Designations; Arizona** [Amended at 67 FR 43013 and 43020, 06/26/2002] EPA approved the moderate area plans and maintenance plans for the Payson and Bullhead City area in Arizona and granted a request submitted by the State to redesignate the area from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>).

APPENDIX 2 REVISIONS

Subparts significantly revised:

**Part 51, Appendix W - Guideline on Air Quality Models** [Amended at 68 FR 18440, 04/15/03] EPA's Guideline on Air Quality Models ("Guideline") addresses the regulatory application of air quality models for assessing criteria pollutants under the Clean Air Act. In this action, EPA promulgated several additions and changes to the Guideline. EPA adopted a new dispersion model, CALPUFF, in appendix A of the Guideline. CALPUFF became the preferred technique for assessing long range transport of pollutants and their impacts on Federal Class I areas. Action on AERMOD and the Emissions and Dispersion Modeling System (EDMS) was deferred. Various editorial changes were made to update and reorganize information, and remove obsolete models.

**Part 58, Appendix A - Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS)** [Amended at 67 FR 80326, 12/31/02] EPA took direct final action to amend the national ambient air quality standards for particulate matter. The revision reduces to 15 percent the requirement that reporting organizations collocate 25 percent of State and local air monitoring station (SLAMS) sites with a second sampler in order to estimate precision at a reporting organization level.

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

**Rule Identification**

NSPS/NESHAP/Acid Rain 2003: A.A.C. Title 18, Chapter 2, Articles 2, 3, 9 and 11; Appendix 2, sections R18-2-210, R18-2-333, R18-2-901, R18-2-1101, Appendix 2.

**Costs**

There are no additional costs to the regulated community when a state agency incorporates an already effective federal standard verbatim. The costs of compliance have already occurred, and were considered when the federal regula-

tion was proposed and adopted. These rules impose no additional costs on the regulated community, small businesses, political subdivisions, or members of the public.

Costs to ADEQ are those that may accrue for implementation and enforcement of the new standards. Although there were some small incremental costs due to this rulemaking, ADEQ does not intend to hire any additional employees to implement or enforce these rules.

### **Benefits**

Benefits accrue to the regulated community when a state agency incorporates a federal regulation in order to become the primary implementer of the regulation, because the state agency is closer to those being regulated and, therefore, is generally easier to contact and to work with to resolve differences, compared with the U.S. EPA, whose regional office for Arizona is in San Francisco. Local implementation also reduces travel and communication costs.

Health benefits accrue to the general public whenever enforcement of environmental laws takes place. Adverse health effects from air pollution result in a number of economic and social consequences, including:

1. Medical costs. These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. Work loss. This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. Increased costs for chores and caregiving. These include special caregiving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all normal chores, and he or she may require caregiving.
4. Other social and economic costs. These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members and others.

### **Conclusion**

In conclusion, the incremental costs associated with this rule are generally low, and apply solely to ADEQ, while the air quality benefits are generally high. In addition, there are benefits to industry from being regulated by a geographically nearer government entity. There are no adverse economic impacts on political subdivisions. There are no adverse economic impacts on private businesses, their revenues or expenditures. The fact that no new employment is expected to occur has been discussed above, in the context of the impact on state agencies. There are no adverse economic impacts on small businesses, although some regulatory benefits will accrue to them. There are no economic impacts for consumers; benefits to private persons as members of the general public are discussed above in terms of enforcement. There will be no direct impact on state revenues. There are no other, less costly alternatives for achieving the goals of this rulemaking. The rules are no less stringent and no more stringent than the federal regulations on each subject.

**Rule impact reduction on small businesses.** A.R.S. § 41-1035 requires ADEQ to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives (see below) for the rule making. The five listed methods are:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

**The statutory objectives which are the basis of the rulemaking.** The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in number 2 of this preamble. The specific objectives are as follows:

1. Implement rules necessary for EPA delegation of Clean Air Act § 111 (NSPS) program to Arizona.
2. Implement rules necessary for EPA § 112(l) program delegation to Arizona (NESHAP).
3. Implement rules necessary for acid rain program delegation to ADEQ.

ADEQ has determined that there is a beneficial impact on small businesses in transferring implementation of these rules to ADEQ. In addition, for all of these objectives, ADEQ is required to adopt the federal rules without reducing stringency. ADEQ, therefore, has found that it is not legal or feasible to adopt any of the five listed methods in ways that reduce the impact of these rules on small businesses. Finally, where federal rules impact small businesses, EPA is required by both the Regulatory Flexibility Act and the Small Business Regulatory Enforcement and Fairness Act to

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make certain adjustments in its own rulemakings. Information related to such may be found in the individual rules described in Section 5.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: David Lillie  
Address: ADEQ, Air Quality Planning Section  
1110 West Washington  
Phoenix, AZ 85007  
Telephone: (602) 771-4461 (Any extension may be reached in-state by dialing 1-800-234-5677,  
and asking for a specific number.)  
Fax: (602) 771-2366  
E-mail: Lillie.David@ev.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

Date: May 14, 2004  
Time: 2:00 p.m.  
Location: ADEQ  
1110 W. Washington, Conference Room 145  
Phoenix, Arizona  
Close of Comment: May 18, 2004

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their locations in the rules:**

<u>New incorporations by reference (subparts or larger)</u>	<u>Location</u>
40 CFR 63, subparts J, XX, QQQ, UUU, AAAA, HHHH, JJJ, NNNN, OOOO, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWW, XXXX, BBBB, CCCC, FFFF, JJJJ, KKKK, LLLL, MMMM, NNNN, PPPP, QQQQ, and SSSS	R18-2-1101(B)

Incorporations by reference updated to 7/1/02

(may include new sections)

	<u>Location</u>
40 CFR 81.303	R18-2-210
40 CFR 72, 74, 75 and 76	R18-2-333(A)
40 CFR 60, listed subparts and accompanying appendices	R18-2-901(A)
40 CFR 61, listed subparts and accompanying appendices	R18-2-1101(A)
40 CFR 63, listed subparts and accompanying appendices	R18-2-1101(B)
Currently Cited Appendices to 40 CFR Parts 51, 60, 61, 63, 75	Appendix 2
40 CFR 50	Appendix 2
40 CFR 50, Appendices A through K	Appendix 2
40 CFR 52, Appendices D and E;	Appendix 2
40 CFR 58	Appendix 2
40 CFR 58, all appendices	Appendix 2

**13. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL

ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS

Section

R18-2-210. Attainment, Nonattainment, and Unclassifiable Area Designations

ARTICLE 3. PERMITS AND PERMIT REVISIONS

Section

R18-2-333. Acid Rain

ARTICLE 9. NEW SOURCE PERFORMANCE STANDARDS

Section

R18-2-901. Standards of Performance for New Stationary Sources

ARTICLE 11. FEDERAL HAZARDOUS AIR POLLUTANTS

Section

R18-2-1101. National Emission Standards for Hazardous Air Pollutants (NESHAPs)

ARTICLE 15. FOREST AND RANGE MANAGEMENT BURNS

Section

Appendix 2. Test Methods and Protocols

ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS

**R18-2-210. Attainment, Nonattainment, and Unclassifiable Area Designations**

40 CFR 81.303 as amended as of July 1, ~~2001~~2003 (and no future editions) is incorporated by reference and is on file with the Department of Environmental Quality and the Office of Secretary of State.

ARTICLE 3. PERMITS AND PERMIT REVISIONS

**R18-2-333. Acid Rain**

- A. 40 CFR 72, 74, 75 and 76 and all accompanying appendices, adopted as of July 1, ~~2001~~2003, (and no future amendments) are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.
- B. When used in 40 CFR 72, 74, 75 or 76, "Permitting Authority" means the Arizona Department of Environmental Quality and "Administrator" means the Administrator of the United States Environmental Protection Agency.
- C. If the provisions or requirements of the regulations incorporated in this Section conflict with any of the remaining portions of this Title, the regulations incorporated in this Section shall apply and take precedence.

ARTICLE 9. NEW SOURCE PERFORMANCE STANDARDS

**R18-2-901. Standards of Performance for New Stationary Sources**

Except as provided in R18-2-902 through R18-2-905, the following subparts of 40 CFR 60, New Source Performance Standards (NSPS), and all accompanying appendices, adopted as of July 1, ~~2001~~2003, and no future editions or amendments, are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.

1. Subpart A - General Provisions.
2. Subpart D - Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
3. Subpart Da - Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
4. Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.
5. Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.
6. Subpart E - Incinerators.
7. Subpart Ea - Municipal Waste Combustors for Which Construction is Commenced after December 20, 1989 and on or Before September 20, 1994.
8. Subpart Eb - Large Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
9. Subpart Ec - Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996, ~~adopted September 15, 1997 (62 FR 48348).~~
10. Subpart F - Portland Cement Plants.

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11. Subpart G - Nitric Acid Plants.
12. Subpart H - Sulfuric Acid Plants.
13. Subpart I - Hot Mix Asphalt Facilities.
14. Subpart J - Petroleum Refineries.
15. Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
16. Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.
17. Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
18. Subpart L - Secondary Lead Smelters.
19. Subpart M - Secondary Brass and Bronze Production Plants.
20. Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
21. Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
22. Subpart O - Sewage Treatment Plants.
23. Subpart P - Primary Copper Smelters.
24. Subpart Q - Primary Zinc Smelters.
25. Subpart R - Primary Lead Smelters.
26. Subpart S - Primary Aluminum Reduction Plants.
27. Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
28. Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
29. Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
30. Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.
31. Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
32. Subpart Y - Coal Preparation Plants.
33. Subpart Z - Ferroalloy Production Facilities.
34. Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.
35. Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
36. Subpart BB - Kraft Pulp Mills.
37. Subpart CC - Glass Manufacturing Plants.
38. Subpart DD - Grain Elevators.
39. Subpart EE - Surface Coating of Metal Furniture.
40. Subpart GG - Stationary Gas Turbines.
41. Subpart HH - Lime Manufacturing Plants.
42. Subpart KK - Lead-Acid Battery Manufacturing Plants.
43. Subpart LL - Metallic Mineral Processing Plants.
44. Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.
45. Subpart NN - Phosphate Rock Plants.
46. Subpart PP - Ammonium Sulfate Manufacture.
47. Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.
48. Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.
49. Subpart SS - Industrial Surface Coating: Large Appliances.
50. Subpart TT - Metal Coil Surface Coating.
51. Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.
52. Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
53. Subpart WW - Beverage Can Surface Coating Industry.
54. Subpart XX - Bulk Gasoline Terminals.
55. Subpart AAA - New Residential Wood Heaters.
56. Subpart BBB - Rubber Tire Manufacturing Industry.
57. Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
58. Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.
59. Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.
60. Subpart HHH - Synthetic Fiber Production Facilities.
61. Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

62. Subpart JJJ - Petroleum Dry Cleaners.
63. Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
64. Subpart LLL - Onshore Natural Gas Processing; SO<sub>2</sub> Emissions.
65. Subpart NNN - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
66. Subpart OOO - Nonmetallic Mineral Processing Plants.
67. Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.
68. Subpart QQQ - VOC Emissions From Petroleum Refinery Wastewater Systems.
69. Subpart RRR - Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
70. Subpart SSS - Magnetic Tape Coating Facilities.
71. Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
72. Subpart UUU - Calciners and Dryers in Mineral Industries.
73. Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.
74. Subpart WWW - Municipal Solid Waste Landfills.
75. Subpart AAAA - Small Municipal Waste Combustion Units for Which Construction Is Commenced after August 30, 1999, or for Which Modification or Reconstruction Is Commenced after June 6, 2001.
76. Subpart CCCC - Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced after November 30, 1999, or for Which Modification or Reconstruction Is Commenced on or after June 1, 2001.

#### ARTICLE 11. FEDERAL HAZARDOUS AIR POLLUTANTS

##### **R18-2-1101. National Emission Standards for Hazardous Air Pollutants (NESHAPs)**

- A.** Except as provided in R18-2-1102, the following subparts of 40 CFR 61, National Emission Standards for Hazardous Air Pollutants (NESHAPs), and all accompanying appendices, adopted as of July 1, ~~2001~~2002, and no future editions or amendments, are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.
1. Subpart A - General Provisions.
  2. Subpart C - Beryllium.
  3. Subpart D - Beryllium Rocket Motor Firing.
  4. Subpart E - Mercury.
  5. Subpart F - Vinyl Chloride.
  6. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.
  7. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.
  8. Subpart M - Asbestos.
  9. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.
  10. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.
  11. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production.
  12. Subpart V - Equipment Leaks (Fugitive Emission Sources).
  13. Subpart Y - Benzene Emissions From Benzene Storage Vessels.
  14. Subpart BB - Benzene Emissions from Benzene Transfer Operations.
  15. Subpart FF - Benzene Waste Operations.
- B.** Except as provided in R18-2-1102, the following subparts of 40 CFR 63, NESHAPs for Source Categories, and all accompanying appendices, adopted as of July 1, ~~2001~~2003, and no future editions or amendments, are incorporated by reference. These standards are on file with the Office of the Secretary of State and the Department and shall be applied by the Department.
1. Subpart A - General Provisions.
  2. Subpart B - Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j).
  3. Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants.
  4. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
  5. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
  6. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
  7. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
  8. Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.

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- ~~8-9~~. Subpart L - National Emission Standards for Coke Oven Batteries.
- ~~9-10~~. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- ~~10-11~~. Subpart N - National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- ~~11-12~~. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.
- ~~12-13~~. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- ~~13-14~~. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- ~~14-15~~. Subpart S - National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
- ~~15-16~~. Subpart T - National Emission Standards for Halogenated Solvent Cleaning.
- ~~16-17~~. Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
- ~~17-18~~. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
- ~~18-19~~. Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
- ~~19-20~~. Subpart AA - National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
- ~~20-21~~. Subpart BB - National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
- ~~21-22~~. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
- ~~22-23~~. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
- ~~23-24~~. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.
- ~~24-25~~. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.
- ~~25-26~~. Subpart HH - National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
- ~~26-27~~. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.
- ~~27-28~~. Subpart KK - National Emission Standards for the Printing and Publishing Industry.
- ~~28-29~~. Subpart LL - National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
- ~~29-30~~. Subpart MM - National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.
- ~~30-31~~. Subpart OO - National Emission Standards for Tanks--Level 1.
- ~~31-32~~. Subpart PP - National Emission Standards for Containers.
- ~~32-33~~. Subpart QQ - National Emission Standards for Surface Impoundments.
- ~~33-34~~. Subpart RR - National Emission Standards for Individual Drain Systems.
- ~~34-35~~. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
- ~~35-36~~. Subpart TT - National Emission Standards for Equipment Leaks - Control Level 1.
- ~~36-37~~. Subpart UU - National Emission Standards for Equipment Leaks - Control Level 2 Standards.
- ~~37-38~~. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- ~~38-39~~. Subpart WW - National Emission Standards for Storage Vessels (Tanks) - Control Level 2.
40. Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations
- ~~39-41~~. Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
- ~~40-42~~. Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- ~~41-43~~. Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- ~~42-44~~. Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.
- ~~43-45~~. Subpart GGG - National Emission Standards for Pharmaceuticals Production.
- ~~44-46~~. Subpart HHH - National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
- ~~45-47~~. Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- ~~46-48~~. Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
- ~~47-49~~. Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
- ~~48-50~~. Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- ~~49-51~~. Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- ~~50-52~~. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phe-

nolic Resins.

- ~~51-53~~. Subpart PPP - National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
54. Subpart QQQ - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
- ~~52-55~~. Subpart RRR - National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- ~~53-56~~. Subpart TTT - National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
57. Subpart UUU - National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
- ~~54-58~~. Subpart VVV - National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
- ~~55-59~~. Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferrous Alloys Production: Ferromanganese and Silicomanganese.
60. Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
- ~~56-61~~. Subpart CCCC - National Emission Standards for Hazardous Air Pollutants: Manufacture of Nutritional Yeast.
- ~~57-62~~. Subpart GGGG - National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
63. Subpart HHHH - National Emissions Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
64. Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
65. Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
66. Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
67. Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
68. Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
69. Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
70. Subpart TTTT - National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
71. Subpart UUUU - National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
72. Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
73. Subpart WWWW - National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
74. Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
75. Subpart BBBB - National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
76. Part 63, Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
77. Part 63, Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing.
78. Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
79. Part 63, Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
80. Part 63, Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
81. Part 63, Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
82. Part 63, Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
83. Part 63, Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands.
84. Part 63, Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
85. Part 63, Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

## ARTICLE 15. FOREST AND RANGE MANAGEMENT BURNS

### APPENDIX 2. TEST METHODS AND PROTOCOLS

The following test methods and protocols are approved for use as directed by the Department under this Chapter. These standards are incorporated by reference as of July 1, ~~2001~~2003 (and no future editions or amendments). These standards are on file with the Department and the Office of the Secretary of State, and are also available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.

Notices of Proposed Rulemaking

1. 40 CFR 50;
2. 40 CFR 50, Appendices A through K;
3. 40 CFR Part 51, Appendix M, Appendix S, Section IV, Appendix W;
4. 40 CFR 52, Appendices D and E;
5. 40 CFR 58;
6. 40 CFR 58, all appendices;
7. 40 CFR Part 60, all appendices.
8. 40 CFR Part 61, all appendices.
9. 40 CFR Part 63, all appendices.
10. 40 CFR Part 75, all appendices.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

**PREAMBLE**

**1. Sections Affected**

R18-2-1607  
R18-2-1608  
R18-2-1609  
R18-2-1610  
R18-2-1611  
R18-2-1612  
R18-2-1613  
R18-2-1614  
R18-2-1615  
R18-2-1616  
R18-2-1617  
R18-2-1618  
R18-2-1619  
R18-2-1620  
R18-2-1621  
R18-2-1622  
R18-2-1623

**Rulemaking Action**

Reserved  
Reserved  
Reserved  
New Section  
New Section

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

General Authority: A.R.S. §§ 49-104(A)(11) and 49-425

Specific Authority: A.R.S. §§ 49-414 and 414.01

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 217, January 9, 2004.

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking.**

Name: Deborah "Corky" Martinkovic

Address: ADEQ, Air Quality Planning Section  
1110 West Washington  
Phoenix, AZ 85007

Telephone: (602) 771-2372 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for a specific number.)

Fax: (602) 771-2366

E-mail: [martinkovic.deborrah@ev.state.az.us](mailto:martinkovic.deborrah@ev.state.az.us)

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Summary. The proposed rule would implement federal regional haze requirements by (1) requiring applicable stationary sources to monitor and report sulfur dioxide (SO<sub>2</sub>) emissions to allow Arizona Department of Environmental Quality (ADEQ) to determine if a SO<sub>2</sub> emission milestone has been exceeded, and (2) establishing the procedures for applicable stationary sources to participate in a regional backstop market trading program should a SO<sub>2</sub> emission milestone be exceeded.

Background. Section 169A of the Clean Air Act (CAA) establishes a national goal for protecting visibility in federally-protected national parks and wilderness areas ("Class I areas;" See 40 CFR 81.403). The goal is to remedy existing visibility impairment and prevent future visibility impairment in these Class I areas. Regional haze is a type of visibility impairment caused by air pollutants emitted by numerous sources across a broad region. In 1999, EPA promulgated a Regional Haze Rule that requires development of state implementation plans (SIPs) that assure "reasonable progress" toward the national visibility goal (64 FR 35714, July 1, 1999).

The 1999 Regional Haze Rule (40 CFR 51.309) provided an optional approach for the nine western states that comprised the transport region analyzed by the Grand Canyon Visibility Transport Commission (GCVTC) during the 1990s, including Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming. Arizona, New Mexico, Utah, Oregon, and Wyoming have elected to comply with the Regional Haze Rule by submitting their first SIPs on December 31, 2003, based on the recommendations to improve visibility outlined in the GCVTC's 1996 Report. This option is also available to eligible Indian Tribes within the geographical regional studied by the GCVTC. Indian Tribes have no deadline for submitting Tribal Implementation Plans (TIPs).

One element of the GCVTC's recommendations was a backstop regional trading program to reduce stationary source emissions of SO<sub>2</sub>. The GCVTC identified SO<sub>2</sub> as causing one third of the visibility impairment on the Colorado Plateau, with the majority of the emissions coming from stationary sources. The recommendation called for the setting of a series of declining caps on SO<sub>2</sub> emissions referred to as, "emissions milestones." These milestones would provide sources incentive to reduce their SO<sub>2</sub> emissions voluntarily through means most economical and feasible to them rather than the conventional command-and-control approach to achieve reductions. Implementation plan assessments of progress and identification of deficiencies are due in the years 2008, 2013, and 2018. The voluntary measures that achieve the milestones were approved by EPA because they achieve greater reasonable progress than the application and operation of controls under best available retrofit technology (BART). If the voluntary measures do not succeed in reducing SO<sub>2</sub> emissions over time, an enforceable market trading program would be triggered as a "backstop" to assure the reductions would be met. A regional work group was created to develop a "model" rule that each participating state would, in turn, transition into a state-specific rule.

There are two aspects to this proposed rule. Section R18-2-1611 of the proposed rule outlines monitoring, reporting and recordkeeping requirements during the pre-trigger phase of the program. This also satisfies the pre-trigger requirements in the Regional Haze Rule at 40 CFR 51.309(d)(4)(ii). Then, should a milestone be violated and the program triggered (R18-2-1613), the proposed rule outlines the requirements of the backstop trading program. A number of terms that are used in this proposed rule are not included in the definition section because they are already defined in R18-2-101. These terms are: "affected source," "potential to emit," and "stationary source."

R18-2-1614 through R18-2-1617 of the proposed rule outline responsibilities of the applicable stationary sources (R18-2-1612) - responsibility to select an account representative, register for the program, receive an allocation of allowances (a type of tradable emissions credit), and establish an account to hold the allowances. R18-2-1616(D) sets forth the nature of allowances and the fact that an allowance is not a property right. The clarification preserves the State's right to restrict or terminate an allowance in accordance with existing laws. This right extends to the United States because state law cannot create new or abrogate any existing rights or authorities of the federal government.

R18-2-1618 and R18-2-1619 outline how the applicable stationary sources will, in the post-trigger phase, monitor, report and maintain records to determine if they have sufficient annual allowances within their account to operate. R18-2-1622 contains the allowance limitation requirement that by a specified date, sources shall hold sufficient allowances for its SO<sub>2</sub> emissions. In order to meet the allowance limitation requirement, a source may need to follow the procedures in R18-2-1620 and R18-2-1621 before the deadline, to ensure that they will be able to comply with the allowance limitation. R18-2-1622 sets the penalties should a source fail to comply with the allowance limitation requirements of the program. R18-2-1618 through R18-2-1622 meet the requirements established throughout 40 CFR 51.309(h) of the Regional Haze Rule.

Finally, R18-2-1623 of the proposed rule provides, should the milestone in 2018 be exceeded, that a special penalty be imposed for 2018, and for any subsequent year if the regional SO<sub>2</sub> emissions continue to exceed the 2018 milestone. The Section establishes specific penalties for failure to meet this pivotal goal of the program.

Due to the need to establish the procedure for pre-trigger monitoring, recordkeeping and reporting under R18-2-1611 as soon as possible pursuant to 40 CFR 51.309(d)(4)(ii), ADEQ requests an immediate effective date as permissible under A.R.S. 41-1032(A)(2) and 41-1032(A)(3).

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

**Notices of Proposed Rulemaking**

*An Assessment of Critical Mass for the Regional SO<sub>2</sub> Trading Program*, prepared for Western Regional Air Partnership (WRAP) Market Trading Forum, ICF Consulting Group, September 27, 2002; available through the WRAP Web page at [www.wrapair.org](http://www.wrapair.org) or through Arizona Department of Environmental Quality.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

**A. Rule Identification and Summary**

This rulemaking comprises new Sections, R18-2-1610 through R18-2-1623. Rule Sections R18-2-1607, R18-2-1608, and R18-2-1609 are reserved. The Sections within Article 16 pertain to visibility and regional haze.

Regional haze impairs visibility and is caused by air pollutants emitted by many sources across a region. The Clean Air Act (CAA) establishes a national goal to protect visibility in federally protected parks and wilderness areas, called federal Class I areas (40 CFR 81.403). Arizona has 12 federally-protected Class I areas. The region consists of a nine state area in the west. Currently, the states participating in the backstop market trading program consist of the states submitting regional haze state implementation plans (SIPs) under Section 309 of the federal Regional Haze Rule; namely, Arizona, New Mexico, Utah, Oregon, and Wyoming. The 211 Indian Tribes within the region can also participate in the program through the completion of a tribal implementation plan (TIP) or source-specific implementation plans.

The national goal is attained by improving existing visibility impairment and preventing future visibility impairment in the Class I areas. Visibility improvements are anticipated by establishing milestones for sulfur dioxide (SO<sub>2</sub>) reductions over time through voluntary reduction measures as opposed to command-and-control technologies. If the voluntary measures are unsuccessful, however, an enforceable market trading program will be established as a backstop to assure that the SO<sub>2</sub> reductions can be achieved. The greatest reduction in SO<sub>2</sub> emissions is expected to occur at during the last milestone, 2014 to 2018 (see Table below). By 2040, the goal for SO<sub>2</sub> reductions is 52 percent from the 1990 level of 831,000 tons.

MILESTONES	CUMULATIVE REGIONAL EMISSION REDUCTIONS FROM 1990 (IN TONS OF SO <sub>2</sub> )
2003	111,000
2008	116,000
2013	176,000
2018	321,000

This proposed rule implements procedures for Arizona sources participating in the Western Backstop SO<sub>2</sub> Trading Program, referred to as the WEB Trading Program, as required under the federal Regional Haze.

Rule (40 CFR 51.309). The proposed rule will require stationary sources subject to this rulemaking to monitor and report SO<sub>2</sub> emissions as a way to determine if SO<sub>2</sub> emission milestones have been exceeded, and if so, require such sources to participate in the WEB Trading Program.

**B. Entities Directly Affected**

Potential entities directly impacted by this rulemaking include Arizona stationary sources with actual SO<sub>2</sub> emissions of 100 tons or more per year. These sources include: Five coal-fired power plants (utilities), two cement plants, two lime plants, one pulp and paper plant, and three smelters (including one smelter that has suspected operations). The latter eight sources are generally categorized as non-utilities. Other entities include air pollution control manufacturers and vendors; contractors; consultants; lawyers; Arizona Department of Environmental Quality (ADEQ) as the implementing agency; and private persons and consumers.

Potential WEB Trading Program sources include: BART-eligible sources (best available retrofit technology sources as defined in 40 CFR 51.301); other stationary sources not meeting the criteria set forth in R18-2-1611(D), with actual SO<sub>2</sub> emissions of 100 tons or more per year in the trigger years or subsequent years; and other stationary sources regulated under Section 111 or 112 of the CAA (after August 7, 1980). Not all of these sources operate in Arizona.

**C. Potential Costs and Benefits**

Before summarizing the preliminary costs and benefits of this rulemaking, it is necessary to discuss the nine-state region as a whole, as well as generalizations about Arizona sources impacted by this rulemaking. All dollar amounts represent 1997 dollars (as provided in the ICF study cited in section 6 of the preamble to this proposed rule). Due to

inflation, consumer prices have risen approximately 15 percent between 1997 and 2003. Likewise, one can expect capital investments and other compliance costs to also be higher now than in 1997.

Compliance costs are expected to be lowest if all states and tribes participate in the trading program because this will result in the greatest gains from trading. For example, annual compliance costs for the region could be as much as \$90 million less in 2018 under the trading option compared to states and tribes implementing command-and-control programs.<sup>1</sup> Arizona is one state in which sources are expected to have greater compliance costs under command-and-control. Consequently, sources located in Arizona are expected to experience the greatest cost-saving benefits from participating in the trading program. This is due partially to expectations that Arizona will be a net buyer of trading allowances. Thus, because Arizona has opted to participate in the trading program, not only will the Arizona sources experience lower compliance costs, but so will the entire region.

[<sup>1</sup>Anticipated annual savings are the difference between the estimated costs for implementing command-and-control at \$210 million vs. \$120 million for all states and tribes participating in a full trading program. The amount of emissions reduction would be about the same under either program approach. The amount of actual cost savings could change based on which and how many states and tribes elect to opt out of the trading program. See ICF Consulting Group, *An Assessment of Critical Mass for the Regional SO<sub>2</sub> Trading Program*, prepared for Western Regional Air Partnership Market Trading Forum, September 27, 2002.]

States in the nine-state region and 211 tribal areas may choose not to participate in the regional trading program and fulfill regional haze requirements by implementing command-and-control BART technology and satisfy Section 51.308 requirements of the federal Regional Haze Rule. States and tribes electing not to participate in the program, however, will make the regional program less flexible and increase compliance costs not only for themselves but for other program participants.

Program flexibility means that sources can reduce SO<sub>2</sub> emissions by installing pollution control equipment if that option represents a relatively lower cost alternative, or sources could purchase allowances if the market offers a less expensive means of reducing SO<sub>2</sub> emissions. For example, allowances could be sold at a price to older sources that is lower than the cost per ton of SO<sub>2</sub> emissions abatement for these sources.

#### Regulatory Agencies

ADEQ expects to be impacted minimally by its review of monitoring plans and reports from sources as well as its participation in the tracking system requirements, which will be managed and funded by an outside, regional administrator. The current number of ADEQ employees can be expected to handle the workload generated by this program.

#### Regulated Community

Owners and operators of applicable sources are required to monitor, report, and maintain records of their SO<sub>2</sub> emissions during the pre-trigger stage of the program proposed by this rulemaking. These sources already monitor and report emissions under existing stationary source requirements, but may have some additional costs due to an increase in the record retention requirement from five years to ten years. The additional pre-trigger monitoring, reporting and recordkeeping requirements under the proposed rule should have minimal impact. During this pre-trigger stage, owners and operators of sources can plan how they would reduce SO<sub>2</sub> emissions according to their own time-frames.

The incorporation of a pre-trigger time period is vital to the sources by allowing them flexibility to plan and select the optimal compliance strategy. Under command-and-control, sources are much more restricted in developing compliance options. In contrast, a trading program allows increased flexibility for sources to plan how to comply with SO<sub>2</sub> emissions caps and the best strategy for implementing compliance options. This preparation time can be viewed as the foundation for numerous cost-saving benefits to develop in the future. For example, sufficient time is needed to evaluate market conditions relating to demand and resource inputs. Additionally, a source may want to evaluate a variety of variables and options, such as emission variations, production costs, competition, economic profit, expansion capabilities, retrofit possibilities, investments in new technologies, etc. The pre-trigger time provides sources with a mechanism to successfully implement plans with a potential for significant cost-saving benefits.

Should the regional SO<sub>2</sub> emissions cap be exceeded, stationary sources would have an alternative means of reducing SO<sub>2</sub> emissions through tradable allowances, as opposed to having pollution control equipment installed under command-and-control. The regulated community would register for the trading program, select an account representative, and subsequently receive allowances in their compliance accounts. Monitoring would continue to determine if sources have sufficient annual allowances in their respective accounts to operate.

Compliance costs could include fuel costs, annualized capital investments, and operation and maintenance expenditures. Some of the expenditures could include investments in new capacity. According to ICF Consulting Group,<sup>2</sup> Arizona's owners and operators of affected sources would experience annual incremental compliance costs by 2013 of \$25 million if participating in the trading program or \$37 million if complying through command-and-control. By 2018, annual compliance costs for owners and operators of Arizona's sources are expected to be \$25 million for participating in the trading program and \$40 million for command-and-control.

[<sup>2</sup>*An Assessment of Critical Mass for the Regional SO<sub>2</sub> Program*, ICF Consulting Group, 2002.]

It is anticipated that Arizona will have more total SO<sub>2</sub> emissions from its affected sources than its emissions budget (i.e., a negative net allowance budget). Because approximately one third of the SO<sub>2</sub> emission reductions from participating states will come from Arizona sources, Arizona would be a net buyer of trading allowances from out-of-state suppliers. Estimated allowances needed are expected to be in the range of 10,000 to 20,000 tons of SO<sub>2</sub>, not including any intrastate trades. Based on an estimated allowance price of \$1,100 to \$2,100 per ton of SO<sub>2</sub>, Arizona's sources may have to expend between \$11 million to \$42 million to purchase allowances from Indian tribes or sources in other states.<sup>3</sup> Arizona sources could use allowances to avoid some of the high costs of investing in pollution control equipment.

[<sup>3</sup>Costs per ton are dependent upon several factors, such as transaction costs, market power, risk, and market inefficiencies.

Owners and operators of sources participating in the trading program will incur additional compliance costs due to administrative burdens. These costs fall under post-trigger monitoring, recordkeeping, and reporting requirements, and include the preparation of monitoring plans and compliance certification reports. These costs are expected to be minimal in comparison to costs that would be incurred under a straight common-and-control program. Additionally, owners and operators of sources out of compliance will incur penalties in the form of allowance deductions at twice the source's tons of excess SO<sub>2</sub> emissions and assessments of \$5,000 per ton of emissions in excess of the WEB source's allowance limitations. Other civil and criminal penalties also could be assessed.

#### Consumers and Public

ADEQ anticipates that reductions in SO<sub>2</sub> through implementation of the propose rule will generate benefits for the public at large. These benefits include improvement in visibility, human health, and a possible decrease in acid rain deposition.<sup>4</sup> Air quality changes are expected to improve visibility in federal Class I areas, as well as other areas within the transport region. Potential human health benefits are expected to accrue because SO<sub>2</sub> emissions can aggravate asthma. Reductions in SO<sub>2</sub> emissions could also avert or reduce acute illnesses or ailments (e.g., shortness of breath, chest tightness, or wheezing). Health gains also could include reduced hospital admissions for respiratory and cardiovascular problems. Avoidance of premature deaths is also a likely possibility.

[<sup>4</sup>U.S. EPA and National Park Service, *2018 Milestone Reductions Benefits Assessment*, August 11, 2000.]

Sources generally will pass on increased compliance costs to consumers. Thus, increases in production costs may be reflected in higher prices for goods. Even though the health and welfare benefits are for the most part unquantifiable, it is believed that probable benefits will exceed probable costs of this rulemaking, particularly because the compliance costs of a trading program are less than those of a command-and-control emissions reduction program.

#### **D. Potential Impacts to Small Businesses**

A variety of methods are available to reduce the impact of a rulemaking on small businesses. A.R.S. § 41-1035 prescribes five methods for reducing the impact. These methods include establishing less stringent compliance or reporting requirements, less stringent schedules or deadlines for compliance or reporting requirements, simplified reporting requirements, replacing design or operational standards with performance requirements, or exempting small businesses from some or all rule requirements. None of these methods, however, are feasible or fall within the requirements of this proposed rulemaking. Furthermore, applicable sources are expected to be large sources and not classified as small businesses. Sources undergoing modifications that could produce actual SO<sub>2</sub> emissions of 100 tons or more per year would become applicable sources. Potentially, some of these sources could be classified as small businesses.

#### **9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: David Lillie  
Address: ADEQ, Air Quality Planning Section  
1110 West Washington  
Phoenix, AZ 85007  
Telephone: (602) 771-4461 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for a specific number.)  
Fax: (602) 771-2366  
E-mail: [Lillie.David@ev.state.az.us](mailto:Lillie.David@ev.state.az.us)

#### **10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

Date: Monday, May 17, 2004  
Time: 4:30 p.m.  
Location: ADEQ

1110 West Washington, Room 250  
Phoenix, AZ 85007

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporation by reference and their location in the rule:**

40 CFR 51.301 and 40 CFR 51.309; R18-2-1610(A)(1).

**13. The full text of the rule follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

Section

R18-2-1607.	Reserved
R18-2-1608.	Reserved
R18-2-1609.	Reserved
R18-2-1610.	Western Backstop SO <sub>2</sub> Trading Program; Definitions
R18-2-1611.	General Applicability; Pre-trigger Monitoring, Recordkeeping and Reporting
R18-2-1612.	WEB Trading Program Applicability
R18-2-1613.	WEB Trading Program Trigger
R18-2-1614.	Account Representative for WEB Sources
R18-2-1615.	Registration
R18-2-1616.	Allowance Allocations
R18-2-1617.	Establishment of Accounts
R18-2-1618.	Post-trigger Monitoring, Recordkeeping and Reporting
R18-2-1619.	Monitoring Protocols
R18-2-1620.	Allowance Transfers
R18-2-1621.	Use of Allowances from a Previous Year
R18-2-1622.	Compliance
R18-2-1623.	Special Penalty Provisions for the 2018 Milestone

**ARTICLE 16. VISIBILITY; REGIONAL HAZE**

**R18-2-1607.** **Reserved**

**R18-2-1608.** **Reserved**

**R18-2-1609.** **Reserved**

**R18-2-1610.** **Western Backstop SO<sub>2</sub> Trading Program; Definitions**

**A.** **This rule implements the Western Backstop SO<sub>2</sub> Trading Program provisions required under 40 CFR 51.309.**

- 1.** **The parts of 40 CFR 51.301 and 40 CFR 51.309 cited below are incorporated by reference as of July 1, 2003, and no future editions or amendments.**
- 2.** **Nothing in this Article waives any requirement otherwise in effect or subsequently required under any other law, including rules governing new sources.**

**B.** **When used in this Article:**

- 1.** **“Account Certificate of Representation” means the completed and signed submission required to designate an Account Representative for a WEB source or an Account Representative for a general account.**
- 2.** **“Account Representative” means the individual who is authorized through an Account Certificate of Representation to represent owners and operators of the WEB source with regard to matters under the WEB Trading Program or, for a general account, who is authorized through an Account Certificate of Representation to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account.**
- 3.** **“Act” means the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq.**
- 4.** **“Actual Emissions” means total annual sulfur dioxide emissions determined in accordance with R18-2-1618, or determined in accordance with R18-2-1611 for sources that are not subject to R18-2-1618.**

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5. “Allocate” means to assign allowances to a WEB source.
6. “Allowance” means the limited authorization under the WEB Trading Program to emit one ton of SO<sub>2</sub> during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by this Article.
7. “Allowance limitation” means the tonnage of SO<sub>2</sub> emissions authorized by the allowances available for compliance deduction for a WEB source for a control period under R18-2-1622(A) on the allowance transfer deadline for that control period.
8. “Allowance Tracking System” means the database whereby allowances under the WEB Trading Program are recorded, held, transferred and deducted.
9. “Allowance Tracking System Account” means an account in the Allowance Tracking System established for purposes of recording, holding, transferring, and deducting allowances.
10. “Allowance transfer deadline” means the deadline established in R18-2-1620(B) when allowances shall be submitted for recording in a WEB source’s compliance account in order to demonstrate compliance for that control period.
11. “Compliance account” means an account established in the Allowance Tracking System under R18-2-1617(A) for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation.
12. “Compliance certification” means a submission to the Director by the Account Representative as required under R18-2-1622(B) to report a WEB source’s compliance or noncompliance with this Article.
13. “Control period” means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.
14. “Emissions tracking database” means the central database where SO<sub>2</sub> emissions for WEB sources as recorded and reported in accordance with this Article are tracked to determine compliance with allowance limitations.
15. “Emission unit” means any part of a stationary source that emits or would have the potential to emit any pollutant subject to regulations under the Clean Air Act.
16. “Existing source” means a stationary source that commenced operation before the program trigger date.
17. “Fugitive emissions” means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
18. “General account” means an account established in the Allowance Tracking System under R18-2-1617 for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation.
19. “Milestone” means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018 as provided in 40 CFR 51.309.
20. “New WEB Source” means a WEB source that commenced operation on or after the Program Trigger Date.
21. “New source set-aside” means a pool of allowances that is available for allocation to new sources 40 CFR 51.309(h)(4)(i).
22. “Owner or operator” means any person who is an owner or who operates, controls or supervises a WEB source, and includes but is not be limited to any holding company, utility system or plant manager.
23. “Program trigger date” means the date that the Director determines that the WEB Trading Program has been triggered.
24. “Program trigger years” means the years shown in Table 1, column 4, of 40 CFR 51.309(h)(1) for the applicable milestone if the WEB Trading Program is triggered as provided in 40 CFR 51.309(h)(3). For each year after 2018, the SO<sub>2</sub> emissions shall be based on annual SO<sub>2</sub> emissions for the subject year.
25. “Renewable Energy Resource” means a resource that generates electricity by non-nuclear and non-fossil technologies that result in low or no air emissions. The term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meet the Low-Impact Hydropower Institute criteria. Biomass includes agricultural, food and wood wastes. The term does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood.
26. “Retired source” means a WEB source that has received a retired source exemption as provided in R18-2-1612(C). Any retired source resuming operations under R18-2-1612(C)(4), shall submit its exemption as part of its registration materials.
27. “Serial number” means the unique identification number assigned to each allowance by the Tracking System Administrator under R18-2-1616(B).
28. “SO<sub>2</sub> emitting unit” means any equipment that is located at a WEB source and that emits SO<sub>2</sub>.
29. “Submit” means sent to the appropriate authority under the signature of the Account Representative. For purposes of determining when something is submitted, an official U.S. Postal Service postmark, or equivalent electronic time stamp, shall establish the date of submittal.
30. “Ton” means 2000 pounds and, for any control period, any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons.

31. “Tracking System Administrator” means the person designated by the Director as the administrator of the Allowance Tracking System and the emissions tracking database.
32. “WEB source” means a stationary source that meets the applicability requirements of R18-2-1612.
33. “Western Backstop SO<sub>2</sub> Trading Program (“WEB Trading Program”)” means the program implemented by R18-2-1613.

**R18-2-1611. General Applicability; Pre-trigger Monitoring, Recordkeeping and Reporting**

**A. General Applicability.**

1. All stationary sources that have actual SO<sub>2</sub> emissions of 100 tons or more per year are subject to the requirements of this Section.
2. For purposes of determining SO<sub>2</sub> emissions in subsection (1), the fugitive emissions of a stationary source shall not be considered unless the source belongs to one of the following categories of stationary sources:
  - a. Coal cleaning plants (with thermal dryers);
  - b. Kraft pulp mills;
  - c. Portland cement plants;
  - d. Primary zinc smelters;
  - e. Iron and steel mills;
  - f. Primary aluminum ore reduction plants;
  - g. Primary copper smelters;
  - h. Municipal incinerators capable of charging more than 250 tons of refuse per day;
  - i. Hydrofluoric, sulfuric, or nitric acid plants;
  - j. Petroleum refineries;
  - k. Lime plants;
  - l. Phosphate rock processing plants;
  - m. Coke oven batteries;
  - n. Sulfur recovery plants;
  - o. Carbon black plants (furnace process);
  - p. Primary lead smelters;
  - q. Fuel conversion plants;
  - r. Sintering plants;
  - s. Secondary metal production plants;
  - t. Chemical process plants;
  - u. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
  - v. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
  - w. Taconite ore processing plants;
  - x. Glass fiber processing plants;
  - y. Charcoal production plants;
  - z. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
  - aa. Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or 112 of the Act.

**B. Pre-trigger Requirements.**

1. All stationary sources meeting the criteria of subsection (A), for the period defined in subsection (C) shall comply with applicable monitoring, recordkeeping and reporting requirements in R18-2-304, R18-2-306, R18-2-327, and R18-2-715.01, and in addition:
2. The stationary source shall submit to the Director an annual inventory of SO<sub>2</sub> emissions, beginning with the 2003 emission inventory.
3. The stationary source shall submit to the Director, if the stationary source is a smelter, an annual report of sulfur input in tons per year with the submission of the annual emissions inventory.
4. The stationary source shall utilize appropriate emission factors and estimating techniques, and document the emissions monitoring or estimation methodology used.
5. The stationary source shall include SO<sub>2</sub> emissions from start up, shut down, and upset conditions in the annual total inventory.
6. The stationary source shall utilize, if an affected source, methods from 40 CFR Part 75 to measure and calculate SO<sub>2</sub> emissions.
7. The stationary source shall include the rate and period of SO<sub>2</sub> emissions, the specific installation that is the source of the SO<sub>2</sub> emissions, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions, and to evaluate pollution control.
8. The stationary source shall retain records required under this Section for a minimum of 10 years from the date of cre-

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ation, or if the record was the basis for an adjustment to a milestone under 40 CFR 51.309(h)(1), 5 years from the date of a state implementation plan revision, whichever is longer.

**C. Duration and Termination of Pre-trigger Requirements.**

A stationary source that meets the criteria of Subsection (A) at any time after the effective date of this Article shall continue to comply with Subsection (B) even if the source no longer meets the criteria in R18-2-1611(A), until either:

1. The WEB Trading Program has been fully implemented and emission tracking is occurring; or
2. The Director determines pursuant to 40 CFR 51.309(h)(3) that the regional SO<sub>2</sub> milestone for 2018 was achieved.

**R18-2-1612. WEB Trading Program Applicability**

**A. General Applicability.** This Article applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and which are under the control of the same person or persons under common control, belonging to the same industrial grouping, and that are described in subsections (B)(1) through (4). 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 as described in the North American Industry Classification System (NAICS), 1997.

**B.** The following are WEB sources:

1. All BART-eligible sources as defined in 40 CFR 51.301 that are BART-eligible due to SO<sub>2</sub> emissions.
2. All stationary sources not meeting the criteria of subsection (1) of this subsection that have actual SO<sub>2</sub> emissions of 100 tons or more per year in the Program Trigger Years or any subsequent year. The fugitive emissions of a stationary source shall not be considered in determining whether it is a WEB source unless the source belongs to one of the following categories of stationary source as listed in R18-2-1611(A)(2).
3. A new stationary source that begins operation after the Program Trigger Date and has the potential to emit 100 tons or more of SO<sub>2</sub> per year.
4. The Director shall determine on a case-by-case basis, with concurrence from the EPA Administrator, that a stationary source defined in R18-2-1612(B)(2) is not a WEB source if the source:
  - a. In each of the previous five years had actual SO<sub>2</sub> emissions of less than 100 tons per year; and
  - b. Had actual SO<sub>2</sub> emissions of 100 tons or more in a single year due to a temporary emission increase that was caused by a sudden, infrequent and not reasonably preventable failure of air pollution control equipment, failure of process equipment, or a failure to operate in a normal or usual manner;
  - c. Took timely and reasonable action to minimize the temporary emission increase; and
  - d. Has corrected the failure of air pollution control equipment, process equipment, or process by the time of the Director's determination under this section; or
  - e. Had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances other than cost of such fuels or feedstocks.
  - f. A temporary emission increase due to poor maintenance or careless operation does not meet the criteria of this subsection.

**C. Duration of Program Participation.** Except as provided in R18-2-1612(D) of this Article, once a source is subject to the WEB Trading Program, it shall remain in the program every year thereafter.

**D. Application for Retired Source Exemption.** Any WEB source that is retired shall apply for a retired source exemption. The WEB source shall only be considered retired if all SO<sub>2</sub> emitting units at the source are retired. The application shall contain the following information:

1. Identification of the WEB source, including plant name and an appropriate identification code in a format specified by the Director.
2. Name of Account Representative.
3. Description of the status of the WEB source, including the date that the WEB source was retired.
4. Signed certification that the WEB source is retired and shall comply with the requirements of R18-2-1612(D) through R18-2-1612(H).
5. Verification that the WEB source has a general account where any unused allowances or future allocations shall be recorded.

**E. Notice of Retired Source Exemption.** The retired source exemption becomes effective when the Director, or control officer with jurisdiction over the source, notifies the source that the retired source exemption has been granted.

**F. Responsibilities of Retired Sources:**

1. A retired source shall be exempt from R18-2-1618 and R18-2-1622, except as provided below.
2. A retired source shall not emit any SO<sub>2</sub> after the date the retired source exemption is effective.
3. A source shall submit SO<sub>2</sub> emissions reports to the Director, as required by R18-2-1618(H) for any time period the source was operating before the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of R18-2-1622, including the requirement to hold allowances in the source's compliance account to cover all SO<sub>2</sub> emissions before the date the source was permanently retired.
4. A retired source that is still in existence but no longer emitting SO<sub>2</sub> shall, for a period of five years from the date the

records are created, retain records demonstrating the effective date of the retired source exemption for purposes of this Article.

**G. Resumption of Operations.** Before a retired source can resume operation, the retired source shall submit to the Director registration materials as follows:

1. If the source is required to obtain a permit under Article 3 or 4 of this Chapter before resuming operation, then registration information as described in R18-2-1615(A) and a copy of the retired source exemption shall be submitted with the application required under Article 3 or 4 of this Chapter;
2. If the source is not required to obtain a permit under Article 3 or 4 of this Chapter before resuming operation, then registration information as described in R18-2-1615(A) and a copy of the retired source exemption shall be submitted to the Director at least 90 days before resumption of operation.
3. The retired source exemption shall automatically expire on the day the source resumes operation.

**H. Loss of Future Allowances.**

1. A WEB source that is retired and that does not apply to the Director for a retired source exemption within 90 days of the date that the source is retired shall forfeit any unused and future allowances.
  - a. The Director shall send the source notice 30 days before taking action to forfeit future allowances.
  - b. The abandoned allowances shall be retired by the Tracking System Administrator.

**R18-2-1613. WEB Trading Program Trigger**

- A.** Except as provided in R18-2-1613(B), R18-2-1613 through R18-2-1622 shall apply on and after the program trigger date that is established by the Director in accordance with 40 CFR 51.309(h)(1) and 51.309(h)(3).
- B.** R18-2-1623, Special Penalty Provisions for Year 2018 Milestone, shall apply beginning January 1, 2018, and shall continue to apply until the provisions of R18-2-1623 have been fully implemented.

**R18-2-1614. Account Representative for WEB Sources**

**A.** Each WEB source shall identify one Account Representative and shall also identify an alternate Account Representative who shall act on behalf of the Account Representative. Any representation, action, inaction or submission by the alternate Account Representative will be deemed to be a representation, action, inaction or submission by the Account Representative.

**B. Identification and Certification of an Account Representative.**

1. The Account Representative and any Alternate Account Representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the Account Representative and any alternate binding on the owners and operators of the WEB source.
2. The Account Representative shall submit to the Director and the Tracking System Administrator a signed and dated Account Certificate of Representation (Certificate) that contains the following elements:
  - a. Identification of the WEB source by plant name, state and an appropriate identification code in a format specified by the Director;
  - b. The name, address, e-mail (if available), telephone and facsimile number of the Account Representative and any alternate;
  - c. A list of owners and operators of the WEB source;
  - d. The specific tracking system data elements shall be as specified by the Director to be consistent with the data system structure, and shall include basic facility information that may appear in other reports and notices submitted by the WEB source, such as county location, industrial classification codes, and similar general facility information.
  - e. The following certification statement:  
*"I certify that I was selected as the Account Representative or alternate Account Representative, as applicable, by an agreement binding on the owners and operators of the WEB source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of the owners and operators of the WEB source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Director regarding the WEB Trading Program."*
3. Upon receipt by the Director of the complete Certificate, the Account Representative and any alternate Account Representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each owner and operator of the WEB source in all matters pertaining to the WEB Trading Program. The owners and operators shall be bound by any decision or order issued by the Director regarding the WEB Trading Program.
4. The Director shall send the Tracking System Administrator a copy of the complete Certificate. No WEB Allowance Tracking System account shall be established for the WEB source until the Tracking System Administrator has received a complete Certificate. Once the account is established, the Account Representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

**C. Requirements and Responsibilities of the Account Representative.**

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1. The responsibilities of the Account Representative include, but are not limited to, the transferring of allowances, and the submission of monitoring plans, registrations, certification applications, SO<sub>2</sub> emissions data and compliance reports as required by this Rule, and representing the source in all matters pertaining to the WEB Trading Program.
2. Each submission under this program shall be signed and certified by the Account Representative for the WEB source. Each submission shall include the following truth and accuracy certification statement by the Account Representative:  
*"I am authorized to make this submission on behalf of the owners and operators of the WEB source for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."*

**D. Changes to the Account Representative; Owners and Operators.**

1. Changes to the Account Representative or the alternate Account Representative.
  - a. The Account Representative or alternate Account Representative may be changed at any time by submitting a complete superseding Certificate to the Director and the Tracking System Administrator under R18-2-1614(B)(3), with the change taking effect upon receipt of such Certificate by the Director.
  - b. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Account Representative or alternate before the time and date when the Tracking System Administrator receives the superseding Certificate shall be binding on the new Account Representative and the owners and operators of the WEB source.
2. Changes in Owners and Operators.
  - a. Within 30 days of any change in the owners and operators of the WEB source, including the addition of a new owner or operator, the Account Representative shall submit a revised Certificate amending the list of owners and operators to include such change.
  - b. In the event a new owner or operator of a WEB source is not included in the list of owners and operators submitted in the Certificate, such new owner or operator shall be deemed to be subject to and bound by the Certificate, the representations, actions, inactions, and submissions of the Account Representative of the WEB source, and the decisions, orders, actions, and inactions of the Director as if the new owner or operator were included in such list.

**R18-2-1615. Registration**

**A. Deadlines.**

1. Each source that is a WEB source on or before the Program Trigger Date shall register by submitting the initial Certificate required in R18-2-1614(B) to the Director no later than 180 days after the Program Trigger Date.
2. Any existing source that becomes a WEB source after the Program Trigger Date shall register by submitting the initial Certificate required in R18-2-1614(B) to the Director by September 30 of the year following the inventory year in which the source exceeded the emission threshold.
3. Any new WEB source shall register by submitting the initial Certificate required in R18-2-1614(B) to the Director before the commencement of operation.

**B. Integration into Permits.**

1. An allocation, transfer or deduction of allowances to or from the compliance account of a WEB source shall not require revision of the WEB source's operating permit.
2. Any WEB source that is not required to have a permit under Article 4 of this Chapter at any time after provisions R18-2-1614 to R18-2-1622 apply, shall at all times possess a permit that includes the requirements of this Article. If it does not possess a Class I permit under Article 3 of this Chapter, it shall do so by obtaining or modifying a permit under Article 4 of this Chapter to incorporate the requirements of this Article. The source shall at all times possess a permit that includes these requirements.

**R18-2-1616. Allowance Allocations**

- A.** The Tracking System Administrator shall record the allowances for each WEB source in the compliance account for a WEB source once the allowances are allocated by the Director under 40 CFR 51.309(h)(4)(i). If applicable, the Tracking System Administrator shall record a portion of the SO<sub>2</sub> allowances for a WEB source in a special reserve compliance account to account for any allowances to be held in accordance with R18-2-1618(A)(2).
- B.** The Tracking System Administrator shall assign a serial number to each allowance.
- C.** All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

**D.** An allowance is not a property right, and is a limited authorization to emit one ton of SO<sub>2</sub> valid only for the purpose of meeting the requirements of this Article. No provision of this WEB Trading Program or other law should be construed to limit the authority of the Director to terminate or limit such authorization in accordance with this Article.

**E.** Early Reduction Bonus Allocation.

1. Any WEB source that reduces permitted annual SO<sub>2</sub> emissions to a level that is below the floor level allocation established for that source between 2003 and the program trigger year may apply to the Director for an early reduction bonus allocation.
2. The application shall be submitted no later than ninety days after the Program Trigger Date. Any WEB source that applies and receives early reduction bonus allocations shall retain the records referenced below for a minimum of five years after the early reduction bonus allowance is certified.
3. The application for an early reduction bonus allocation shall contain the following information:
  - a. Copies of all permits or other enforceable documents that include annual SO<sub>2</sub> emissions limits for the WEB source during the period the WEB source was generating the early reductions. Such permits or enforceable documents require monitoring for SO<sub>2</sub> emissions that meets the requirements in R18-2-1618(A)(1) and R18-2-1618(A)(3).
  - b. Copies of emissions monitoring reports, for the period the WEB source was generating the early reductions, that document the actual annual SO<sub>2</sub> emissions and demonstrate that the actual annual SO<sub>2</sub> emissions were below the floor level allocation established for that source.
  - c. Demonstration that the floor level established for the source was calculated using data consistent with the monitoring methodology during the period the WEB source was generating emission reductions. If new monitoring techniques change the floor level for the source, then a demonstration of the new floor level based on the monitoring techniques should be included in the application.

**F.** Request for allowances for new WEB sources or modified WEB Sources.

1. A new WEB source or an existing WEB source that has increased production capacity through a permitted change in operations under Article 4 of this Chapter may apply to the Director for an allocation from the new source set-aside.
  - a. A new WEB source is eligible to apply for an annual allocation equal to the permitted annual SO<sub>2</sub> emission limit for that source after the source has commenced operation.
  - b. An existing WEB source is eligible to apply for an annual allocation equal to the permitted annual SO<sub>2</sub> emission limit for that source that is attributable to any amount of production capacity that is greater than the permitted production capacity for that source as of January 1, 2003.
  - c. A source that has received a retired source exemption under R18-2-1612(D) is not eligible to apply for an allocation from the new source set-aside.
2. The application for an allocation from the new source set-aside shall contain the following information:
  - a. Demonstration that shows the permitted production capacity of the source before and after the new permit.
  - b. For new WEB sources, documentation of the actual date of the commencement of operation and a copy of the permit.

**R18-2-1617. Establishment of Accounts**

**A.** Allowance Tracking System Accounts.

1. All WEB sources are required to open a compliance account. Any person may open a general account for holding and transferring allowances.
2. If a WEB source conducts monitoring under R18-2-1618(A)(2), the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions.
  - a. The WEB sources and Account Representative shall have no rights to transfer allowances in or out of such special reserve compliance account.
  - b. The Director shall allocate allowances to the account in accordance with R18-2-1618(A)(2)(e), and all such allowances for each control period shall be retired each year for the compliance in accordance with R18-2-1622.
3. To open either type of account, an application that contains the following information shall be submitted to the Director:
  - a. The name, mailing address, e-mail address, telephone number, facsimile number of the Account Representative. For a compliance account, include a copy of the Account Certificate of Representation of the Account Representative and any alternate as required in R18-2-1614(B)(2). For a general account, include the Account Certificate of Representation of the Account Representative and any alternate as required in R18-2-1617(C)(2);
  - b. The WEB source or organization name;
  - c. The type of account to be opened; and
  - d. A signed certification of truth and accuracy by the Account Representative according to R18-2-1614(C) for compliance accounts and for general accounts, certification of truth and accuracy by the Account Representative according to R18-2-1617(D).

**B.** Account Representative for General Accounts.

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For a general account, one Account Representative shall be identified and an alternate Account Representative shall be identified and may act on behalf of the Account Representative. Any representation, action, inaction or submission by the alternate Account Representative will be deemed to be a representation, action, inaction or submission by the Account Representative.

**C. Identification and Certification of an Account Representative for General Accounts.**

1. The Account Representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the Account Representative binding on all persons who have an ownership interest with respect to allowances held in the general account.
2. The Account Representative shall submit to the Director and the Tracking System Administrator a signed and dated Account Certificate of Representation (Certificate) that contains the following elements:
  - a. The name, address, e-mail (if available), telephone and facsimile number of the Account Representative and any alternate;
  - b. The organization name;
  - c. The following certification statement:  
*"I certify that I was selected as the Account Representative or alternate Account Representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Director regarding the general account."*
3. Upon receipt by the Director of the complete Certificate, the Account Representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an ownership interest in allowances held in the general account with regard in all matters concerning the general account. Such persons shall be bound by any decision or order issued by the Director.
4. No WEB Allowance Tracking System general account shall be established until the Tracking System Administrator has received a complete Certificate. Once the account is established, the Account Representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

**D. Requirements and Responsibilities of Account Representative for General Accounts. Each submission for the general account shall be signed and certified by the Account Representative for the general account. Each submission shall include the following truth and accuracy certification statement by the Account Representative:**

*"I am authorized to make this submission on behalf of all person who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."*

**E. Changing the Account Representative for General Accounts.**

The Account Representative or alternate Account Representative may be changed at any time by sending a complete superseding Certificate to the Director and the Tracking System Administrator under R18-2-1617(C)(2), with the change taking effect upon receipt of such Certificate by the Director. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Account Representative or alternate before the time and date when the Director receives the superseding Certificate shall be binding on the new Account Representative and all person having ownership interest with respect to allowances held in the general account.

**F. Changes to the Account.**

Any change to the information required in the application for an existing account under R18-2-1617(A) shall require a submission to the Director of the revised application.

**R18-2-1618. Post-trigger Monitoring, Recordkeeping and Reporting**

**A. General Requirements on Monitoring Methods.**

1. For each SO<sub>2</sub> emitting unit at a WEB source the WEB source shall comply with the following, as applicable, to monitor and record SO<sub>2</sub> mass emissions:
  - a. If a unit is subject to 40 CFR 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in 40 CFR 75 with respect to monitoring, recording and reporting SO<sub>2</sub> mass emissions.
  - b. If a unit is not subject to 40 CFR 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:
    - i. A continuous emission monitoring system (CEMS) for SO<sub>2</sub> and flow that complies with all applicable monitoring provisions in 40 CFR 75;
    - ii. If the unit is a gas- or oil-fired combustion device, the accepted monitoring methodology in Appendix D to

- 40 CFR 75. or, if applicable, the low mass emissions provisions with respect to SO<sub>2</sub> mass emissions only of 40 CFR 75.19;
- iii. One of the optional WEB protocols, if applicable, in R18-2-1619; or;
  - iv. Site-specific monitoring under a petition that the source submits for approval by the Director, and approval by the Administrator in subsection (I).
- c. A permanently retired unit shall not be required to monitor under this Article if such unit was permanently retired and had no emissions for the entire period for which the WEB source implements this subsection (c) and the Account Representative certifies in accordance with R18-2-1622(B) that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section in the same manner as if the unit was a new unit.
2. Notwithstanding subsection (1), the WEB source with a unit that meets one of the conditions of subsection (2)(a) may elect to have the provisions of this subsection (2) apply to that unit.
- a. Any of the following may implement subsection (2):
    - i. A smelting operation where all of the emissions from the operation are not ducted to a stack; or
    - ii. A flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery.
    - iii. Another type of unit without add-on SO<sub>2</sub> control equipment, if no control level was assumed for the WEB source in establishing the floor level and reducible allocation.
  - b. For each unit covered by this subsection (2), the Account Representative shall submit to the Director a notice to request that this subsection (2) apply to one or more SO<sub>2</sub> emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in subsection (F)(1), and shall include the following information in a format specified by the Director with such additional, related information as may be requested:
    - i. A notice of all units at the applicable source, specifying which of the units are to be covered by this subsection (2);
    - ii. Consistent with the emission estimation methodology used to determine the floor level and reducible allocation, the portion of the WEB source's overall allowance allocation that is attributable to any units covered by this subsection; and
    - iii. An identification of any such units that are permanently retired.
  - c. For each new unit at an existing WEB source for which the WEB source seeks to comply with this subsection (2) and for which the Account Representative applies for an allocation under the new source set-aside provisions of R18-2-1616(F), the Account Representative shall submit a modified notice under subsection (2)(b) that includes such new SO<sub>2</sub> emitting unit(s). The modified notice shall be submitted in accordance with the compliance dates in subsection (F)(1), but no later than the date on which a request is submitted under R18-2-1616(F) for allocations from the set-aside.
  - d. The Director shall evaluate the information submitted by the WEB source in subsections (2)(b) and (2)(c), and may issue a notice to the source to exclude any units that do not qualify under this subsection (2) or to adjust the portion of allowances attributable to units that do qualify to be consistent with the emission estimation methodology used to establish the floor level and reducible allocation for the source.
  - e. The Director shall allocate allowances equal to the adjusted portion of the WEB source's allowances under subsections (2)(b), (2)(c), and (2)(d) in a special reserve compliance account, provided that no such treatment of the WEB source's allocation will be required for any unit that is permanently retired and had no emissions for the entire period for which the WEB source implements this subsection (2) and the Account Representative certifies in accordance with R18-2-1622 that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section in the same manner as if the unit was a new unit.
  - f. The Account Representative for a WEB source shall submit an annual emissions statement for each unit under this subsection (2) in accordance with subsection (H). The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with the emission estimation methodology used to establish the floor level and reducible allocation for the source. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account under subsection (2)(e) for the WEB source, the Account Representative will report the excess amount as part of the annual report for the WEB source under R18-2-1622 and be required to use other allowances in the standard compliance account for the WEB source to account for such emissions, in accordance with R18-2-1622.
  - g. The remaining provisions of this Section shall not apply to units covered by this subsection except where otherwise noted.
  - h. A WEB source may opt to modify the monitoring for an SO<sub>2</sub> emitting unit to use monitoring under subsection (A)(1), but any such monitoring change shall take effect on January 1 of the next compliance year. In addition, the Account Representative shall submit an initial monitoring plan at least 180 days before the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with subsection (B). The Account

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Representative shall also submit a revised notice under subsection (2)(b) at the same time that the initial monitoring plan is submitted.

3. For any monitoring that the WEB source uses under this Section, including subsection (2), the WEB source, and, as applicable, the Account Representative, shall implement, certify, and use such monitoring in accordance with this Section, and record and report the data from such monitoring as required in this Section. In addition, the WEB source, and, as applicable, the Account Representative, shall not:
  - a. Except for an alternative approved by the Administrator for a WEB source that implements monitoring under subsection (A)(1)(a), use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with subsection (I);
  - b. Operate an SO<sub>2</sub> emitting unit so as to discharge, or allow to be discharged, SO<sub>2</sub> emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this Section;
  - c. Disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording SO<sub>2</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this Section; or
  - d. Retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:
    - i. During a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in subsection (A)(1)(c);
    - ii. The WEB source is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or
    - iii. The Account Representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this Section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this Section.

**B. Monitoring Plan.**

1. General Provisions. A WEB source with an SO<sub>2</sub> emitting unit that uses a monitoring method under subsection (A)(1)(b) shall meet the following requirements:
  - a. Prepare and submit to the Director an initial monitoring plan for each monitoring method that the WEB source uses to comply with this Section. In accordance with subsection (B)(3), the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit SO<sub>2</sub> emissions are monitored and reported. The plan shall be submitted in accordance with the compliance deadlines specified in subsection (E).
  - b. Prepare, maintain and submit to the Director a detailed monitoring plan before the first day of certification testing, in accordance with the compliance deadline specified in subsection (E). The plan will contain the applicable information required by subsection (B)(4). The Director shall require that the monitoring plan, or portions thereof, be submitted electronically. The Director shall require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under subsection (H)(1), or resubmitted separately after any change is made to the plan in accordance with the following subsection (1)(c).
  - c. Whenever the WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in subsection (A)(1)(b), including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan, then the WEB source shall update the monitoring plan in accordance with the compliance deadline specified in subsection (F).
2. A WEB source with an SO<sub>2</sub> emitting unit that uses a method under subsection (A)(1)(a) shall meet the requirements of subsections (B)(1) through (B)(6) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR 75, provided that the WEB source also shall submit the entire monitoring plan to the Director upon request.
3. Initial Monitoring Plan. The Account Representative shall submit an initial monitoring plan for each SO<sub>2</sub> emitting unit or group of units sharing a common methodology that, except as otherwise specified in an applicable provision in R18-2-1619, contains the following information:
  - a. For all SO<sub>2</sub> emitting units involved in the monitoring plan:
    - i. Plant name and location;
    - ii. Plant and unit identification numbers assigned by the Director;
    - iii. Type of unit or units for a group of units using a common monitoring methodology;
    - iv. Identification of all stacks or pipes associated with the monitoring plan;
    - v. Types of fuels fired or sulfur containing process materials used in the SO<sub>2</sub> emitting unit, and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR 75 methodology;
    - vi. Type(s) of emissions controls for SO<sub>2</sub> installed or to be installed, including specifications of whether such



- g. Unless otherwise specified in Section 6.5.2.1 of Appendix A to 40 CFR 75, for each unit or common stack on which hardware CEMS are installed:
    - i. The upper and lower boundaries of the range of operation as defined in Section 6.5.2.1 of Appendix A to 40 CFR 75, or thousand of pounds per hour (lb/hr) of steam, or feet per second (ft/sec), as applicable;
    - ii. The load or operating levels designated as normal in Section 6.5.2.1 of Appendix A to 40 CFR 75, or thousands of lb/hr of steam, or ft/sec, as applicable;
    - iii. The two load or operating levels (i.e., low, mid, or high) identified in Section 6.5.2.1 of Appendix A to 40 CFR 75 as the most frequently used;
    - iv. The date of the data analysis used to determine the normal load, or operating levels, and the two most frequently-used load or operating levels; and
    - v. Activation and deactivation dates when the normal load or operating levels change and are updated.
  - h. For each unit that is complying with 40 CFR 75 for which the optional fuel flow-to-load test in Section 2.1.7 of Appendix D to 40 CFR 75 is used:
    - i. The upper and lower boundaries of the range of operation as defined in Section 6.5.2.1 of Appendix A to 40 CFR 75, expressed in thousand of lb/hr of steam;
    - ii. The load level designated as normal, pursuant to Section 6.5.2.1 of Appendix A to 40 CFR 75, expressed in thousands of lb/hr of steam; and
    - iii. The date of the load analysis used to determine the normal load level.
  - i. Information related to quality assurance testing, including, as applicable: identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels as percent of span for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration, if applicable, maximum potential flow rate, and span;
  - j. If applicable, apportionment strategies under 40 CFR 75.10 through 75.18.
  - k. Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:
    - i. A schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and subsections (4)(a) and (c). The schematic diagram shall depict the height of any monitor locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common stack.
    - ii. Stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air pre-heaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.
  - l. A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.
5. In addition to supplying the information in subsections (3) and (4) above, the WEB source with an SO<sub>2</sub> emitting unit using either of the methodologies in subsection (A)(1)(b)(ii) shall include the following information in its monitoring plan for the specific situations described:
- a. For each gas-fired or oil-fired SO<sub>2</sub> emitting unit for which the WEB source uses the optional protocol in Appendix D to 40 CFR 75 for SO<sub>2</sub> mass emissions, the WEB source shall include the following information in the monitoring plan:
    - i. Parameter monitored;
    - ii. Type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;
    - iii. Test method used to check the accuracy of each fuel flowmeter;
    - iv. Submission status of the data;
    - v. Monitoring system identification code;
    - vi. The method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;
    - vii. A schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeters, and the stacks. The schematic diagram shall depict the installation location of each fuel flowmeter and the fuel sampling locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;
    - viii. For units using the optional default SO<sub>2</sub> emission rate for “pipeline natural gas” or “natural gas” in Appendix D to 40 CFR 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either Section 2.3.1.4 or 2.3.2.4 of Appendix D to 40 CFR 75;
    - ix. For units using the 720 hour test under Section 2.3.6 of Appendix D to 40 CFR 75 to determine the required



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approved system or component.

- D.** Ongoing Quality Assurance and Quality Control. The WEB source shall satisfy the applicable quality assurance and quality control requirements of 40 CFR 75 or, if the WEB source is subject to a WEB protocol in R18-2-1619, the applicable quality assurance and quality control requirements in R18-2-1619, on and after the date that certification testing commences.
- E.** Substitute Data Procedures.
1. For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with this Article, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR 75 or, if the WEB source is subject to a WEB protocol in R18-2-1619, with substitute data in accordance with R18-2-1619.
  2. For an SO<sub>2</sub> emitting unit that does not have a certified or provisionally certified monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the WEB source shall:
    - a. If the WEB source will use a CEMS to comply with this Section, substitute the maximum potential concentration of SO<sub>2</sub> for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR 75. The procedures for conditional data validation under 40 CFR 75.20(b)(3) shall be used for any monitoring system under this Article that uses these 40 CFR 75 procedures, as applicable;
    - b. If the WEB source uses Appendix D methodology under 40 CFR 75 to substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with section 2.4 of Appendix D to 40 CFR 75;
    - c. If the WEB source uses the 40 CFR 75 methodology for low mass emissions units, substitute the SO<sub>2</sub> emission factor required for the unit as specified in 40 CFR 75.19 and the maximum rated hourly heat input, as defined in 40 CFR 72.2; or
    - d. If using a protocol in R18-2-1619, follow the procedures in the applicable protocol.
- F.** Compliance Deadlines.
1. The initial monitoring plan shall be submitted by the following dates:
    - a. For each source that is a WEB source on or before the Program Trigger Date, the monitoring plan shall be submitted 180 days after such Program Trigger Date.
    - b. For any existing source that becomes a WEB source after the Program Trigger Date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the SO<sub>2</sub> emissions threshold of 100 tons per year.
    - c. For any new WEB source, the monitoring plan shall be included with the permit application under either Article 3 or Article 4 of this Chapter.
  2. A detailed monitoring plan under subsection (B)(2) shall be submitted no later than 45 days before commencing certification testing in accordance with the following subsection (3).
  3. Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this Section, including any referenced in R18-2-1619, by the following dates:
    - a. For each source that is a WEB source on or before the Program Trigger Date, two years before the start of the first control period as described in R18-2-1622.
    - b. For any existing source that becomes a WEB source after the Program Trigger Date, one year after the due date for the monitoring plan under subsection (F)(1)(b).
    - c. For any new WEB source, or any new unit at a WEB source under subsections (3)(a) or (3)(b), the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.
  4. The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in subsection (C)(2).
  5. For each applicable control period, the WEB source shall submit each quarterly report under subsection (H) by no later than 30 days after the end of each calendar quarter and shall submit the annual report under subsection (H) no later than 60 days after the end of each calendar year.
- G.** Recordkeeping.
1. Except as provided in subsection (G)(2), the WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under this Article for a period of five years. In addition, the WEB source shall keep a copy of all Account Certificates of Representation. Unless otherwise requested by the WEB source and approved by the Director, the copies shall be kept on site.
  2. The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for SO<sub>2</sub>, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this Section or in R18-2-1619. The WEB source shall maintain the applicable records specified in 40 CFR 75 for any SO<sub>2</sub> emitting unit that uses a 40 CFR 75 monitoring method to meet the requirements of this Section.
- H.** Reporting.
1. Quarterly Reports. For each SO<sub>2</sub> emitting unit, the Account Representative shall submit to the Director a quarterly

report within thirty days after the end of each calendar quarter. The report shall be in a format specified by the Director to include hourly and quality assurance activity information and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. If the WEB source submits a quarterly report under 40 CFR 75 to the Administrator, no additional report under this subsection shall be required, provided, however, a copy of that report, or a separate statement of quarterly and cumulative annual SO<sub>2</sub> mass emissions, be submitted separately to the Director.

2. Annual Report. Based on the quarterly reports, each WEB source shall submit to the Director an annual statement of total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source. The annual report shall identify the total emissions for all units monitored in accordance with subsection (A)(1), and the total emissions for all units with emissions estimated in accordance with subsection (A)(2). The annual report shall be submitted within 60 days after the end of a control period.
3. If the Director so directs, any monitoring plan, report, certification, recertification, or emissions data required to be submitted under this Section shall be submitted to the Tracking System Administrator.
4. The Director may review and reject any report submitted under subsection (H) that contains errors or fails to satisfy the requirements of this Section, and the Account Representative shall resubmit the report to correct any deficiencies.
- I. Petitions. A WEB source may petition for an alternative to any requirement specified in subsection (A)(1)(b). The petition shall require approval of the Director and the Administrator. Any petition submitted under this subsection shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:
  1. Identification of the WEB source and applicable SO<sub>2</sub> emitting unit(s);
  2. A detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;
  3. A description and diagram of any equipment and procedures used in the proposed alternative, if applicable;
  4. A demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed and is consistent with the purposes of this Article and that any adverse effect of approving such alternative will be de minimis; and
  5. Any other relevant information that the Director may require.

**J. Consistency of Identifying Information.**

For any monitoring plans, reports, or other information submitted under this Section, the WEB source shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate of representation for the WEB source submitted under R18-2-1614.

**R18-2-1619. Monitoring Protocols**

**A. Protocol 1: SO<sub>2</sub> Monitoring of Fuel Gas Combustion Devices.**

1. Applicability.
  - a. The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.
  - b. Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.
  - c. Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include (1) natural gas, unless combined with other gases generated at a petroleum refinery, (2) gases generated by a catalytic cracking unit catalyst regenerator, (3) gases generated by fluid coking burners, (4) gases combusted to produce sulfur or sulfuric acid, or (5) process upset gases generated due to startup, shutdown, or malfunctions.
2. Monitoring Requirements.
  - a. Except as provided in subsections (b) and (c) of this subsection, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content, reported as H<sub>2</sub>S, of the fuel gas mixture before combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.
    - i. Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.
    - ii. The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR 60, and the following:
      - (1) Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv H<sub>2</sub>S.
      - (2) Have the span value set so that the majority of readings fall between 10 and 95% of the range.
      - (3) Record negative values of zero drift.
      - (4) Calibration drift shall be ≤5.0% of the span, for initial certification and daily calibration error tests.
      - (5) Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with subsection 4(c) of this Section.
    - iii. All continuous fuel flow meters shall comply with the provisions of Section 2.1.5 of Appendix D to 40 CFR 75.

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- iv. The hourly mass SO<sub>2</sub> emissions rate for all the fuel gas combustion devices monitored by this approach shall be calculated using the following equation:

$$E_t = (C_s)(Q_t)(K)$$

where:

E<sub>t</sub> = Total SO<sub>2</sub> emissions in lb/hr from applicable fuel gas combustion devices

C<sub>s</sub> = Sulfur content of the fuel gas as H<sub>2</sub>S(ppmv)

Q<sub>t</sub> = Fuel gas flow rate to the applicable fuel gas combustion devices (scf/hr)

K = 1.660 x 10<sup>-7</sup> (lb/scf)/ppmv

- b. In place of a CFGMS in subsection (a) of this subsection 2, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> CEMS, a flow CEMS, and, if necessary, a moisture monitoring system at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with subsection (a), and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.

- i. Each CEMS for SO<sub>2</sub>, flow, and, if applicable, moisture, shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR 75.

- ii. All continuous fuel flow meters shall comply with the provisions of Section 2.1.5 of Appendix D to 40 CFR 75.

- iii. The SO<sub>2</sub> hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas combustion devices using the following equation:

$$E_t = (E_m)(Q_t)/(Q_m)$$

where:

E<sub>t</sub> = Total SO<sub>2</sub> emissions in lb/hr from applicable fuel gas combustion devices

E<sub>m</sub> = SO<sub>2</sub> emissions in lb/hr from the CEMS-monitored fuel gas combustion device, calculated using Equation F-1 or (if applicable) F-2 in Appendix F to 40 CFR Part 75

Q<sub>t</sub> = Fuel gas flow rate (scf/hr) to the applicable fuel gas combustion devices

Q<sub>m</sub> = Fuel gas flow rate (scf/hr) to the CEMS-monitored fuel gas combustion device

- c. In place of a CFGMS in subsection (a) of this section, fuel gas combustion devices having a common source of fuel gas may be monitored with an SO<sub>2</sub> - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the SO<sub>2</sub> emission rate (lb SO<sub>2</sub>/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with subsection (a) of this Section 2, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

- i. Each SO<sub>2</sub>-diluent CEMS shall comply with the applicable provisions for SO<sub>2</sub> monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in Section 3 of Appendix F to Part 75 for determining SO<sub>2</sub> emission rate (lb/mmBtu) by substituting the term SO<sub>2</sub> for NO<sub>x</sub> in that section, and using a K factor of 1.660 x 10<sup>-7</sup> (lb/scf)/ppmv instead of the NO<sub>x</sub> K factor.

- ii. All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input rate from the fuel gas shall comply with the applicable provisions in Sections 2.1.5 and 2.3.4 of Appendix D to 40 CFR 75.

- iii. The SO<sub>2</sub> hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be calculated by using the following equation:

$$E_t = (E_m)(Q_t)(GCV)/10^6$$

where:

E<sub>t</sub> = Total hourly SO<sub>2</sub> mass emissions in lb/hr from the applicable fuel gas combustion devices

E<sub>m</sub> = SO<sub>2</sub> emission rate in lb/mmBtu from the CEMS - monitored fuel gas combustion device

Q<sub>t</sub> = Fuel gas flow rate (scf/hr) to the applicable fuel gas combustion devices GCV = Fuel Gross Calorific Value (Btu/scf)

10<sup>6</sup> = Conversion from Btu to million Btu

- d. Calculate total SO<sub>2</sub> mass emissions for each calendar quarter and each calendar year based on the emissions in lb/hr and Equations F-3 and F-4 in Appendix F to 40 CFR 75.

3. Certification/Recertification Requirements. All monitoring systems are subject to initial certification and recertification testing as follows:

- a. The owner or operator shall comply with the initial testing and calibration requirements in Performance Specification 2 in Appendix B to 40 CFR 60 and subsection 2 (a)(2) of this Section for each CFGMS.

- b. Each CEMS for SO<sub>2</sub> and flow or each SO<sub>2</sub>-diluent CEMS shall comply with the testing and calibration require-

ments specified in 40 CFR 75.20 and Appendices A and B, except that each SO<sub>2</sub>-diluent CEMS shall meet the relative accuracy requirements for a NO<sub>x</sub>-diluent CEMS (lb/mmBtu).

c. A continuous fuel flow meter shall comply with the certification and quality-assurance requirements in Sections 2.1.5 and 2.1.6 to Appendix D to 40 CFR 75.

4. Quality Assurance/Quality Control Requirements.

a. A quality assurance/quality control (QA/QC) plan shall be developed and implemented for each CEMS for SO<sub>2</sub> and flow or the SO<sub>2</sub>-diluent CEMS in compliance with Sections 1, 1.1, and 1.2 of Appendix B to Part 75.

b. A QA/QC plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in compliance with Sections 1, 1.1, and 1.3 of Appendix B to 40 CFR 75.

c. A QA/QC plan shall be developed and implemented for each CFGMS in compliance with Sections 1 and 1.1 of Appendix B to 40 CFR 75, and the following:

i. Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the error is greater than 5.0% of the span value.

ii. In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.

iii. Perform a linearity test once every operating quarter. Calculate the linearity as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.

iv. Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the relative accuracy is greater than 20.0% of the mean value of the reference method measurements.

v. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR 75, and calculate and apply a bias adjustment factor if required.

5. Missing Data Procedures.

a. For any period in which valid data are not being recorded by an SO<sub>2</sub> CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in Subsection D of 40 CFR 75.

b. For any period in which valid data are not being recorded by an SO<sub>2</sub>-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for SO<sub>2</sub> monitors in Subsection D of 40 CFR 75.

c. For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this Section, missing or invalid data shall be replaced with substitute data in accordance with missing data requirements in Appendix D to 40 CFR 75.

d. For any period in which valid data are not being recorded by the CFGMS specified in this Section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in Section 2.4 of Appendix D to 40 CFR 75.

6. Monitoring Plan and Reporting Requirements. In addition to the general monitoring plan and reporting requirements of R18-2-1618, the owner or operator shall meet the following additional requirements:

a. The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this Protocol 1 of this Section, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.

b. If the provisions of subsections 2(b) or (c) are used, provide documentation and an explanation to demonstrate that the SO<sub>2</sub> emission rate from the monitored unit is representative of the rate from non-monitored units.

**B. Protocol 2: Predictive Flow Monitoring Systems for Kilns with Positive Pressure Fabric Filter.**

1. Applicability.

a. The provisions of this protocol are applicable to cement kilns or lime kilns that (1) are controlled by a positive pressure fabric filter, (2) combust only a single fuel, no fuel blends, and (3) have operating conditions upstream of the fabric filter that the WEB source documents would reasonably prevent reliable flow monitor measurements.

b. This protocol does not modify the SO<sub>2</sub> monitoring requirements in R18-2-1618.

2. Monitoring Requirements.

a. A cement or lime kiln with a positive pressure fabric filter shall use a predictive flow monitoring system (PFMS) to determine the hourly kiln exhaust gas flow.

b. A PFMS is the total equipment necessary for the determination of exhaust gas flow using process or control

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- device operating parameter measurements and a conversion equation, a graph, or computer program to produce results in cubic feet per hour.
- c. The PFMS shall meet the following performance specifications:
- i. Sensors readings and conversion of sensor data to flow in cubic feet per hour shall be automated.
  - ii. The PFMS shall allow for the automatic or manual determination of failed monitors. At a minimum a daily determination shall be performed.
  - iii. The PFMS shall have provisions to check the calibration error of each parameter that is individually measured. The owner or operator shall propose appropriate performance specifications in the initial monitoring plan for all parameters used in the PFMS comparable to the degree of accuracy required for other monitoring systems used to comply with this Article. The parameters shall be tested at two levels, low: 0 to 20% of full scale, and high: 50 to 100% of full scale. The reference value need not be certified.
  - iv. The relative accuracy of the PFMS shall be <10.0% of the reference method average value, and include a bias test in accordance with subsection 4(c) of this Section.
3. The PFMS is subject to initial certification testing as follows:
- i. Demonstrate the ability of the PFMS to identify automatically or manually a failed monitor.
  - ii. Provide evidence of calibration testing of all monitoring equipment. Any tests conducted within the previous 12 months of operation that are consistent with the QA/QC plan for the PFMS are acceptable for initial certification purposes.
  - iii. Perform an initial relative accuracy test over the normal range of operating conditions of the kiln. Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR 75, and calculate and apply a bias adjustment factor if required.
4. Quality Assurance/Quality Control Requirements. A QA/QC plan shall be developed and implemented for each PFMS in compliance with Sections 1 and 1.1 of Appendix B of 40 CFR 75, and the following:
- a. Perform a daily monitor failure check.
  - b. Perform calibration tests of all monitors for each parameter included in the PFMS. At a minimum, calibrations shall be conducted before each relative accuracy test audit.
  - c. Perform a relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy and bias adjustment factor as described in Appendix A to 40 CFR 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0% of the mean value of the reference method.
5. Missing Data. For any period in which valid data are not being recorded by the PFMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the flow monitor missing data requirements for non-load based units in Subsection D of 40 CFR 75.
6. Monitoring Plan Requirements. In addition to the general monitoring plan requirements of R18-2-1618, the owner or operator shall meet the following additional requirements:
- a. The monitoring plan shall document the reasons why stack flow measurements upstream of the fabric filter are unlikely to provide reliable flow measurements over time.
  - b. The initial monitoring plan shall explain the relationship of the proposed parameters and stack flow, and discuss other parameters considered and the reasons for not using those parameters in the PFMS. The Director may require that the subsequent monitoring plan include additional explanation and documentation for the reasonableness of the proposed PFMS.

**R18-2-1620. Allowance Transfers**

- A.** Procedure. To transfer allowances, the Account Representative shall submit the following information to the Tracking System Administrator:
1. The transfer account number(s) identifying the transferor account;
  2. The transfer account number(s) identifying the transferee account;
  3. The serial number of each allowance to be transferred; and
  4. The transferor's Account Representative's name and signature and date of submission.
- B.** Deadline. The allowance transfer deadline is midnight Pacific Standard Time March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the control period. By this time, the transfer of the allowances into the WEB source's compliance account shall be correctly submitted to the Tracking System Administrator in order to demonstrate compliance under R18-2-1622(A) for that control period.
- C.** Retirement of Allowances. To transfer allowances for the purpose of retirement, the Account Representative shall submit the following information to the Tracking System Administrator:
1. The transfer account number(s) identifying the transferor account;
  2. The serial number of each allowance to be retired; and
  3. The transferor's Account Representative's name and signature and date of submission accompanied by a signed statement acknowledging that each retired allowance is no longer available for future transfers from or to any account.

**R.18-2-1621. Use of Allowances from a Previous Year**

- A.** Any allowance that is held in a compliance account or general account shall remain in such an account unless and until the allowance is deducted in conjunction with the compliance process, or transferred to another account.
- B.** In order to demonstrate compliance under R18-2-1622(A) for a control period, WEB sources shall only use allowances allocated for that current control period or any previous year. Because all allowances held in a special reserve compliance account for a WEB source that monitors certain units in accordance with R18-2-1618(A)(2) will be deducted for compliance for each control period, no banking of such allowances for use in a subsequent year is permitted by this Article.
- C.** If flow control procedures for the current control period have been triggered under R18-2-1613, then the use of allowances that were allocated for any previous year shall be limited as follows:
  - 1.** The number of allowances that are held in each compliance account and general account as of the allowance transfer deadline for the immediately previous year and that were allocated for any previous year will be determined.
  - 2.** The number determined in subsection (1) will be multiplied by the flow control ratio to determine the number of allowances that were allocated for a previous year that can be used without restriction for the current control period.
  - 3.** Allowances that were allocated for a previous year in excess of the number determined in subsection (2) may also be used for the current control period. If such allowances are used to make a deduction, two allowances shall be deducted for each deduction of one allowance required under R18-2-1622.
- D.** Special provisions for the year 2018. After compliance with the 2017 allowance limitation has been determined in accordance with R18-2-1622(A), allowances allocated for any year before 2018 shall not be used for determining compliance with the 2018 allowance limitation or any future allowance limitation.

**R18-2-1622. Compliance**

**A. Compliance with Allowance Limitations.**

- 1.** A WEB source shall hold allowances, in accordance with R18-2-1621 and R18-2-1622(A)(2), as of the allowance transfer deadline in the WEB source's compliance account (together with any current control year allowances held in the WEB source's special reserve compliance account under R18-2-1618(A)(2)) in an amount not less than the total SO<sub>2</sub> emissions for the control period from the WEB source, as determined under R18-2-1618.
  - a.** For each source that is a WEB source on or before the Program Trigger Date, the first control period is the calendar year that is six years following the calendar year for which SO<sub>2</sub> emissions exceeded the milestone.
  - b.** For any existing source that becomes a WEB source after the Program Trigger Date, the first control period is the calendar year that is four years following the inventory year in which the source exceeded the SO<sub>2</sub> emissions threshold of 100 tons per year.
  - c.** For any new WEB source after the Program Trigger Date the first control period is the first full calendar year that the source is in operation.
  - d.** If the WEB Trading Program is triggered in accordance with the 2013 review, the first control period for each source that is a WEB source on or before the Program Trigger Date is the year 2018.
- 2.** The Tracking System Administrator shall only deduct an allowance from the WEB source's compliance account if:
  - a.** The allowance was allocated for the current control period or meets the requirements in R18-2-1621 for use of allowances from a previous control period, and
  - b.** The allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.
- 3.** Compliance with allowance limitations shall be determined as follows:
  - a.** The total annual SO<sub>2</sub> emission for all SO<sub>2</sub> emitting units at the source that are monitored under R18-2-1618(A)(1), as reported by the source in R18-2-1618(H)(2) or R18-2-1618(H)(4), and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with R18-2-1621. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceed the allowances in such special reserve account, the WEB sources shall account for such excess emissions in the following subsection (b).
  - b.** The total annual SO<sub>2</sub> emissions for all SO<sub>2</sub> emitting units at the source that are monitored under R18-2-1618(A)(2), as reported by the source in R18-2-1618(H)(2) or R18-2-1618(H)(4), and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding subsection (a), shall be compared to the allowances held in the source's compliance account as of the allowance transfer deadline for the current control period, and adjusted under R18-2-1621.
- 4.** Other than allowances in a special reserve compliance account for units monitored under R18-2-1618(A)(2), to the extent consistent with R18-2-1621, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's Account Representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the

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date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to R18-2-1618(A)(2) shall be deducted as specified in subsection 3(a).

**B. Certification of Compliance.**

1. For each control period in which a WEB source is subject to the allowance limitation, the Account Representative of the source shall submit to the Director a Compliance Certification report for the source.
2. The Compliance Certification report shall be submitted to the Director no later than the allowance transfer deadline of each control period, and shall contain the following:
  - a. Identification of each WEB source;
  - b. At the Account Representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account for compliance with the allowance limitation; and
  - c. The Compliance Certification report according to subsection 3 of this Section.
3. In the Compliance Certification report, the Account Representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the WEB source in compliance with the WEB Trading Program, whether the WEB source for which the compliance certification is submitted was operated during the control period covered by the report in compliance with the requirements of the WEB Trading Program applicable to the source including:
  - a. Whether the WEB source operated in compliance with the SO<sub>2</sub> allowance limitation;
  - b. Whether SO<sub>2</sub> emissions data has been submitted to the Director in accordance with R18-2-1618(H) and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the SO<sub>2</sub> Allowance Tracking System for recording;
  - c. Whether the monitoring plan that governs the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute SO<sub>2</sub> emissions to the source, in accordance with R18-2-1618(B);
  - d. Whether all the SO<sub>2</sub> emissions from the WEB source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;
  - e. If applicable, whether any SO<sub>2</sub> emitting unit for which the WEB source is not required to monitor in accordance with R18-2-1618(A)(1)(c) remained permanently retired and had no emissions for the period covered under the report; and
  - f. Whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification. If there were any such changes, the report shall specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine SO<sub>2</sub> emissions.

**C. Penalties for a WEB source exceeding its allowance limitations.**

1. Allowance deduction penalties.
  - a. If SO<sub>2</sub> emissions from a WEB source exceed the allowance limitation for a control period, as determined in accordance with R18-2-1622(A), the source's allowances held in its compliance account shall be reduced by an amount equal to two times the source's tons of excess emissions.
  - b. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances shall be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.
  - c. Any allowance deduction required under this Section shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy for the act or acts that resulted in the deduction, for the same violation, as ordered under the Clean Air Act, implementing regulations or applicable state or tribal law.
2. The Director shall seek a financial penalty of \$5,000 per ton of SO<sub>2</sub> emissions in excess of the WEB source's allowance limitation shall be levied.
3. WEB Source liability for non-compliance. Separate and regardless of any automatic penalties assessed for allowance deduction penalty and financial penalty, a WEB source that violates any requirement of this Rule, including monitoring, record keeping and reporting requirements, is subject to civil and criminal penalties under the state law and the Clean Air Act. Each day of the control period is a separate violation, and each ton of SO<sub>2</sub> emissions in excess of a source's allowance limitation is a separate violation.

**R18-2-1623. Special Penalty Provisions for the 2018 Milestone**

- A.** If the WEB Trading Program is triggered and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.
1. All WEB sources shall register, and open a compliance account within 180 days after the Program Trigger Date, in accordance with R18-2-1615(A) and R18-2-1617.

2. The Tracking System Administrator will record the allowances for the 2018 control period for each WEB source in the source's compliance account once the Director allocates the 2018 allowances.
  3. The allowance transfer deadline is midnight Pacific Standard Time on May 30, 2021. WEB sources may transfer allowances as provided in R18-2-1620(A) until the allowance transfer deadline.
  4. A WEB source shall hold allowances allocated for 2018 including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO<sub>2</sub> emissions for 2018. Emissions are determined using the pre-trigger monitoring provisions in R18-2-1611.
  5. An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with R18-2-1621(D), R18-2-1622(A)(4), and R18-2-1622(C), except that SO<sub>2</sub> emissions shall be determined under subsection (A)(4).
- B.** If the program has been triggered and provision R18-2-1623(A) is implemented, the provisions of R18-2-1623(C) shall apply for each year after the 2018 emission year until:
1. The first control period under the WEB trading program; or
  2. The Director determined that the 2018 SO<sub>2</sub> milestone has been met.
- C.** If provision R18-2-1623(A) has been implemented, the following shall apply to each emissions year after the 2018 emissions year:
1. The Tracking System Administrator will record the allowances for the control period for the specific year for each WEB source in the source's compliance account once the Director allocates the allowances.
  2. The allowance transfer deadline is midnight Pacific Standard Time on March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the specific emissions year. WEB sources may transfer allowances as provided in R18-2-1620(A) until the allowance transfer deadline.
  3. A WEB source shall hold allowances allocated for that specific emissions year, or any year after 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total SO<sub>2</sub> emissions for the specific emissions year. SO<sub>2</sub> emissions are determined using the pre-trigger monitoring provisions in R18-2-1611.
  4. An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with R18-2-1621(D), R18-2-1622(A)(4) and R18-2-1622(C), except that SO<sub>2</sub> emissions shall be determined under subsection (C)(3).

## NOTICE OF PROPOSED RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

#### CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY WASTE MANAGEMENT

##### PREAMBLE

- | <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R18-8-260                          | Amend                           |
| R18-8-261                          | Amend                           |
| R18-8-263                          | Amend                           |
| R18-8-264                          | Amend                           |
| R18-8-265                          | Amend                           |
| R18-8-266                          | Amend                           |
| R18-8-268                          | Amend                           |
| R18-8-270                          | Amend                           |
| R18-8-271                          | Amend                           |
2. **The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes:A.R.S. §§ 41-1003 and 49-104  
Implementing statute:A.R.S. § 49-922
  3. **A list of all previous notices appearing in the Register addressing the proposed rulemaking:**  
Notice of Rulemaking Docket Opening: 10 A.A.R.1399, April 9, 2004
  4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Denise L. McConaghy, Senior Environmental Engineer

Notices of Proposed Rulemaking

Address: Arizona Department of Environmental Quality  
Waste Programs Division  
1110 W. Washington  
Phoenix, Arizona 85007

Telephone: (602) 771-4110  
or  
(800) 234-5677, enter 771-4110 (Arizona only)

Fax: (602) 771-4138

TTD: (602) 771-4829

E-mail: [d1m@ev.state.az.us](mailto:d1m@ev.state.az.us)

**5. An explanation of the rules, including the agency's reasons for initiating the rules:**

The Department of Environmental Quality (DEQ) is amending the state's hazardous waste rules to incorporate the new text in the federal regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). This rulemaking will fulfill the United States Environmental Protection Agency's (EPA's) reauthorization requirement that states implementing the hazardous waste management program incorporate amendments promulgated in the federal regulations through adoption of those changes into the state rules. This rulemaking complies with A.R.S. § 49-922. Arizona's hazardous waste rules are largely identical to the federal regulations authorized by RCRA, as amended by HSWA, because the rules have incorporated the federal regulations by reference. Arizona's hazardous waste rules, found in 18 A.A.C. 8, Article 2, are well established and have been effective since 1984. The amendments in this rulemaking adopt changes to the federal regulations promulgated between June 30, 2000 and July 1, 2002.

Explanation of the rules:

A.R.S. § 49-922 requires DEQ to adopt rules implementing a program that is equivalent to and consistent with federal hazardous waste regulations. The federal regulations are found in the Code of Federal Regulations (CFR) at 40 CFR 260 through 273. Currently, subsection (A) of sections R18-8-260, R18-8-261, R18-8-262, R18-8-264, R18-8-265, R18-8-266, R18-8-268, R18-8-270 and R18-8-273 incorporate by reference the federal regulations published at 40 CFR 260 through 262, 264 through 266, 268, 270, and 273 as of July, 2000. Subsection (C) of R18-8-260 also incorporates 40 CFR 260. Subsection (A) of R18-8-263 incorporates by reference the federal regulations published at 40 CFR 263 as of July 1, 1999, and subsection (A) of R18-8-271 incorporates by reference the federal regulations published at 40 CFR 124 as of July 1, 1999. This rulemaking replaces July 1, 1999 and July 1, 2000, with July 1, 2002 in the incorporations by reference for subsection (A) of sections R18-8-260, R18-8-261, R18-8-264, R18-8-265, R18-8-266, R18-8-268, R18-8-270, and R18-8-271, and R18-8-260(C).

EPA has promulgated changes to the RCRA regulations since Arizona incorporated the July 1, 1999 and July 1, 2000 amendments. These amendments were published in the Federal Register. DEQ staff relied on the Federal Register notices for descriptions of the amendments and for EPA's assessment of the economic impacts of the changes.

The EPA requires that Arizona be annually reauthorized to manage the federal hazardous waste program. Without this reauthorization, the EPA, rather than DEQ, would administer the hazardous waste program in Arizona. DEQ first received authorization to implement the RCRA program in 1985. DEQ seeks to continue administering Arizona's hazardous waste program, and thus complies with the federal requirements for reauthorization; this includes adopting changes to the state rules that reflect the recent amendments to federal RCRA regulations.

In evaluating a state's reauthorization application, the EPA uses checklists to determine if the state's rules reflect amendments to the federal regulations promulgated between June 30 of one year, and July 1 of the next year. This rulemaking incorporates federal amendments promulgated as of July 1, 2002.

In addition to incorporating the federal regulations through July 1, 2002, this rulemaking tailors the new text of the federal regulations, when necessary, to conform the language to Arizona's rules for administering the hazardous waste program. DEQ does not intend the changes to the incorporated text to substantively change the federal regulations. For example, the federal regulations refer to the EPA as the implementing agency, but because Arizona is authorized to administer its hazardous waste program, most references to the implementing agency as "EPA" are replaced with "DEQ."

In addition to incorporating federal regulations, with technical changes, this rulemaking: corrects errors; updates the rules to reflect amendments to state statute; clarifies DEQ's existing practices; and makes the language more clear and concise. These amendments are described under the heading, "Department-initiated changes."

DEQ believes this rulemaking will benefit the public. Most of the federal regulations incorporated by reference in this rulemaking are required for reauthorization. Adoption of federal regulations will also benefit the regulated community, in particular, by promoting regulatory uniformity among states.

Description of the Federal Register notices that made changes to the incorporated federal regulations between June 30, 2000 and July 1, 2002:

**65 FR 42292-42302, 66 FR 24270-24272, 66 FR 35087-35107 - NESHAPs: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Technical Corrections**

On September 30, 1999, EPA published the Hazardous Waste Combustors National Emission Standards for Hazardous Pollutants (NESHAPs) final regulation. On November 19, 1999, EPA published the first technical correction, which corrected typographical errors, clarified issues, and added gas turbines (inadvertently excluded from the list of approved fuel burners in the NESHAPs revision) to the list of approved burners for comparable/syngas fuel burners under 40 CFR 261.38(c)(ii)(2).

In *Chemical Manufacturers Association v. EPA*, the United States Circuit Court of Appeals for the District of Columbia (the Court) found invalid provisions of EPA's regulations that set a bifurcated schedule for owners or operators of hazardous waste combustors to comply with new emissions standards. Specifically, the Court vacated the regulation's requirements that hazardous waste combustors either submit to EPA a Notice of Intent to Comply (NIC) with the new standards within one year of the regulations' effective date, if they intended to continue combusting hazardous wastes, or submit a notice of "intent not to comply" within two years, if they intended to stop combusting hazardous waste. The Court struck the bifurcated schedules provisions after finding that EPA lacked the statutory authority to have two compliance schedules instead of one. In order to have statutory authority necessary for these compliance schedules, EPA would have to demonstrate to the Court that the early cessation program would produce environmental benefits. *Chemical Manufacturers Association v. EPA*, 217 F.3d 861, 864 (D.C. Cir. 2000). 66 FR 24270 removed these provisions by amending 40 CFR Part 63, subpart EEE. In compliance with the Court's order, this revision also changed the NIC provision referred to in the permit modification procedures in RCRA, Part 270.

This revision also amended 40 CFR Part 63, subpart EEE to allow EPA to solicit additional comments on these provisions. EPA wanted additional time for public notice and comment on provisions in the final regulation that established parameter limits of baghouses and electrostatic precipitators; the Court granted EPA's motion to vacate the paragraphs relating to these limits, and thereby gave EPA opportunity to undertake additional notice and comment. See EPA Motion dated November 14, 2000, *Cement Kiln Recycling Coalition v. EPA*, 255 F.3d 855 (D.C. Cir. 2001) (No. 99-1457).

The revisions of 66 FR 35087 improved implementation of emission standards in 40 CFR Part 63 and clarified 40 CFR 264.340, primarily in compliance, testing, and monitoring. These revisions made it easier to comply with the September 30, 1999 final regulation.

**65 FR 67068-67133 - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities**

This revision added two wastes (K174 and K175) generated by the chlorinated aliphatics industry to the list of hazardous wastes at 40 CFR 261.32. Listing these wastes subjects them to stringent management and treatment standards under RCRA and to emergency notification requirements for releases of hazardous substances to the environment. This revision established a contingent-management listing approach for one of these wastes. Under the contingent-management listing determination, the waste will not be a listed hazardous waste if it is sent to a specific type of management facility.

This revision determined not to list as hazardous four wastes generated by the chlorinated aliphatics industry.

**65 FR 81373-81381 - Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil**

This revision temporarily deferred requirements applying Land Disposal Restrictions (LDRs) under RCRA to constituents subject to treatment (CST) in soils contaminated with certain characteristic hazardous wastes. Specifically, the requirement that polychlorinated biphenyls (PCBs) be considered a CST when present in soils that exhibit the Toxicity Characteristic for metals was temporarily deferred. Generators are still required to treat these soils to meet LDR standards for all hazardous constituents except PCBs and are required to treat PCBs if the total concentration of halogenated organic compounds in the soil equals or exceeds 1000 parts per million.

**66 FR 27218-27266 - Storage, Treatment, Transportation, and Disposal of Mixed Waste**

This revision provided two separate conditional exemptions, first, for low-level mixed wastes (LLMW) from most RCRA Subtitle C storage and treatment regulations and, second, LLMW and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) from most RCRA Subtitle C manifest, transport, and disposal regulations when specified conditions are met.

**66 FR 27266-27297 - Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules**

This revision retained the mixture rule and the derived-from rule, with two revisions: expansion of the exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, corrosivity and/or reactivity characteristic; and a new conditional exemption from the mixture and derived-from rules for mixed wastes.

This revision corrected an error in 65 FR 36365 that inadvertently removed the entry for the hazardous waste code U048 from 40 CFR Part 268, Appendix VII.

**66 FR 34374-34376 - Change of EPA Mailing Address; Additional Technical Amendments and Corrections**

This revision updated EPA's Headquarter's official mailing address in 40 CFR 13 and 48 CFR 15.

**66 FR 50332-50334 - Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules**

This revision clarified the mixture rule found in 66 FR 27266. The revision clarified that mixtures of Bevill wastes, and mixtures of hazardous wastes listed solely because they contain a characteristic of ignitability, corrosivity, and/or reactivity, are exempt once the characteristic has been removed.

**66 FR 58258-58300, 67 FR 17119-17120 - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities**

EPA added three inorganic chemical manufacturing wastes designated as K176, K177, and K178 to the list of hazardous wastes. This listing subjected the wastes to RCRA Subtitle C management and treatment standards, and to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) emergency notification requirements for releases to the environment. This revision added the toxic constituents in these wastes to the list of constituents used to classify wastes as hazardous, and established treatment standards for the wastes. This revision subjected the three inorganic chemical manufacturing wastes to the universal treatment standards under the LDR program. The revision included the April 9, 2002 correction of errors made in the Treatment Standards for Hazardous Waste table at 40 CFR 268.40.

**67 FR 2962-3029 - Amendments to the Corrective Action Management Unit Rule**

EPA amended the 1993 Corrective Action Management Unit (CAMU) rule to facilitate treatment, storage and disposal of hazardous wastes managed for implementing cleanup, and to remove cleanup disincentives that RCRA can create. This revision amended the 1993 CAMU rule as follows, it:

- a. Defined "CAMU eligible waste" distinctly from the 40 CFR 260.10 definition of "remediation waste";
- b. Provided more detailed minimum design and operating standards for CAMUs in which waste remains after closure, with opportunities for alternative designs;
- c. Established treatment requirements for wastes placed in CAMUs;
- d. Provided more specific CAMU application information requirements, including public notice and opportunity for comment before final CAMU determination;
- e. Established requirements for CAMUs used only for treatment and storage;
- f. "Grandfathered" certain types of existing CAMUs.

EPA allowed for staging pile mixing, blending, and other similar physical operations that prepare wastes for later management or treatment. This revision allowed off-site placement of hazardous CAMU-eligible waste in hazardous waste landfills, if treated to meet CAMU standards. This revision granted interim authorization for the new CAMU amendments to states currently authorized for the 1993 CAMU rule. Lastly, this revision expedited state authorization for the CAMU rule for states that have authorization for RCRA corrective action, but not the 1993 CAMU rule.

Note: Arizona is currently authorized for the 1993 CAMU rule. Because Arizona did not notify EPA Region 9 of its intent to use the CAMU amendments to regulate CAMUs, however, the state has not been granted interim authorization.

**67 FR 6792-6818 - NESHAPs: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule)**

Portions of the NESHAPs rule promulgated in September and November 1999 were vacated by the U.S. Court of Appeals for the District of Columbia Circuit on July 24, 2001. In October 2001, EPA and all petitioners made a joint motion for the Court to stay its order. Because the Court's decision would have left the EPA without standards, the Court stayed its order, so that EPA would have an opportunity to develop interim standards. These interim standards will replace the vacated standards, until final standards are promulgated.

In general, this revision amended the September 1999 NESHAPs rule to accommodate the parties' joint motion. This revision replaced the vacated emission standards temporarily, until final standards are promulgated.

**67 FR 6968-6996 - NESHAPs: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule**

This revision corrects technical errors made in the NESHAPs rule, when EPA established standards for hazardous waste-burning cement kilns, lightweight aggregate kilns, and incinerators. This revision also made improvements to the emission standards implementation in Part 63, subpart EEE. These changes are outside of the RCRA program.

**67 FR 11251-11254 - Hazardous Waste Management System; Definition of Solid Waste; Toxicity Characteristic**

This revision was made in response to vacatur ordered by the United States Circuit Court of Appeals for the District of Columbia. The Court vacated two parts of the Phase IV LDR rule, found in 63 FR 28556, in response to a legal challenge from trade groups. The Court's order vacated the provisions that: 1) "asserted jurisdiction and imposed conditions over mineral processing characteristic by-products and sludges being stored prior to being recycled in beneficiation or primary mineral processing operations;" and 2) provided for use of the Toxicity Characteristic Leaching Procedure (TCLP) for determining whether a manufactured gas plant (MGP) waste displays the characteristic of toxicity. 67 FR 11251, 11252 (March 13, 2002).

Department-initiated changes:

**R18-8-260(A)**

DEQ is adding the phrase "and no future additions" after the date that indicates the cut-off point for amendments to the federal regulations that are incorporated into state rules. This phrase is being added because it is required by A.R.S. § 41-1028. The wording used to describe the sections of the CFR is also changed to make the language more clear and understandable. DEQ is deleting the phrase "and the Secretary of State" to reflect an amendment to A.R.S. § 41-1028 that removed the requirement that incorporated materials be submitted to the Secretary of State. DEQ is also deleting "adopted" and adding "revised" to mirror the language used in the official publication of the Code of Federal Regulations.

**R18-8-260(B)**

DEQ is adding language indicating that the subsection labeling in this Article may or may not conform to the Secretary of State's formatting rules. This Article mirrors the formatting and structure of the incorporated regulations as printed in the Code of Federal Regulations, rather than conforming to the Secretary of State's formatting and structure requirements for state rules. As such, the rules in this Article often differ from other state rules in their appearance. This change will make the rules more clear and understandable.

**R18-8-260(C) and R18-8-261(A)**

DEQ is deleting the phrase "and the Secretary of State" to reflect an amendment to A.R.S. § 41-1028. DEQ is also deleting the phrase "as amended" and adding "revised" to mirror the language of the CFRs.

**R18-8-261(C)**

DEQ is deleting an earlier change to federal regulatory language in (a)(4) of 261.4. This amendment will make Arizona's rules consistent with the federal regulations.

**R18-8-263(A)**

DEQ is deleting the phrase "and the Secretary of State" to reflect an amendment to A.R.S. § 41-1028. DEQ is also deleting the phrase "as amended" and adding "revised" to mirror the language of the CFRs.

**R18-8-263(B)**

The phrase "Technical Programs" is changed to "Facilities Assistance" to reflect an organizational change within DEQ. The address "3033 N. Central Ave." and the zip code "85012" are changed to "1110 W. Washington St." and "85007," to reflect DEQ's recent move. "ADEQ" is changed to "DEQ" to be consistent with the rest of the Article.

**R18-8-263(E)**

The phrase "and Compliance" is added to reflect a previous organizational change within DEQ. The address "3033 N. Central Ave." and the zip code "85012" are changed to "1110 W. Washington St." and "85007," to reflect DEQ's recent move.

**R18-8-264(A)**

DEQ is deleting the phrase "and the Secretary of State" to reflect an amendment to A.R.S. § 41-1028. DEQ is also deleting the phrase "as amended" and adding "revised" to mirror the language of the CFRs.

**R18-8-264(F)**

The phone numbers "(602) 207-2330" and "800/234-5677 extension 2330" are changed to "(602) 771-2330" and "(800) 234-5677 extension 771-2330," to reflect DEQ's recent move.

**R18-8-265(A), R18-8-266(A), R18-8-268 and R18-8-270(A)**

DEQ is deleting the phrase "and the Secretary of State" to reflect an amendment to A.R.S. § 41-1028. DEQ is also deleting the phrase "as amended" and adding "revised" to mirror the language of the CFRs.

**R18-8-270(G)(2)**

This amendment will change the rule to specifically address application processing fees for post-closure permits. This revision adds two subsections: (a) "Permits other than post-closure" and (b) "post-closure permits." Subsection (a) contains the original rule text and subsection (b) contains the original rule text with the phrase "and such difference shall be paid in full before DEQ shall issue the permit" deleted.

**R18-8-270(Q)**

DEQ is amending this rule to correct an oversight in its amendment to 40 CFR 270.51. Paragraph (d) is amended to add “, joint EPA/DEQ or DEQ.” This allows continuation of joint, EPA and DEQ, or DEQ issued permits consistent with EPA issued permits. This reflects current DEQ practices.

**R18-8-271(A)**

DEQ is deleting the phrase “and the Secretary of State” to reflect an amendment to A.R.S. § 41-1028. DEQ is also deleting the phrase “as amended” and adding “revised” to mirror the language of the CFRs.

**R18-8-271(S)**

DEQ is amending this rule to correct a typographical error found in 40 CFR 124. Reference to “124.31(a)” is replaced by “124.32(a)”.

**6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

- a. 65 FR 42292-42302 - NESHAPs: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, July 10, 2000.
- b. 66 FR 24270-24272 - NESHAPs: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, May 14, 2001.
- c. 66 FR 35087-35107 - NESHAPs: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, July 3, 2001.
- d. 65 FR 67068-67133 - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities; November 8, 2000.
- e. 65 FR 81373-81381 - Deferral of Phase IV Standards for PCB’s as a Constituent Subject to Treatment in Soil, December 26, 2000.
- f. 66 FR 27218-27266 - Storage, Treatment, Transportation, and Disposal of Mixed Waste, May 16, 2001.
- g. 66 FR 27266-27297 - Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules, May 16, 2001.
- h. 66 FR 34374-34376 - Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections, June 28, 2001.
- i. 66 FR 50332-50334 - Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules; Direct Final Rule; October 3, 2001.
- j. 66 FR 60153-60154 - Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules: Delay of Effective Date; Reopening of Comment Period; December 3, 2001.
- k. 66 FR 58258-58300 - Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities; November 20, 2001.
- l. 67 FR 17119-17120 - Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities; April 9, 2002.
- m. 67 FR 2962-3029 - Amendments to the Corrective Action Management Unit Rule, January 22, 2002.
- n. 67 FR 6792-6818 - NESHAPs: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule), February 13, 2002.
- o. 67 FR 6968-6996 - NESHAPs: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Final Amendments Rule), February 14, 2002.
- p. 67 FR 11251-11254 - Hazardous Waste Management System; Definition of Solid Waste; Toxicity Characteristic; March 13, 2002.

DEQ relied on the Federal Register notices for notice of the federal regulatory changes to be incorporated into the state’s rules and to develop the economic impact statement. The public may view these notices online at <http://www.gpoaccess.gov/fr/index.html>, or by visiting DEQ’s offices.

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**8. The preliminary summary of the economic, small business and consumer impact:**

Identification of the proposed rulemaking:

This rulemaking amends rules codified in Title 18, Chapter 8, Article 2, as follows: replaces July 1, 1999 and July 1, 2000, with July 1, 2002, in the incorporations by reference, in compliance with A.R.S. § 49-922; tailors the text of the federal regulations so that it complies with Arizona's hazardous waste program; corrects errors; updates the rules to reflect changes in state statute; clarifies DEQ's existing practices; and makes the language more clear and concise.

Background

EPA requires a process called "reauthorization" of Arizona's hazardous waste management program so that DEQ may continue to manage and receive EPA funding for the federal hazardous waste program. In absence of this authorization, EPA would administer the program in Arizona. As part of its reauthorization process, EPA requires DEQ to adopt rules that incorporate the changes promulgated in the federal regulations between June 30 of one year and July 1 of the next year. DEQ adopts these rules under the authority given in A.R.S. § 49-922, which requires DEQ: *to adopt rules to establish a hazardous waste management program equivalent to and consistent with the federal hazardous waste regulations promulgated pursuant to subtitle C of RCRA*. In 1985, EPA first authorized DEQ to administer the federal hazardous waste program in Arizona. DEQ continues to apply for reauthorization and complies with changes to federal regulations.

This rulemaking incorporates changes promulgated as of July 1, 2002, and tailors the incorporated text, when necessary, to conform to Arizona's hazardous waste program rules; DEQ does not intend these amendments to substantively change the meaning of the federal regulations.

Changes made by DEQ including technical and conforming changes to the incorporated federal regulations, correction of errors, updating the rules to reflect changes made to state statute, clarifying DEQ's existing practices, and making the language more clear and concise are described under the heading, "Department-initiated changes."

DEQ believes this rulemaking will benefit the state. Most of the federal regulations incorporated by reference in this rulemaking are required for reauthorization. Adoption of federal regulations also benefits stakeholders, in particular, by promoting regulatory uniformity between states.

Limitations of the data:

Adequate data are not reasonably available to comply with the requirements of A.R.S. §41-1055(B). The following discussion is offered pursuant to A.R.S. §41-1055(C). DEQ is unable to estimate the number of facilities impacted by some of the changes made in the incorporated federal regulations. Two databases contain information on regulated facilities and entities: the Arizona Unified Repository for Informational Tracking of the Environment (AZURITE) and the Revenue Management System (RMS). These databases are not set up to track certain information, and updates do not always keep pace with all data needs. In this instance, DEQ could not determine the numbers of the following impacted entities:

- a. Entities that are also state agencies;
- b. Entities that are also subdivisions of the state;
- c. Entities that are also small businesses.

Methods used to obtain data:

DEQ used the AZURITE and RMS databases whenever possible to find the number of entities affected by the changes. DEQ then filled data gaps by interviewing experienced DEQ staff. Some of the rule changes have no significant economic impact in Arizona. An explanation of why there is no impact is provided for each change. For other incorporated changes, none of the impacted entities exist in Arizona, and thus, there was no economic impact ( $X \text{ times } Y = 0$ , where  $X = 0$  entities and  $Y =$  the cost to each entity).

Executive Order 12866 (58 FR 51735, October 4, 1993), requires the EPA to determine whether regulatory actions are significant. Only significant actions are subject to federal Office of Management and Budget review. A "significant regulatory action" is one that may:

- (1) Have an annual effect on the national economy of \$100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, loan programs, or the rights and obligation of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or thorough principals set out in Executive Order 12866.

The costs and benefits of incorporating updated federal regulations include the costs of all the changes made to the federal regulations between June 30, 2000 and July 1, 2002. These amendments were published in the Federal Regis-

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ter, and when the amendments constituted “significant regulatory actions,” economic impact information was included in the publication. A list of all Federal Register publications used to develop the economic impact statement for the rulemaking are listed earlier in this document.

The EPA determined that many of the amendments to the federal regulations described below were not “significant regulatory actions.” For those amendments to the federal regulations that impact Arizona entities, a summary of the economic information in each Federal Register notice follows.

**Data sources**

DEQ staff relied on the Federal Register notices to develop this economic impact statement. The public may view these notices online at <http://www.gpoaccess.gov/fr/index.html>, or by visiting DEQ’s offices. Each study references its underlying data.

**Summaries of economic information in the Federal Register notices:**

65 FR 42292-42302 revises 40 CFR Parts 60, 63, 261 and 270. The federal revision corrected numerous typographical errors and clarified the NESHAPs final rule so that it is easier to understand and implement. Because these corrections and clarifications did not create new requirements, there is no economic impact from this notice.

66 FR 24270-24277 amended 40 CFR Part 63, subpart EEE. In *Chemical Manufacturers Association v. EPA*, the United States Circuit Court of Appeals for the District of Columbia (the Court) found invalid provisions of EPA’s regulations that set a bifurcated schedule for owners or operators of hazardous waste combustors to comply with new emissions standards. *Chemical Manufacturers Association v. EPA*, 217 F.3d 861, 864 (D.C. Cir. 2000). 66 FR 24270 removed these provisions by amending 40 CFR Part 63, subpart EEE. This revision also changed the vacated the notice of intent to comply provision referred to in the permit modification procedures in RCRA in Part 270.

This revision also amended 40 CFR Part 63, subpart EEE permitting EPA to solicit additional comments on provisions that established parameter limits of baghouses and electrostatic precipitators, in compliance with the Court’s order. See EPA Motion dated November 14, 2000, *Cement Kiln Recycling Coalition v. EPA*, 255 F. 3d 855 (D.C. Cir 2001) (No. 99-1457).

66 FR 35087-35107 improved the implementation of the emission standards of 40 CFR Part 63 and clarified 40 CFR 264.340, primarily in the areas of compliance, testing, and monitoring.

There are no hazardous waste combustors in Arizona, thus incorporation of this amendment of the federal regulations has no economic impacts in Arizona.

65 FR 67068-67133 added two wastes (K174 and K175) generated by the chlorinated aliphatics industry to the list of hazardous wastes at 40 CFR 261.32.

**Persons directly affected by the amendment:**

There are no ethylene dichloride or vinyl chloride manufacturers in Arizona. This amendment to the federal regulations will allow waste handlers to accept K174 and K175 wastes. Experienced DEQ staff report that two commercial facilities in Arizona may begin accepting these wastes. DEQ concludes that this change is likely to have a positive impact on these entities by allowing them to accept new waste and make new profits.

DEQ will potentially incur some costs in administering the new RCRA listings. Several additional stakeholders will also have to read the final rule (state government environmental departments, federal government offices, and management consulting services).

65 FR 81373-8138: This revision temporarily deferred the requirement that polychlorinated biphenyls (PCBs) be considered a constituent subject to treatment (CST) in soils contaminated with certain characteristic hazardous wastes when present in soils that exhibit the Toxicity Characteristic (TC) for metals. Generators still must treat these soils to meet LDR standards for all hazardous constituents except PCBs. Generators still must treat PCBs if the total concentration of halogenated organic compounds in the soil equals or exceeds 1000 parts per million (ppm).

**Persons directly affected by the amendment:**

The overall economic impact of this deferral of LDR treatment standards for TC metal PCB-containing hazardous waste soils is \$47.6 million in cost savings. This revision will reduce the regulatory burden for all entities, including small businesses.

This revision imposed no enforceable duty on local governments. This revision contains no regulatory requirements that might significantly or uniquely affect local governments.

EPA intends this revision to encourage aggressive remediation of contaminated soils, and thus, to benefit all populations.

The EPA has not completed an economic impact analysis of this revision because of uncertainty regarding the identity of owner/operators of affected sites. Because this revision results in cost savings, any economic impact would be favorable to affected entities. Because affected entities would be subject to less stringent treatment requirements for

PCBs in TC contaminated soils, they would only have to treat the metals in the soil, resulting in lower treatment costs and less expensive site cleanups.

66 FR 27218-27266 promulgated two separate conditional exemptions, first, for low-level mixed wastes (LLMW) from most RCRA Subtitle C storage and treatment regulations, and second, for LLMW and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) from most RCRA Subtitle C manifest, transport, and disposal regulations, when specified conditions are met.

Persons directly affected by this amendment:

The conditional exemption for LLMW storage and treatment applies to any mixed waste generator that has a Nuclear Regulatory Commission (NRC) or NRC Agreement State license to possess radioactive material or to operate a nuclear reactor, so long as the waste is eligible and the generator can satisfy the conditions set forth in the rule.

The transportation and disposal exemption applies to generators of LLMW and eligible NARM so long as they meet all specified conditions. Facilities potentially affected by this rule include the following:

- a. Nuclear utilities that generate electricity using nuclear fuel and are licensed by the NRC.
- b. Universities and academic institutions at all levels that are licensed by NRC, or an NRC Agreement State, to use radionuclides for academic, biomedical, and research purposes.
- c. Medical facilities that are licensed by NRC, or a NRC Agreement State, to use radionuclides for health care purposes.
- d. Industrial establishments that are licensed by NRC, or a NRC Agreement State, to use radionuclides.
- e. Government facilities.
- f. Radioactive waste disposal facilities licensed by NRC or by a NRC Agreement State.

EPA expects economic impact of this revision to be minimal. Generators not meeting regulatory disposal requirements will incur costs for treatment and disposal of wastes that had previously been in storage. EPA expects these costs to total about \$300,000 in aggregate across the nation. These are not true social costs because these generators were already liable for costs of treatment and disposal of these wastes. This amendment opens up disposal capacity for wastes that currently do not meet the waste acceptance criteria of the LLMW disposal facility.

By allowing LLMW to be disposed of as LLW, this revision may impact the national market for LLMW disposal of low-level waste (LLW), although EPA has not specifically modeled these impacts. The larger the volume added to the disposal market, the greater the effects are likely to be.

Generators taking advantage of storage or disposal exemptions will incur costs to meet notification conditions. The EPA estimates these costs to be \$200,000 per year, in the aggregate. There will also be some increased costs to DEQ associated with notification conditions for generators and treaters of exempted LLMW sending their wastes for disposal at low-level radioactive waste disposal facilities and related implementation costs.

Other economic benefits from this rule may accrue in the following areas:

- a. Permitting cost savings. Generators needing RCRA permits only for storage or treatment of their mixed wastes will save permitting costs and associated corrective action costs.
- b. Other administrative cost savings. EPA expects DEQ, mixed waste generators, and federal and state agencies to save approximately \$700,000 nationally in administrative burden and costs.
- c. Decay-in-storage cost savings. The revision allows facilities to store certain wastes while the radioactivity decays. These wastes can then be treated and disposed of as hazardous waste, at less expense than LLMW treatment and disposal. EPA estimates aggregate cost savings from these waste streams will be between \$800,000 and \$2.6 million per year.
- d. Other disposal cost savings. This revision facilitates waste disposal in LLRWDFs, with DEQ approval and LLRWDFs acceptance of the wastes, as well as limitations of the low-level waste disposal compact system. EPA expects the savings from the disposal exemption will be at most \$100,000 per year.

66 FR 27266-27297 amended the mixture rule and the derived-from rule. It expanded the exclusion for mixtures and/or derivatives of wastes listed solely for the ignitability, corrosivity and/or reactivity characteristic. It introduced a conditional exemption from the mixture and derived-from rules for mixed wastes. It corrected an error in 65 FR 36365 that removed the entry for the hazardous waste code U048 from 40 CFR part 268, Appendix VII.

Persons directly affected by this amendment:

Entities potentially affected by this action are industrial hazardous waste generators and entities that treat, store, transport and/or dispose of these wastes. EPA expects about 120 entities nationwide to benefit from the proposed revisions to 40 CFR 261.3 in 17 industrial sectors, but primarily in the chemicals and allied products sector (Standard Industrial Classification code 28, or North American Industry Classification System code 325). The complete list of potentially affected industrial entities based on industrial sectors identified in the EPA economic analysis that exist in

Arizona may be viewed in the Economic Impact Statement for this rulemaking. DEQ does not track hazardous waste generators by SIC and NAICS code, and as such, it was impracticable to determine the number of affected entities in Arizona.

There are 29 RCRA hazardous codes listed solely for ignitability, corrosivity, and/or reactivity characteristics. This rule excludes those wastes from RCRA Subtitle C regulation, if such wastes are decharacterized and meet the associated LDR treatment standards. EPA analyzed the potential economic impact of excluding these 29 characteristically listed RCRA waste codes. EPA expects this exclusion to benefit the relevant segment of the RCRA regulated community by reducing shipping and disposal costs for these decharacterized wastes. A list of the entities expected to benefit by this revision may be found in the Economic Impact Statement for this rulemaking.

66 FR 34374-34376 updated 40 CFR chapter 1 and 48 CFR chapter 15 with the new EPA Headquarter's official mailing address. The public in general will benefit from this amendment. Because this change may affect anyone, the EPA did not attempt to describe all the specific entities that may be affected. This revision created no additional requirements, and as such, no economic impacts result from this change.

66 FR 50332-50334 clarified that mixtures of Bevill excluded wastes, and mixtures of hazardous wastes that are listed solely because they have a characteristic of ignitability, corrosivity, and/or reactivity, are exempt once the characteristic has been removed.

Persons directly affected by the amendment:

Persons directly affected by this rule are the same as those affected by 66 FR 27266-27297 - Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules. This rule has no significant regulatory impact because it only corrects and clarifies the revisions to the mixture rule, and creates no new regulatory requirements.

66 FR 58258-58300 and 67 FR 17119-17120 added to the list of hazardous wastes three inorganic chemical manufacturing wastes designated as K176, K177, and K178. This listing subjects the wastes to RCRA Subtitle C management and treatment standards and CERCLA emergency notification requirements for releases to the environment. The EPA added toxic constituents found in the newly listed wastes to the list of constituents that forms the basis for classifying wastes as hazardous and establishes treatment standards for the wastes. This revision subjects the three inorganic chemical manufacturing wastes to the universal treatment standards under the LDR program. This revision corrects errors made to the Treatment Standards for Hazardous Waste table at 40 CFR 268.40.

Persons directly affected by the amendment:

This revision affects those who handle the wastes that were added to EPA's list of hazardous wastes under the RCRA program (K176, K177 and K178) and entities that need to respond to releases of these wastes as CERCLA hazardous substances. There are no affected entities in Arizona.

In 67 FR 2962-3029, the EPA revised the 1993 Corrective Action Management Unit (CAMU) rule to facilitate treatment, storage and disposal of hazardous wastes managed for implementing cleanup, to remove cleanup disincentives that RCRA can create. The 1993 CAMU rule was revised as follows, it:

- a. Defined "CAMU eligible waste" distinctly from the 40 CFR 260.10 definition of "remediation waste."
- b. Provided more detailed minimum design and operating standards for CAMUs in which waste remains after closure, with opportunities for alternative designs.
- c. Established treatment requirements for wastes placed in CAMUs.
- d. Provided more specific CAMU application information requirements, including public notice and opportunity for comment before final CAMU determination.
- e. Established requirements for CAMUs used only for treatment and storage.
- f. "Grandfathered" certain types of existing CAMUs.

This revision allowed for staging pile mixing, blending, and other similar physical operations to prepare wastes for subsequent management or treatment. This revision allows off-site placement of hazardous CAMU-eligible waste in hazardous waste landfills, if treated to meet CAMU standards. This revision granted interim authorization for the new CAMU amendments to states currently authorized for the 1993 CAMU rule. Lastly, this revision expedited state authorization for the CAMU rule for states that have authorization for RCRA corrective action, but not the 1993 CAMU rule.

Persons directly affected by the amendment:

The universe of facilities that could potentially employ a CAMU in remediation (and thus could be affected by this rule) includes facilities performing cleanups under RCRA corrective action, Superfund, and state cleanup authorities (for example, the Water Quality Assurance Revolving Fund or the Voluntary Remediation Program). This figure does not include Superfund sites or other cleanup sites where CAMUs may be used. This revision imposed no costs on any existing CAMUs that continue to manage wastes in the general manner for which they were approved, or on any

facilities that manage their wastes without the use of a CAMU, for example, by sending their wastes off-site. These final standards apply to CAMUs that are not subject to the existing standards under the grandfathering provisions. It would require significant effort and yield uncertain results to determine the number of facilities, out of this total number, that require remediation at some point in the future under one of these authorities, and would employ a CAMU in the remedy.

EPA believes that the off-site provision of this rule will result in an overall reduction of costs to facilities by reducing treatment requirements when cleanup waste is sent off-site for disposal in hazardous waste landfills. There are no approved CAMUs in Arizona. There are no facilities performing cleanups under RCRA corrective action in Arizona. Arizona is authorized for the 1993 CAMU rule and RCRA corrective action. EPA expects no adverse impacts on small entities from allowing off-site disposal of CAMU-eligible waste because facilities use this provision only when it is to their advantage; in fact, EPA believes this provision may be particularly useful to small entities.

In general, 67 FR 6792-6818 amended the September 1999 NESHAPs rule to allow EPA to develop interim standards. This revision replaces the vacated emission standards until final standards are promulgated. Portions of the NESHAPs rule promulgated in September and November 1999 were challenged and later vacated by the U.S. District Court of Appeals for the District of Columbia Circuit on July 24, 2001. In October 2001, EPA and all petitioners made a joint motion seeking the court stay its order, so that EPA would have an opportunity to develop interim standards.

Persons directly affected by the amendment include owners and/or operators of:

- a. Hazardous waste incinerators,
- b. Hazardous waste burning cement kilns,
- c. Hazardous waste burning lightweight aggregate kilns.

None of these types of facilities operates in Arizona, and as such, incorporation of this revision has no cost impacts except the cost resulting from facilitation of the reauthorization process.

67 FR 6968-6996 corrects several technical errors made in the NESHAPs rule when EPA established standards for hazardous waste-burning cement kilns, lightweight aggregate kilns, and incinerators and makes improvements in emission standards implementation in part 63, subpart EEE. These latter changes, however, are outside of the RCRA program and are not addressed in this EIS.

Persons directly affected by the amendment include owners and/or operators of:

- a. Hazardous waste incinerators,
- b. Hazardous waste burning cement kilns, and
- c. Hazardous waste burning lightweight aggregate kilns.

None of these types of facilities operate in Arizona, and as such, incorporation of this revision has no cost impacts except facilitation of the reauthorization process.

67 FR 11251-11254 complies with the United States Court of Appeals for the District of Columbia's order vacating two portions of the Phase IV LDR rule, found in 63 FR 28556. *Association of Battery Recyclers v. EPA*, 208 F.3d 1047 (D.C. Cir. 2000). The Association of Battery Recyclers, the National Mining Association and other trade groups challenged portions of this rule. The Court's order vacated the provisions that: 1) "asserted jurisdiction and imposed conditions over mineral processing characteristic by-products and sludges being stored prior to being recycled in beneficiation or primary mineral processing operations;" and 2) provided for use of the Toxicity Characteristic Leaching Procedure (TCLP) for determining whether a manufactured gas plant (MGP) waste displays the characteristic of toxicity. 67 FR 11251, 11252 (March 13, 2002).

Persons directly affected by the amendment:

- a. Owners and operators of facilities that generate or reclaim characteristically hazardous by-products or sludges within the mineral processing industry, and
- b. Generators of manufactured gas plant wastes.

Because this revision imposes no new requirements, it is expected to have no significant adverse economic impact on regulated entities, small businesses, state agencies and subdivisions, or consumers.

Costs and benefits of the department-initiated changes:

**R18-8-261(C)**

DEQ is deleting the modification to paragraph (a)(4) of § 261.4. This action will make Arizona's rules consistent with the federal rules.

Notices of Proposed Rulemaking

There will be no adverse economic impact on regulated entities, small businesses, state agencies and subdivisions, or consumers because this amendment merely amends Arizona's regulations to make them consistent with federal rules and creates no new requirements.

**R18-8-260(A) and (C), R18-8-261(A), R18-8-263(A), R18-8-264(A), R18-8-265(A), R18-8-266(A), R18-8-270(A), R18-8-271(A)**

In addition to reflecting updated incorporation dates and a change to mirror CFR language, DEQ is deleting the phrase "and the Secretary of State" from these sections to reflect an amendment to A.R.S. § 41-1028 that removed the requirement that incorporated materials be submitted to the Secretary of State. These amendments will save DEQ approximately \$180.00 each year.

**R18-8-260(B), R18-8-263(B), R18-8-263(E), R18-8-264(F), R18-8-270(Q), R18-8-271(S)**

These amendments make technical corrections, clarify current DEQ practices and update addresses only.

There will be no adverse economic impact on regulated entities, small businesses, state agencies and subdivisions, or consumers because these amendments merely correct existing rule, and create no new requirements.

**R18-8-270(G)(2)**

This amendment will change the rule to specifically address permit application processing fees for post-closure permits. This section is amended to add two subsections: (a) "Permits other than post-closure" and (b) "post-closure permits." Subsection (a) contains the original rule text and subsection (b) retains the original rule text with the phrase "and such difference shall be paid in full before the DEQ shall issue the permit" deleted.

Persons directly affected by the amendment:

Owners and operators of treatment, storage, and disposal facilities subject to the DEQ Hazardous Waste Permit Program.

Because this amendment includes no fee change, DEQ expects no adverse economic impact on regulated entities, small businesses, state agencies and subdivisions, or consumers. This action is beneficial because it ensures that measures to protect human health and the environment are instituted in a timely manner in post-closure situations.

Costs and benefits resulting from the department-initiated changes:

Probable costs and benefits to state agencies:

DEQ will not need additional full-time equivalent employees (FTEs) to implement these changes, and DEQ does not anticipate any increases in costs or revenues. DEQ will benefit by having clearer rules and by meeting one of EPA's requirements for reauthorization of Arizona's hazardous waste program.

State agencies, municipalities and counties that are regulated entities, will incur the same costs and receive the same benefits as businesses in the private sector. DEQ does not expect any new costs for regulated agencies.

Probable costs and benefits to private businesses, including small businesses:

Private businesses, including small businesses, that are regulated entities include owners or operators of: large quantity generators, small quantity generators, recyclers, transporters, or treatment, storage and disposal facilities that are subject to all hazardous waste requirements. Private businesses, including small businesses, that are regulated entities will incur the same costs and receive the same benefits as any other regulated entity. DEQ expects no new costs to private businesses, including small businesses.

Probable costs and benefits to residents and consumers:

The primary benefit of these changes for residents and consumers arise out of the intended public health benefits.

Reduction of rule impacts on small businesses:

DEQ did not consider reducing impacts on small business because separate standards for large businesses are not considered legally feasible. Further, since the amendments either have no economic impact, or have a positive economic impact, DEQ did not believe it was necessary to reduce impacts on small business.

Probable impact of the rule on private and public employment:

These amendments are not expected to create any significant incremental impacts on private or public employment.

Probable effect of the rule on state revenues:

DEQ is not imposing any new or additional fees through this rulemaking; hence, there are no expected economic impacts on state revenues.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Ren Willis-Frances, Manager, Rules and Risk Assessment Unit

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Address: Arizona Department of Environmental Quality, Waste Programs Division  
1110 W. Washington  
Phoenix, Arizona 85007

Telephone: (602) 771-4109 or (800) 234-5677, enter 771-4109 (Arizona only)

Fax: (602) 771-2302

TTD: (602) 771-4829

E-mail: kfn@ev.state.az.us

**10. The time, place and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rules:**

Date: May 11, 2004

Time: 1:00 p.m.

Location: Arizona Department of Environmental Quality  
1110 W. Washington, Suite 145  
Phoenix, AZ 85007

Nature: Public hearing on the proposed rules, with opportunity for formal comments on the record. Please call (602) 771-4795 for special accommodations pursuant to the Americans with Disabilities Act.

The close of the written comment period will be at 5:00 p.m., May 12, 2004. Submit comments to the individual identified in item #4.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules.**

Not applicable.

**12. Incorporations by reference and their location in the rules:**

<u>Federal Citation</u>	<u>State Citation</u>
40 CFR 260	R18-8-260(A) and (C)
40 CFR 261	R18-8-261(A)
40 CFR 264	R18-8-264(A)
40 CFR 265	R18-8-265(A)
40 CFR 266	R18-8-266(A)
40 CFR 268	R18-8-268(A)
40 CFR 270	R18-8-270(A)

**13. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY  
WASTE MANAGEMENT**

**ARTICLE 2. HAZARDOUS WASTES**

Section

R18-8-260. Hazardous Waste Management System: General

R18-8-261. Identification and Listing of Hazardous Waste

R18-8-263. Standards Applicable to Transporters of Hazardous Waste

R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities

R18-8-268. Land Disposal Restrictions

R18-8-270. ~~The~~ Hazardous Waste Permit Program

R18-8-271. Procedures for Permit Administration

ARTICLE 2. HAZARDOUS WASTES

**R18-8-260. Hazardous Waste Management System: General**

- A. Federal regulations cited in this Article are those ~~adopted~~ revised as of July 1, ~~2000, 2002~~ (and no future additions) unless otherwise noted. 40 CFR 124, 260 through 266, 268, 270 and 273 or ~~Parts thereof~~ portions of these regulations, are incorporated by reference, ~~when so as noted in the text~~. Federal statutes and regulations that are cited within 40 CFR 124, 260 through 270, and 273 that are not incorporated by reference may be used as guidance in interpreting federal regulatory language.
- B. Any reference or citation to 40 CFR 124, 260 through 266, 268, 270, and 273, or ~~Parts thereof~~ portions of these regulations, appearing in the body of this Article and regulations incorporated by reference, includes any modification to the CFR section made by this Article. When federal regulatory language that has been incorporated by reference has been amended, brackets [ ] enclose the new language. The subsection labeling in this Article may or may not conform to the Secretary of State's formatting requirements, because the formatting reflects the structure of the incorporated federal regulations.
- C. All of 40 CFR 260 and the accompanying appendix, ~~as amended~~ revised as of July 1, ~~2000, 2002~~ (and no future editions), with the exception of 40 CFR 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33, is incorporated by reference and modified by the following subsections and are on file with the Department of Environmental Quality (DEQ) ~~and the Office of the Secretary of State~~.
- D. No change
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    - a. No change
      - i. No change
      - ii. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
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    - c. No change
      - i. No change
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      - iii. No change
    - d. No change
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      - iii. No change
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        - (3) No change
        - (4) No change
    - f. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
- E. No change
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- 13. No change
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- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. No change
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- 23. No change
- 24. No change
- 25. No change
- 26. No change
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- 28. No change
- 29. No changes
- 30. No change
- 31. No change
- 32. No change
- F.** No change
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  - 3. No change
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    - b. No change
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  - 4. No change
  - 5. No change
  - 6. No change
    - a. No change
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- G.** No change
- H.** No change
- I.** No change
- J.** No change
- K.** No change
- L.** No change
- M.** No change

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- 1. No change
- 2. No change
- 3. No change
- N. No change

**R18-8-261. Identification and Listing of Hazardous Waste**

A. All of 40 CFR 261 and accompanying appendices, as amended revised as of July 1, 2000 2002 (and no future editions), are incorporated by reference and modified by the following subsections, and are on file with the DEQ and the Office of the Secretary of State.

B. No change

~~C.~~ § 261.4, titled "Exclusions," paragraph (a)(4), is amended as follows:

- (4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. [, provided that when a waste contains both hazardous waste and source, special nuclear or by product material, the hazardous waste component remains subject to regulation under this Article.]

~~D.C.~~ No change

~~E.D.~~ No change

~~F.E.~~ No change

~~G.F.~~ No change

~~H.G.~~ No change

~~I.H.~~ No change

~~J.I.~~ No change

~~K.J.~~ No change

~~L.K.~~ No change

**R18-8-263. Standards Applicable to Transporters of Hazardous Waste**

A. All of 40 CFR 263, as amended revised as of July 1, 1999 (and no future editions), is incorporated by reference and modified by the following subsections of R18-8-263, and on file with the DEQ and the Office of the Secretary of State.

B. § 263.11, titled "EPA identification numbers," is amended by the following:

(a) A transporter must not transport hazardous wastes without having received an EPA identification number from the [DEQ].

(b) A transporter who has not received an EPA identification number may obtain one by applying to the [DEQ] using EPA form 8700-12. [The completed form shall be mailed or delivered to: ~~ADEQ~~ DEQ, Hazardous Waste Technical Programs Facilities Assistance Unit, 3033 N. Central Ave. 1110 W. Washington St., Phoenix, AZ 85012 85007.] Upon receiving the request, the [DEQ] will assign an EPA identification number to the transporter.

C. No change

D. No change

E. § 263.30, titled "Immediate action," paragraph (c)(2) is amended by the following:

- (2) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590 [and send a copy to the DEQ, Hazardous Waste Inspections and Compliance Unit, 3033 N. Central Ave. 1110 W. Washington St., Phoenix, AZ 85012 85007.]

**R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

A. All of 40 CFR 264 and accompanying appendices, as amended revised as of July 1, 2000, 2002 (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149, 264.150, and 264.301(l), are incorporated by reference and modified by the following subsections, and are on file with the DEQ and the Office of the Secretary of State.

B. No change

C. No change

D. No change

1. No change

2. No change

E. No change

F. § 264.56, titled "Emergency procedures," paragraph (d)(2) is amended as follows:

- (2) [The emergency coordinator, or designee, shall] immediately notify [the DEQ at ~~(602) 207-2330~~ (602) 771-2330 or ~~800/234-5677, extension 2330~~ (800) 234-5677, extension 771-2330, and notify] either the government official designated as the on-scene coordinator for that geographical area, (in the applicable regional contingency plan under 40 CFR 1510) or the National Response Center (using their 24-hour toll free number ~~800/424-8802~~ (800) 424-8802). The report [shall include the following]:

- (i) Name and telephone number of reporter;
- (ii) Name and address of facility;

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- (iii) Time and type of incident (for example, release, fire);
- (iv) Name and quantity of material(s) involved, to the extent known;

- (v) The extent of injuries, if any; and
- (vi) The possible hazards to human health, or the environment, outside the facility.

- G. No change
- H. No change
- I. No change
  - 1. No change
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- J. No change
- K. No change
- L. No change
- M. No change
- N. No change
- O. No change
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  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change

**R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**

- A. All of 40 CFR 265 and accompanying appendices, ~~as amended~~ revised as of July 1, ~~2000~~ 2002 (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, are incorporated by reference and modified by the following subsections, and are on file with the DEQ ~~and the Office of the Secretary of State~~.
- B. No change
- C. No change
- D. No change
  - 1. No change
  - 2. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No Change
- M. No change
  - 1. No change
  - 2. No change
  - 3. No change

**R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities**

- A. All of 40 CFR 266 and accompanying appendices, ~~as amended~~ revised as of July 1, ~~2000~~ 2002 (and no future editions), are incorporated by reference and modified by the following subsections and are on file with the DEQ ~~and the Office of the Secretary of State~~.
- B. No change

**R18-8-268. Land Disposal Restrictions**

All of 40 CFR 268 and accompanying appendices, ~~as amended~~ revised as of July 1, ~~2000~~ 2002 (and no future editions), with the exception of Part 268, Subpart B, are incorporated by reference and are on file with the DEQ ~~and the Office of the Secretary of State~~.

**R18-8-270. ~~The~~ Hazardous Waste Permit Program**

- A. All of 40 CFR 270, ~~as amended~~ revised as of July 1, ~~2000~~ 2002 (and no future editions), with the exception of §§ 270.1(a),

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270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64, is incorporated by reference and modified by the following subsections, and is on file with the DEQ and the Office of the Secretary of State.

- B.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
  - 2. No change
    - a. No change
    - b. No change
- C.** No change
- D.** No change
- E.** No change
- F.** No change
- G.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. If the reasonable cost of processing the application identified in subsection (1) is less than \$10,000, the difference between the reasonable cost and \$10,000 shall be refunded to the applicant.
    - a. Permits other than post-closure. If the reasonable cost of processing the application is greater than \$10,000, the applicant shall be billed for the difference and the difference shall be paid in full before the DEQ issues the permit.
    - b. Post-closure permits. If the reasonable cost of processing the application is greater than \$10,000, the applicant shall be billed for the difference.
  - 3. No change
    - a. No change
    - b. No change
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    - d. No change
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    - b. No change
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- H.** No change
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- P.** No change

**Q.** § 270.51, titled “Continuation of expiring permits,” paragraph (d) is amended by replacing “EPA-issued” with “EPA, joint EPA/DEQ, or DEQ-issued.”

~~Q.R.~~ No change

~~R.S.~~ No change

**R18-8-271. Procedures for Permit Administration**

**A.** All of 40 CFR 124 and the accompanying appendix, ~~as amended~~ revised as of July 1, ~~1999~~ 2002 (and no future additions), relating to HWM facilities, with the exception of §§ 124.1 (b) through (e), 124.2, 124.4, 124.16, 124.20 and 124.21 are incorporated by reference and modified by the following subsections and are on file with the DEQ ~~and the Office of the Secretary of State.~~

**B.** No change

**C.** No change

**D.** No change

**E.** No change

**F.** No change

**G.** No change

**H.** No change

**I.** No change

**J.** No change

**K.** No change

**L.** No change

**M.** No change

**N.** No change

**O.** No change

**P.** No change

**Q.** No change

**R.** No change

**S.** ~~§ 124.31(a)~~ 124.32 (a) titled “Public notice requirements at the application stage” is amended by deleting the following sentence:

“For the purpose of this section only, ‘hazardous waste management units over which EPA has permit issuance authority’ refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR 271.”

**T.** No change