

# NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 9. GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITY AND DEFERRED COMPENSATION PLANS

##### PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R2-9-101                    | Repeal                   |
| R2-9-101                    | New Section              |
| R2-9-102                    | Repeal                   |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 38-871(C)(4)  
Implementing statutes: A.R.S. §§ 38-871, 38-872, 38-874
- 3. The effective date of the rules:**  
September 24, 2004
- 4. A list of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 9 A.A.R. 421, February 6, 2004  
Notice of Proposed Rulemaking: 9 A.A.R. 606, February 27, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Rob Smook  
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E-mail: Robert.smook@ad.state.az.us
- 6. An explanation of the rules, including the agency's reason for initiating the rules:**  
The rules pertaining to the expenses of the administration of the state's deferred compensation programs, and the manner in which investment providers will contract state employees and retirees, do not conform to current practice and are not consistent with current rule format and wording. The current rules will be repealed. A new Section reflecting current practice regarding the manner in which investment providers contact state employees will be promulgated.
- 7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did 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:**  
The agency did not utilize a study for evaluating or justifying the rulemaking.
- 8. 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.
- 9. The summary of the economic, small business, and consumer impact:**  
Adoption of this rule will have a minor impact on the following groups:

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A. *The Governing Committee.* The Governing Committee will expend time reviewing and approving the annual business plan of the plan administrator. The approval of the plan administrator's marketing plans is currently performed under the rules being repealed, as well as pursuant to A.R.S. § 38-871. It does not appear that the new Section will result in additional duties.

B. *The Plan Administrator.* The deferred compensation plans have approximately \$550 million in assets held in trust for approximately 24,500 current and former employees, and retirees. The duties of the plan administrator include the investment of the participant funds, the monitoring and recommendation of investment choices, the maintenance of all plan records, obtaining annual independent audits of the plans, and the maintenance of a customer service center, an automated voice response telephone system, and an internet site.

The plan administrator is also required to determine how it proposes to educate and market the deferred compensation plans, and to design and furnish all informational and promotional material. The current plan administrator formulates an annual business plan addressing these issues. When plan administration services were recently competitively bid, all bidders indicated they utilize annual business plans for deferred compensation programs of this size.

The plan administrator was asked to isolate the cost of submitting the annual plans to the Governing Committee for review. The plan administrator responded that business plans are prepared regardless of any state requirement, and are submitted to the client entity for review and comment as a routine business practice. Therefore, the additional cost of submitting the material to the Governing Committee for approval pursuant to the new Section was described as "negligible." In addition, the plan administrator reported that the new Section will not require any fee adjustment.

C. *The Participants.* Pursuant to A.R.S. § 38-871(C) (1), no state funds may be used for the administration of the deferred compensation plans. The Governing Committee has no staff or budget; day-to-day plan administration is performed by the third-party plan administrator. The participants in the program are assessed a participation fee to pay the cost of the plan administrator. Therefore, any costs sustained by the plan administrator in obtaining the approval of the Governing Committee are included in the overall fee assessed to the participants. The plan administrator has estimated its costs in obtaining Governing Committee approval as "negligible," and stated that no fee increase will be requested as a result of the new Section. Further, these actions are currently performed under the rules being repealed, as well as under the requirements of A.R.S. § 38-871. It does not appear that the new Section will result in any additional cost to participants.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Based on suggestions from Council staff, minor, non-substantive changes were made in the rules to improve clarity. The suggestions included grammatical and other changes necessary to clarify the rules. No substantive changes were made to the rules.

**11. A summary of the comments made regarding the rules and the agency response to them:**

The close of record for the proposed rules was March 29, 2004. The Governing Committee did not receive oral or written comments during the comment period.

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

None

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

None

**14. Were these rules previously made as emergency rules?**

No

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

**TITLE 2. ADMINISTRATION**

**CHAPTER 9. GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITY  
AND DEFERRED COMPENSATION PLANS**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R2-9-101. ~~Expenses~~ Employee Solicitation for Tax-Deferred Annuities and Deferred Compensation Plans

R2-9-102. ~~Employee and employee participant contact~~ Repealed

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ARTICLE 1. GENERAL PROVISIONS

Section

R2-9-101. Expenses Employee Solicitation for Tax-Deferred Annuities and Deferred Compensation Plans

- ~~A.~~ Companies submitting offers under these rules are reminded the Committee has no funds to pay any costs or expenses they might normally expect to receive from or charge to an offeree. Therefore, all offers submitted to this Committee must contain an acknowledgement of this fact and a disclaimer of liability to this Committee or its members for any expenses or costs which the offeror incurs in connection with an offer or a contract.
- ~~B.~~ No expenses or costs shall be recoverable by an offeror from the state of Arizona, this Committee or its members but it shall not be improper for an offeror to include such anticipated expenses or costs as a part of its offer and which will ultimately be borne by the employee participants in the Plan.
- ~~A.~~ The administrator under contract with the Governing Committee shall draft and present an annual business plan that describes its approach to educating and marketing to employees regarding the tax-deferred annuity and deferred compensation plans. The administrator's business plan is subject to the approval of the Governing Committee. The business plan shall include:
  - 1. Enrollment and participation goals for employees;
  - 2. Performance measures for the administrator;
  - 3. Plans for achieving the goals and performance measures;
  - 4. An explanation of the effect of participation on take-home pay and future retirement income; and
  - 5. Information regarding retirement planning and investment options.
- ~~B.~~ The administrator shall establish and follow written procedures that provide for the impartial representation of the available investment options and investment products offered under the tax-deferred annuity and deferred compensation plans. The written procedures are subject to the advance written approval of the Governing Committee. The procedures shall:
  - 1. Include directives to the administrator's personnel that information provided to the employees shall be presented in a fair and equal manner, allowing employees to make individual choices based upon their specific investment needs or desires;
  - 2. Be adequate to ensure that the administrator's personnel will not engage in preferential solicitation of any investment option or investment product; and
  - 3. Include a means of monitoring at reasonable intervals the adequacy of the procedures and reporting the results of the monitoring to the Governing Committee.
- ~~C.~~ The failure of the administrator to present the plan required in subsection (A), or the failure of the administrator to establish and follow the procedures required in subsection (B), is a breach of its contract with the Governing Committee.

R2-9-102. Employee and employee participant contact Repealed

- ~~A.~~ No employee or employee participant will be contacted except as permitted by the Committee.
- ~~B.~~ Contact with an employee or employee participant by a company employee in violation of these rules is cause for barring the offending person from any further participation in such contract work. If it is determined by the Committee that the company employee was acting pursuant to company instructions, a breach of contract may be declared and its contract with the Committee terminated.
- ~~C.~~ Companies under contract with the Committee will be allowed to make such solicitations as are consistent with these rules and the Plan, through prior presentation of their method of so doing to the Plan administrator and approval by the Committee.
  - 1. The Committee shall arrange for the presentation of such solicitations by means of general publication or distribution with paychecks.
  - 2. This rule shall not apply to routine accounting or reporting required or provided by contract or these rules.
  - 3. Group meetings may be conducted for all employees at least once a year. Those interested employees will be provided a counseling and enrollment session in order to explain the merits of the State of Arizona Deferred Compensation Plan.

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TITLE 2. ADMINISTRATION

CHAPTER 15. DEPARTMENT OF ADMINISTRATION  
MANAGEMENT SERVICES DIVISION

PREAMBLE

1. Sections Affected

Rulemaking Action

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R2-15-301	Amend
R2-15-302	Repeal
R2-15-303	Amend
R2-15-304	Amend
R2-15-305	Amend
R2-15-306	Amend
R2-15-307	Amend
R2-15-308	Amend
R2-15-309	Amend
R2-15-310	Amend

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

Authorizing statutes: A.R.S. §§ 41-703(3), 41-2511

Implementing statutes: A.R.S. §§ 41-2601, 41-2602, 41-2603, 41-2604, 41-2605, 41-2606, 41-2607

**3. The effective date of the rules:**

September 24, 2004

**4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 1872, June 13, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 526, February 20, 2004

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

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or

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**6. An explanation of the rules, including the agency's reason for initiating the rules:**

The purpose of this rulemaking is to respond to issues raised in the Five-year review process. Additionally, the rulemaking will update the rules and bring them into conformance with current rulewriting standards, legislative changes, and current practice.

**SPECIFIC SECTION BY SECTION EXPLANATION OF THIS PROPOSAL**

**R2-15-301.**

In this Section the term "General Services Administrator" is updated to "General Accounting Administrator," the term "General Services Division" is updated to the term "Management Services Division," and the term "Finance Division" is updated to the term "Financial Services Division" to reflect the current titles of the Divisions. The term "State Governmental Unit" is added and defined as is the term "Capital Asset." At the request of Council staff, the definitions were placed in alphabetical order for clarity and understanding.

**R2-15-302.**

This Section defines the procurement officer's responsibilities in relation to the specifications in the solicitations set forth and requires an annual inventory of state assets. This Section is repealed and the inventory requirement is incorporated within R2-15-304.

**R2-15-303.**

This Section establishes the state Surplus Property Administrator's authority to act on behalf of the state in all matters pertaining to the disposition of excess and surplus materials and clarifies the responsibilities of state agencies regarding the disposition of excess and surplus materials. This Section provides the methods of disposal for excess and sur-

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plus materials. In this Section the methods of disposal are updated by adding “online sales” to the approved methods of sale, correcting a citation, and removing outdated language. In this Section the term “State Purchasing Administrator” is updated to the term “Surplus Property Administrator” with respect to the sealed bidding process for surplus and excess materials. This Section is updated by clarifying the advertisement of sales by adding the word “public” and providing guidance for online sales advertising. This Section provides the guidance for the trade-in of materials on the procurement of new equipment, and the language is updated within the rule to remove duplication of approval and to clarify the process for gaining approval to trade in materials.

**R2-15-304.**

This Section requires each state governmental unit to conduct an inventory. The Section is further updated by clarifying the requirements for an annual inventory report.

**R2-15-305.**

This Section establishes the mechanism by which a state governmental unit may remove from the next inventory report materials that have been lost, stolen, or destroyed.

**R2-15-306.**

This Section directs the Surplus Property Administrator to file a state plan of operation with the General Services Administration, provides authority for the Surplus Property Administrator to act on behalf of the state regarding federal surplus materials and requires the Surplus Property Administrator to distribute federal surplus materials to eligible entities.

**R2-15-307.**

This Section directs the Surplus Property Administrator to determine whether an entity is eligible for federal or state surplus materials and prohibits agencies from acquiring federal or state surplus materials without approval of the State Property Administrator. This Section is updated by clarifying the requirements for eligibility and makes changes to update the language to current rulewriting standards.

**R2-15-308.**

This Section establishes the authority for the Surplus Property Administrator to assess service and handling fees. This Section is updated by making clarifying language changes and updating terms to current rulewriting standards.

**R2-15-309.**

This Section provides authority for the State Treasurer to place monies into a government-insured depository institution. It is updated by inserting clarifying language and updating terms to current rulewriting standards.

**R2-15-310.**

This Section provides authority for the Surplus Property Administrator to reimburse agencies on the sale or disposal of state surplus or excess materials and provides thresholds for that reimbursement. This Section is updated by adding language that makes it easier to determine when reimbursement should occur and clarifies the maximum amount that may be reimbursed.

In addition to the changes listed above, technical changes were made throughout the rules to improve clarity, grammar, and consistency, to conform to current rulewriting standards.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did 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:**

The agency did not utilize a study for evaluating or justifying the rulemaking.

**8. 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

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

This rulemaking establishes clear procedures for materials management and the disposition of state excess and surplus materials.

A. *Estimated Costs and Benefits to ADOA Surplus Property Management Office.* Surplus Property Management does not anticipate any additional administrative functions will result from this rulemaking, nor will revenues increase or decrease.

B. *Estimated Costs and Benefits to Political Subdivisions.* Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

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C. *Businesses Directly Affected By the Rulemaking* (state agencies). State agencies should have a clearer understanding of the requirements for the disposition of state excess and surplus materials. Further, this rulemaking will enhance the state's ability to sell excess and surplus materials.

D. *Estimated Costs and Benefits to Private and Public Employment*. Private and public employment is not directly affected by the implementation and enforcement of this rulemaking.

E. *Estimated Costs and Benefits to Consumers and the Public*. Consumers and the public are not directly affected by the implementation and enforcement of this rulemaking.

F. *Estimated Costs and Benefits to State Revenues*. This rulemaking will have no impact on state revenues.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Based on suggestions from Council staff, minor, non-substantive changes were made in the rules to improve clarity. The suggestions included grammatical and other changes necessary to clarify the rules. No substantive changes were made to the rules.

**11. A summary of the comments made regarding the rules and the agency response to them:**

The close of record for the proposed rules was March 28, 2004. The Governing Committee did not receive oral or written comments during the comment period.

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

None

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

None

**14. Were these rules previously made as emergency rules?**

No

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

TITLE 2. ADMINISTRATION

CHAPTER 15. DEPARTMENT OF ADMINISTRATION  
MANAGEMENT SERVICES DIVISION

ARTICLE 3. MATERIALS MANAGEMENT

Section

- R2-15-301. Definitions
- R2-15-302. ~~Material Management~~ Repealed
- R2-15-303. Disposition
- R2-15-304. ~~Nonexpendable Material (General Fixed Assets)~~ Materials Inventory Records Report and Submission of Contracts
- R2-15-305. Lost, Stolen, or Destroyed ~~Nonexpendable Material~~ Materials (Capital Assets) ~~(General Fixed Assets)~~
- R2-15-306. Federal Surplus ~~Material~~ Materials Program
- R2-15-307. Authority for Transfer of ~~Material~~ Materials
- R2-15-308. Fees and Charges
- R2-15-309. Surplus Materials Revolving Funds
- R2-15-310. Allocation of Proceeds from Sale or Disposal of Excess or Surplus Materials

ARTICLE 3. MATERIALS MANAGEMENT

**R2-15-301. Definitions**

In this Article, unless the context otherwise states:

“Capital asset” has the same meaning as “nonexpendable materials” in A.R.S. § 41-2601.

“Department” means the Department of Administration.

1. “Direct transfer” means the transfer of surplus or excess materials by the Surplus Property Management Office from one state governmental unit to another without physically moving the property to the Surplus Property Management Office.

“Director” means the director of the Department of Administration.

2. “Established markets” means those places where materials are regularly bought and sold at prices set by open competition.

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- 3- "Fair market value" means the price at which sales have been consummated for materials ~~assets~~ of like type, quality, and quantity in a particular market at the time of acquisition.
- 4- ~~"General Services Administrator"~~ "General Accounting Administrator" means the person holding the position as Administrator of the General Accounting Office, ~~Finance~~ Financial Services Division of the Department of Administration.
- 5- "Posted prices" means the sale price determined by the Surplus Property Administrator to be fair market value.  
"State governmental unit" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of this state. A.R.S. § 41-2503
- 6- "State plan of operation" means the agreement for acquiring federal surplus property between the state and the United States General Services Administration.
- 7- "Surplus Property Administrator" means the person holding the position as Administrator of the Surplus Property Management Office, ~~General~~ Management Services Division of the Department of Administration.

**R2-15-302. Material Management Repealed**

- ~~A. The procurement officer shall ascertain or verify that materials, services, or construction items procured by such officer conform to specifications as set forth in the solicitation. The procurement officer may establish inspection and testing facilities, employ inspection personnel, enter into arrangements for the joint or cooperative use of laboratories and inspection and testing facilities, and contract with others for inspection or testing work as needed. The procurement officer may delegate authority for inspection and testing.~~
- ~~B. Each state governmental unit shall conduct an annual inventory, to be verified by a physical count and certified by the unit's director, of all material warehoused or otherwise stored by the unit.~~

**R2-15-303. Disposition**

- A. The Surplus Property Administrator ~~may~~ shall act on behalf of the state in all matters pertaining to the disposition of excess and surplus materials.
- B. ~~No using agency, except~~ Except as specifically authorized for the Department of Public Safety pursuant to under A.R.S. § 41-1713(B)(7), the Arizona Exposition and State Fair Board Coliseum and Exposition Center pursuant to under A.R.S. § 3-1007(4) A.R.S. § 3-1007(A)(1), Arizona Correctional Industries pursuant to under A.R.S. §§ 41-1623(E) and 41-1624(B), and the Department of Mines and Mineral Resources pursuant to under A.R.S. § 27-105(6), a state governmental unit shall not transfer, sell, trade-in, condemn, or otherwise dispose of materials owned by the state without written authorization of from the Surplus Property Administrator.
- C. ~~Using agencies~~ Each state governmental unit shall notify the Surplus Property Administrator of all excess and surplus materials on ~~such forms provided by and at such times as that officer may prescribe~~ the Surplus Property Administrator. The Surplus Property Administrator shall determine the fair market value of excess and surplus ~~property materials~~.
- D. The Surplus Property Administrator shall facilitate the transfer of excess or surplus materials to or between ~~other~~ state agencies, ~~other units of government~~ political subdivisions, and eligible nonprofit institutions. The transfer document ~~of for~~ state property materials shall indicate state that the recipient agrees not to transfer title or dispose of the ~~material materials~~ within a six-month period, except for motor vehicles, which have a 12-month restriction, without prior approval of the Surplus Property Administrator.
- E. Disposition of surplus materials
  1. ~~Surplus materials material shall be offered~~ The Surplus Property Administrator shall offer surplus materials through competitive sealed bids, public auction, online sales, established markets, or posted prices. If unusual circumstances render the above methods impractical, the Surplus Property Administrator may employ other disposition methods, including appraisal or barter, provided ~~such officer~~ the Surplus Property Administrator makes a written determination that ~~such~~ the procedure is advantageous to the state. The following methods of payment for surplus materials are accepted by the Surplus Property Administrator: -a United States Postal Money Orders Order, certified checks check, cashier's checks check, or and cash shall be accepted for sales of surplus property unless approved by the Surplus Property Administrator or for sales of less than \$100. Other methods of payment may be approved by the Surplus Property Administrator if the Surplus Property Administrator determines the method to be in the best interest of the state.
  2. Competitive sealed bidding. The Surplus Property Administrator shall ensure that:
    - a. ~~Notice of sale bids shall be~~ Sale notices are publicly available from the State Procurement Surplus Property Office at least ten five days before the date set for opening bids: ; Notice of the sale bids shall be mailed to prospective bidders, including those bidders on lists maintained by the State Procurement Office. pursuant to R2-7-312.
    - b. ~~The notice for Each sale notice bids shall list the lists material materials offered for sale, their location of materials, and availability of materials for inspection, the terms and conditions of sale, and instructions to bidders, including the place, date, and time set for the bid opening: ;~~
    - c. ~~Bids are shall be opened publicly: ; pursuant to the requirements of R2-7-318.~~

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- d.b. ~~Awards are made~~ The award shall be made in accordance with the provisions of the sale notice; ~~and for sale bids~~
- e. Awards are made to the highest responsive and responsible bidder, provided that the price offered by such the highest responsive and responsible bidder is acceptable to the Surplus Property Administrator. If the State Procurement Surplus Property Administrator determines that the a bid is not advantageous to the state, such officer the Surplus Property Administrator may reject the bids bid in whole or in part, ~~and may~~ resolicit bids a bid, or ~~such officer may~~ negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder's price.
3. The Surplus Property Administrator shall advertise a public auction ~~Auctions shall be advertised~~ at least three times before prior to the auction date; ~~the last notice to be no less than six days prior to the auction date.~~ and ensure that all ~~All the~~ terms and conditions of any sale are shall be published and be available to the public at least 24 hours prior to ~~before the auction date or, in the case of online sales, within the sales notice.~~
  4. The Surplus Property Administrator shall determine whether ~~Before surplus materials are~~ may be disposed of by trade-in to a vendor for credit on an acquisition; ~~the Surplus Property Administrator and the State Procurement Administrator shall approve such disposal.~~ In making this determination, the ~~The~~ Surplus Property Administrator shall base this determination on ~~consider~~ the urgency of need by other state governmental units, ~~or~~ and whether the trade-in value is expected to exceed the value realized through the sale of the materials.
  5. An employee of the owning or disposing state governmental unit shall not directly or indirectly purchase or agree with another person to purchase surplus property materials if that employee is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, or preparation for sale of the surplus material materials.

**R2-15-304. ~~Nonexpendable Material (General Fixed Assets)~~ Materials Inventory Records Report and Submission of Contracts**

- A. Each state governmental unit, ~~as of at~~ the end of each fiscal year, shall prepare and submit to the General Accounting Administrator an inventory report of all materials warehoused or otherwise held by the unit ~~submit to the General Accounting Administrator an inventory report~~, verified by a physical count and certified by the unit's ~~director~~ highest-ranking officer, which lists all of listing the following:
  1. Nonexpendable materials (capital assets), ~~All nonexpendable material (general fixed assets)~~ capitalized in accordance with the state of Arizona accounting manual Accounting Manual; ;
  2. Nonexpendable materials (capital assets) held under capital leases and similar financial arrangements; ~~Lease purchase or installment purchase equipment.~~
  3. Nonexpendable material materials (capital assets) (general fixed assets) that ~~has~~ have been, or will be, leased or rented for more than 90 days; ; and
  4. Other materials warehoused or otherwise held by the units that are subject to the stewardship requirements of the state of Arizona Accounting Manual.
- B. The state governmental unit shall include and identify separately in the inventory report all ~~All~~ real property, buildings, and other improvements to real property; ~~shall be included in the report required under subsection (A) of this rule but shall be identified separately within the report.~~
- C. The state governmental unit shall submit a copy of any ~~All copies of signed~~ capital leases and similar financial arrangements ~~lease purchase and installment contracts shall be submitted to the General Accounting Administrator within 30 days of execution.~~

**R2-15-305. ~~Lost, Stolen, or Destroyed Nonexpendable Material~~ Materials (Capital Assets) (General Fixed Assets)**

- A. A state governmental unit shall immediately report ~~The theft of nonexpendable material materials shall be immediately reported to the appropriate law enforcement agency.~~
- B. Within 10 days after discovery, a state governmental unit shall report ~~All lost, stolen, or destroyed nonexpendable material materials shall be reported by the state governmental unit within ten days after discovery of the loss to the General Accounting Administrator. Based upon results of an investigation, the~~ The General Accounting Administrator may authorize the unit, in writing, the deletion of such to delete the missing nonexpendable material materials from the inventory any internal inventory report and the AFIS Fixed Asset Subsystem (FAS). If materials are ~~Any such material~~ deleted from the inventory and that is subsequently located, the unit shall again list the materials ~~shall be added to the inventory in any internal inventory report and on the FAS.~~

**R2-15-306. ~~Federal Surplus Material~~ Materials Program**

The Surplus Property Administrator shall:

1. Prepare and file a state plan of operation with the United States General Services Administration.
2. Act on behalf of the state with any federal agencies or other surplus property agencies regarding federal surplus materials.
3. Distribute federal surplus material materials to eligible entities.

**R2-15-307. ~~Authority for Transfer of Material~~ Materials**

- A. The Surplus Property Administrator shall determine whether an entity is eligible to acquire ~~eligibility for the acquisition~~



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~~of federal or state surplus material materials. Eligibility for federal surplus material materials shall be is determined in accordance with federal law. All entities eligible under federal law or federal income tax exempt non-profit entities and having at least one full-time salaried employee shall be eligible for state surplus material. The determination of whether an entity is eligible for state surplus materials is based on whether the entity:~~

- ~~1. Is eligible to receive federal surplus materials, or~~
- ~~2. Is a federal income tax exempt non-profit entity that is a health or educational organization as defined in federal law which has at least one full-time salaried employee and demonstrates a public benefit for receiving state surplus materials.~~

~~B. A state governmental unit shall not No state governmental unit shall acquire federal or state surplus material materials without the approval of the Surplus Property Administrator.~~

**R2-15-308. Fees and Charges**

A. The Surplus Property Administrator shall determine and assess proper service and handling fees, with the approval of the Director for the acquisition, receipt, warehousing, rehabilitation, delivery, distribution, or transfer of state surplus materials. ~~Such~~ The Surplus Property Administrator shall ensure that fees shall be are fair and equitable, and shall be based on the cost of services performed, and consistent with the continuous maintenance support requirements of the surplus property management office Surplus Property Management Office.

- ~~1. The Surplus Property Administrator shall approve or deny any All direct transfers transfer of state surplus materials between state governmental units. must be approved by the Surplus Property Administrator. The Surplus Property Office shall not assess a service Service and handling fee charges will not be assessed by the Surplus Property Management Office, if the a direct transfer between state governmental units can be accomplished without the use of personnel, equipment handling, or facilities facility support, of the Surplus Property Management Office.~~
- ~~2. For all All other direct transfers of state surplus materials, will be assessed the Surplus Property Administrator shall assess a service and handling fee charge. The receiving entity shall pay a transfer fee of 10% of the fair market value of the materials. property with a The minimum fee is charge of \$20.00 and a the maximum fee of is \$300.00.~~

~~B. Fees on other transfers or sales shall be pursuant to are determined according to R2-15-310.~~

**R2-15-309. Surplus Materials Revolving Funds**

A. ~~The State Treasurer Surplus Property Administrator may, after a determination that a portion of the monies in the state surplus materials revolving fund is not required uncommitted for a period of three months, authorize the State Treasurer to deposit such that portion of the monies in a government-insured depository institution offering a rate of return with maturity of 13 months or less from the date of purchase. All interest earned shall be credited to the revolving fund.~~

~~B. The federal surplus materials revolving fund shall be maintained in accordance with the state plan of operations operation.~~

**R2-15-310. Allocation of Proceeds from Sale or Disposal of Excess or Surplus Materials**

A. ~~Except as otherwise provided in other law, subsection (B), or subsection (C), the Surplus Property Administrator shall ensure that proceeds from the disposition of excess or surplus materials are shall be retained by the Surplus Property Office.~~

~~B. State governmental units, except Except the Department of Public Safety, pursuant to under A.R.S. § 41-1713 (B)(6), the Surplus Property Office shall not reimburse a state government unit for transfer or sale of materials if the unit that originally purchased a material the materials with General Fund monies. shall not be reimbursed for it's transfer or sale.~~

~~C. The Surplus Property Administrator shall reimburse proceeds from the disposition of materials State governmental units that originally purchased a material with special fund monies, such as revolving, dedicated, or federal funds, shall be reimbursed, less the Surplus Property Office's fee, for it's the material's transfer or sale, according to the following schedule: The Surplus Property Administrator shall:~~

- ~~1. The Surplus Property Office shall collect a fee for For direct transfer of state excess or surplus material materials in accordance with R2-15-308(A) (1), collect the fee required in R2-15-308(A) and reimburse the The balance of the sale proceeds price shall be reimbursed to the transferring agency; or~~
- ~~2. Reimbursement of For non-direct transfer or sale of state excess or surplus materials; shall be as follows:~~
  - ~~a. No reimbursement Reimburse nothing if the sale proceeds for an item are less than or equal to \$50.00; or~~
  - ~~b. Reimbursement at the Reimburse at a rate of not less than 70% of the sale proceeds for an item that sells selling for a price greater than \$50.00; and~~
- ~~3. Reimbursement shall not be made until Reimburse sale proceeds after completion of the sale is completed.~~

NOTICE OF FINAL RULEMAKING

Editor's Note: The following Notice of Final Rulemaking is republished. It was originally published at 10 A.A.R. 2399, June 18, 2004. The original printing included Section R7-2-405, which was not approved by the Attorney General's Office. It is being republished here and does not include R7-2-405.

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

PREAMBLE

- 1. Sections Affected**

R7-2-407	<b><u>Rulemaking Action</u></b>
R7-2-610	New Section
R7-2-620	Amend
	New Section
- 2. The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 15-203(A), 20 U.S.C. § 1412(a)(6)(A), 34 CFR 300.129

Implementing statutes: A.R.S. §§ 15-203(A)(14), (19), and (22), and § 15-214
- 3. Effective Date of the Rule:**

Consistent with A.R.S. § 41-1032, these rules become effective sixty days after certification by the Attorney General and filing with the Secretary of State.
- 4. Register citation and date for the original Notice of Proposed Rulemaking:**

Notice of Rulemaking Docket Opening: 9 A.A.R., 3351, July 25, 2003

Notice of Proposed Rulemaking: 9 A.A.R., 4056, September 19, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Christy Farley, Executive Director

Address: State Board of Education  
1535 W. Jefferson, Room 418  
Phoenix, AZ 85007

Telephone: (602) 542-5057

Fax: (602) 542-3046

E-mail: cfarley@ade.az.gov
- 6. An explanation of the rules, including the agency's reasons for initiating the rules:**

This rules package addresses several issues related to exceptional students in order to improve services for these students as authorized or required by state or federal laws. The explanations below are detailed in respective order with the numerical order of the rules.

In January 2002, Exceptional Student Services (ESS) and the Arizona Special Education Advisory Panel (SEAP) began a yearlong study of the *Arizona Administrative Code* including R7-2-405. This study was prompted in part by deficiencies noted in the U.S. Department of Education, Office of Special Education Programs (OSEP) review of the Arizona documentation for eligibility for funding under the Individuals with Disabilities Education Act. Arizona was cited by USDOE/OSEP for failure to complete due process hearings and appeals within the required timelines. The recommended changes to R7-2-405 move the state from its current two-tier system of due process hearings to a one-tier system using Administrative Law Judges (ALJs) as the single tier. The two-tier system was a substantial contributor to the problems cited by USDOE/ OSEP. An ad hoc due process work group studied other state systems to determine the benefits and drawbacks of each approach. The final recommendation of the workgroup was to move to the one-tier system using ALJs.

In 1997 the Arizona Legislature required the State Board of Education to adopt rules to promote Braille literacy with specific requirements outlined in A.R.S. § 15-214. The proposed R7-2-407 establishes standards and assistance requirements for providing educational services and materials for visually impaired students as required by A.R.S. § 15-214.

The proposed amendments to R7-2-610 are also sought to comply with the statutory requirements of A.R.S. § 15-214 to assure that teachers certified in the education of blind and visually impaired pupils demonstrate competency in Braille.

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The addition of R7-2-620 is proposed in response to requests from the hearing impaired community for standards for educational interpreters. These requests were referred to a Certification Advisory Committee established by the State Board of Education in 2000 and a recommendation to provide certification for educational interpreters was forwarded to the Board. The State Board of Education's authority to certify educational personnel, however, is limited to that specifically authorized by A.R.S. § 15-203(A)(14). The Board does however have the authority to supervise and control the qualifications of non-teaching school personnel and prescribe standards relating to qualifications under A.R.S. § 15-203(A)(19). The proposed R7-2-620 was developed with input and support from the Arizona School for the Deaf and the Blind, the Arizona Department of Education Exceptional Student Services Division, special education teachers and the Special Education Advisory Panel to the State Board of Education in order to provide quality interpreting services for hearing impaired students through the implementation of required qualifications for educational interpreters.

**7. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to 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:**

Not applicable

**8. 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:**

The proposed rules will not diminish any previous grant of authority of a political subdivision of this state.

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

The rules as proposed are not expected to have significant, if any, economic impact, however they are expected to have several positive effects for exceptional students, the families of exceptional students and the schools and programs providing services for these students. Moving to a single-tiered process for administrative hearings regarding special education issues provides several positive impacts including a savings of both cost and time on behalf of both the families of exceptional students and the schools providing services to these students. These rules are expected to improve the qualifications of individuals providing assistance to visually impaired students and hearing impaired students by establishing qualifications for Braille literacy for teachers of the visually impaired and qualifications for educational interpreters for hearing impaired students. In addition, these rules will improve the access of textbooks in alternative formats for visually impaired students.

**10. A description of the changes between the proposed rules, including any supplemental notices, and final rules:**

A definition of a "504 Accommodation Plan" has been added.

A reference to the definition of "Public Education Agency (PEA)" has been included to use the same definition as that in R7-2-401.

R7-2-407(E)(3) included a reference to the "AIRC" which is currently the central repository designated by the Arizona Department of Education for publishers to provide materials in accessible electronic files. This entity was used as a placeholder early on in initial rule draft documents, however, in the Notice of Proposed Rulemaking all changes to "AIRC" were changed to "the central repository designated by the ADE". As an oversight, however, this Section was not changed and so in order to conform with the rest of the Section the change has been incorporated into this Notice of Final Rulemaking.

R7-2-610, subsection K(2)(e)(iv) has been revised to remove the required number of administrations of the exam to be administered by the University of Arizona annually.

Technical and grammatical changes were incorporated.

**11. A summary of the principal comments and the agency response to them:**

(Public Comment): Several individuals expressed concern that the educational requirements established for educational interpreters in R7-2-620 are not high enough. It was recommended that either an associates degree or a bachelor's degree be adopted.

(Agency Response): This rules package will provide the first guidance for minimum qualifications for educational interpreters, and we are still in the process of gathering data regarding current vacancies for these positions and qualifications of existing personnel. While the above recommendation may be appropriate to consider at a later date, these initial qualifications should establish a realistic baseline and not enhance the current shortage of professionals providing educational interpreter services. An ongoing dialogue with the field should be established to continually evaluate the standards and discuss modifications.

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

No

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

None

**14. Was this rule previously adopted as an emergency rule?:**

No

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

**TITLE 7. EDUCATION**

**CHAPTER 2. STATE BOARD OF EDUCATION**

**ARTICLE 4. SPECIAL EDUCATION**

Section

R7-2-407. ~~Reserved~~ Special Education Standards and Assistance for Providing Educational Services and Materials for Visually Impaired Students

**ARTICLE 6. CERTIFICATION**

Section

R7-2-610. Special Education Teaching Certificates

R7-2-620. Qualification Requirements of Professional, Non-Teaching School Personnel

**ARTICLE 4. SPECIAL EDUCATION**

**R7-2-407. ~~Reserved~~ Special Education Standards and Assistance for Providing Educational Services and Materials for Visually Impaired Students**

**A.** All requirements in this Section are in addition to the general special education standards in R7-2-401 for public education agencies providing special education.

**B.** For the purposes of this rule, the following definitions apply:

1. "Accessible Electronic File" means, until the effective date of a nationally adopted file format, a digital file in a mutually agreed upon electronic file format that has been prepared using a markup language that maintains the structural integrity of the information and can be processed by Braille conversion software. Upon the effective date of a nationally adopted file format, such as the Instructional Materials Accessibility Standard (IMAS), "Accessible Electronic File" shall mean an electronic file conforming to the specifications of the nationally adopted file format, including future technical revisions and versions of this nationally adopted file format.

2. "Individualized Braille literacy assessment" means the Learning Media Assessment or other standardized or individualized assessments that pertain to the child's reading medium.

3. "Non-printed instructional materials" means non-printed textbooks and related core materials, including those that require the availability of electronic equipment in order to be used as a learning resource, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. These materials shall be available to the extent technologically available, and may include software programs, CD-ROMs and internet-based materials.

4. "Printed instructional materials" means textbooks and related printed core materials, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. This may include workbooks, practice tests and tests.

5. "Publisher" means an individual, firm, partnership or corporation that publishes or manufactures printed instructional materials for students attending public schools in Arizona, including an on-line service, a software developer, or a distributor of an electronic textbook.

6. "Specialized format" means Braille, audio or digital text which is exclusively for use by blind or other persons with disabilities.

7. "Structural integrity" means the structure of all parts of the printed instructional material will be kept intact to the extent feasible and as mutually agreed upon by the publisher and the local educational agency. This may include appropriate representation of graphic illustrations.

**C.** Upon determination of a student having a visual impairment as assessed by a full and initial evaluation defined in R7-2-401(E)(6)(i), a visually impaired student who is determined to be blind as defined by A.R.S. § 15-214(B) shall receive an individualized Braille literacy assessment.

**D.** Individualized Education Programs (IEP) for Blind students. In addition to the requirements for establishing and implementing an IEP consistent with R7-2-401(F) for a student determined to have a disability, each IEP for a student determined to be "blind" as assessed by R7-2-401(E)(6)(i) and defined by A.R.S. § 15-214(B), shall presume that proficiency in Braille is essential in achieving academic success unless otherwise determined by the IEP team established consistent with the regulations for the most recent reauthorization of the Individuals with Disabilities Education Act (IDEA) and in the manner provided by the most recent reauthorization of the IDEA Act for developing an IEP. An IEP developed under

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this Section for a student determined to be blind shall include all required provisions of A.R.S. § 15-214(A)(3), including the following:

1. The results of the individualized Braille literacy assessment.
2. The date on which Braille instruction will begin, the methods to be used and the frequency and duration of the Braille instruction.
3. The level of competency expected to be achieved within specified time-frames and the objective measures to be used for evaluation.
4. The Braille materials and equipment necessary to achieve the stated expected competency gains, including ordering instructional materials to achieve the I.E.P.-stated goals.
5. The rationale for not providing Braille instruction if Braille is not determined to be an appropriate medium by the IEP team and is not included in the IEP.

**E.** The Arizona Department of Education shall designate a central repository for publishers to, upon request, provide accessible electronic files for instructional materials used by public schools in Arizona as defined in subsection (B)(1). The central repository shall be responsible for maintaining a complete list of available accessible electronic files for instructional materials and instructional materials in specialized formats, processing requests from PEAs for instructional materials in specialized formats and providing access to these materials in specialized formats to schools throughout Arizona that are providing services to blind or other students with disabilities.

1. Upon receipt of a written request certifying to the requirements set forth in subsections (a) through (c) publishers shall deliver to the repository, at no additional cost and consistent with the time-frame for providing materials for students without disabilities, accessible electronic files for printed instructional materials and non-printed instructional materials. Certification shall include all of the following:
  - a. The PEA purchased a copy of the printed instructional material or non-printed instructional material for use by a student who is blind or has a visual impairment in a course which the student is attending or registered to attend;
  - b. The student who will utilize the instructional materials in a specialized format has an IEP stating that such materials and/or equipment are necessary for the student to achieve stated expected competency gains; and
  - c. The instructional materials are for use by the student in connection with a course in which he/she is enrolled, as verified by the person overseeing the education of students who are blind or visually impaired.
2. A PEA may access the materials maintained by the central repository, upon written request, for instructional use with a student with a visual impairment, as identified by R7-2-401(E)(6)(i), who requires the use of instructional materials in a specialized format pursuant to the student's IEP.
3. Nothing in this Section shall be construed to prohibit the central repository from assisting a student with a disability by using the electronic format version of instructional material provided pursuant to this Section solely to transcribe or arrange for the transcription of the printed instructional material into Braille or large print. In the event a Braille transcription is made, the central repository has the right to share the Braille copy of the printed instructional material with other eligible students with disabilities. The PEA will be required to return the specialized format version of the instructional material to the central repository when the student no longer needs the instructional material. The central repository may share the copies of the specialized format of the instructional material with other PEAs who have met the requirements of subsections (B) and (D) of this Section to provide services to students who require such services pursuant to R7-2-401(F)(5).

**ARTICLE 6. CERTIFICATION**

**R7-2-610. Special Education Teaching Certificates**

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-617.
- B.** Terms used in this Section are defined in A.R.S. § 15-761.
- C.** Provisional Cross-Categorical Special Education Certificate -- grades K-12
  1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
  2. The holder is qualified to teach students with mild to moderate mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments.
  3. The requirements are:
    - a. A bachelor's degree;
    - b. One of the following:
      - i. Completion of a teacher preparation program in special education from an accredited institution, which included courses in mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments; or
      - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum with students representing at least three of the five disability areas. Special education courses shall include survey of exceptional students; teaching methodologies and strategies for students with disabilities; foundations course in

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- mild to moderate mental retardation, learning disability, emotional disabilities, and physical/health impairment; and diagnosis and assessment of mild disabilities. Two years of verified teaching experience in special education in grades K-12 may substitute for the eight semester hours of practicum; or
- iii. A valid cross-categorical special education certificate from another state.
  - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
  - d. A passing score on the cross-categorical special education portion of the Arizona Teacher Proficiency Assessment; and
  - e. A valid Class 1 or Class 2 fingerprint clearance card.
- D. Standard Cross-Categorical Special Education Certificate -- grades K-12**
1. The certificate is valid for six years.
  2. The holder is qualified to teach students with mild to moderate mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments.
  3. The requirements are:
    - a. Qualification for the provisional cross-categorical Special Education certificate;
    - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
    - c. A valid Class 1 or Class 2 fingerprint clearance card.
- E. Provisional Specialized Special Education Certificate -- grades K-12**
1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
  2. The holder is qualified to teach students with mental retardation, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
  3. The requirements are:
    - a. A bachelor's degree;
    - b. One of the following:
      - i. Completion of a teacher preparation program in the specified area of special education from an accredited institution; or
      - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum in the designated area of disability. Special education courses shall include survey of exceptional students; teaching methodologies for students with disabilities; foundations of instruction in the designated area of disability; and diagnosis and assessment of disabilities. Two years of verified teaching experience in the area of disability in grades K-12 may be substituted for the eight semester hours of practicum; or
      - iii. A valid special education certificate in the specified area from another state.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - d. A passing score on the specified disability special education portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid Class 1 or Class 2 fingerprint clearance card.
- F. Standard Specialized Special Education Certificate -- grades K-12**
1. The certificate is valid for six years.
  2. The holder is qualified to teach students with mental retardation, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
  3. The requirements are:
    - a. Qualification for the provisional Special Education certificate;
    - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
    - c. A valid Class 1 or Class 2 fingerprint clearance card.
- G. Provisional Severely and Profoundly Disabled Certificate -- grades K-12**
1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
  2. The requirements are:
    - a. A bachelor's degree;
    - b. One of the following:
      - i. Completion of a teacher preparation program in severely and profoundly disabled education from an accredited institution; or
      - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with severe and profound disabilities, foundations of instruction of students with severe and profound disabilities, and diagnostic and assessment procedures for students with severe and profound disabilities. Two years of verified teaching experience with students in grades Prekindergarten-12 who are severely and profoundly disabled may be substituted for the eight semester hours of practicum; or
      - iii. A valid Severely and Profoundly Disabled certificate from another state.

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- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
  - d. A passing score on the severely and profoundly disabled special education portion of the Arizona Teacher Proficiency Assessment; and
  - e. A valid Class 1 or Class 2 fingerprint card.
- H. Standard Severely and Profoundly Disabled Certificate -- grades K-12
- 1. The certificate is valid for six years.
  - 2. The requirements are:
    - a. Qualification for the provisional severely and profoundly disabled certificate;
    - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
    - c. A valid Class 1 or Class 2 fingerprint clearance card.
- I. Provisional Hearing Impaired Certificate -- grades K-12
- 1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
  - 2. The requirements are:
    - a. A bachelor's degree;
    - b. One of the following:
      - i. Completion of a teacher preparation program in hearing impaired education from an accredited institution; or
      - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the hearing impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with hearing impairment, foundations of instruction of students with hearing impairment, and diagnostic and assessment procedures for the hearing impaired. Two years of verified teaching experience in the area of hearing impaired in grades Prekindergarten-12 may be substituted for the eight semester hours of practicum; or
      - iii. A valid hearing impaired certificate from another state.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - d. A passing score on the hearing impaired special education portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid Class 1 or Class 2 fingerprint clearance card.
- J. Standard Hearing Impaired Certificate -- grades K-12
- 1. The certificate is valid for six years.
  - 2. The requirements are:
    - a. Qualification for the provisional hearing impaired certificate;
    - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
    - c. A valid Class 1 or Class 2 fingerprint clearance card.
- K. Provisional Visually Impaired Certificate -- grades K-12
- 1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
  - 2. The requirements are:
    - a. A bachelor's degree;
    - b. One of the following:
      - i. Completion of a teacher preparation program in visual impairment from an accredited institution; or
      - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the visually impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with visual impairment, foundations of instruction of students with visual impairment, and diagnostic and assessment procedures for the visually impaired. Two years of verified teaching experience in the area of visually impaired in grades Prekindergarten-12 may be substituted for the eight semester hours of practicum; or
      - iii. A valid visually impaired special education certificate from another state.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - d. A passing score on the visually impaired special education portion of the Arizona Teacher Proficiency Assessment; and
    - e. Demonstration of competency in Braille through one of the following:
      - i. A passing score on the original version of the National Library of Congress certification exam; or
      - ii. A valid certificate for a literary Braille transcriber issued by the National Library of Congress; or
      - iii. A passing score on a Braille exam administered by another state; or
      - iv. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
    - f. A valid Class 1 or Class 2 fingerprint clearance card.

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- L. Standard Visually Impaired Certificate -- grades K-12
  1. The certificate is valid for six years.
  2. The requirements are:
    - a. Qualifications for the provisional visually impaired certificate;
    - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
    - c. A valid Class 1 or Class 2 fingerprint clearance card.
- M. Provisional Speech and Language Impaired Certificate -- grades K-12
  1. This certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
  2. The requirements are:
    - a. A bachelor's degree;
    - b. One of the following:
      - i. Completion of a teacher preparation program in speech and language special education from an accredited institution; or
      - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 30 semester hours of special education courses for the speech impaired. Special education courses shall include survey of exceptional students, teaching methodologies for students with speech impairment, foundations of instruction of students with speech impairment, diagnostic and assessment procedures for the speech impaired, and a minimum of 200-clock hours of supervised clinical practice in providing speech and language impairment services. All clinical practice clock hours shall be supervised by an American Speech and Language Association-certified pathologist or by a state-certified speech and language therapist; or
      - iii. A valid Speech and Language Impaired special education certificate from another state.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - d. A passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid Class 1 or Class 2 fingerprint clearance card.
- N. Standard Speech and Language Impaired Certificate -- grades K-12
  1. The certificate is valid for six years.
  2. The requirements are:
    - a. Qualification for the provisional speech and language impaired certificate;
    - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
    - c. A valid Class 1 or Class 2 fingerprint clearance card.
- O. Provisional Early Childhood Special Education Certificate -- Birth to five years
  1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
  2. The requirements are:
    - a. A bachelor's degree;
    - b. One of the following:
      - i. Completion of a teacher preparation program in early childhood special education from an accredited institution; or
      - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including child development and learning, language development, social and emotional development, curriculum development and implementation, and assessment and evaluation, early childhood special education, and eight semester hours of practicum in early childhood special education. Two years of verified teaching experience in the area of early childhood special education may be substituted for the eight semester hours of practicum; or
      - iii. A valid early childhood special education certificate from another state.
    - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
    - d. A passing score on the early childhood special education portion of the Arizona Teacher Proficiency Assessment; and
    - e. A valid Class 1 or Class 2 fingerprint clearance card.
- P. Standard Early Childhood Special Education Certificate -- Birth to five years
  1. The certificate is valid for six years.
  2. Requirements are:
    - a. Qualify for the provisional early childhood Special Education certificate;
    - b. Passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
    - c. A valid Class 1 or Class 2 fingerprint clearance card.

**R7-2-620. Qualification Requirements of Professional, Non-Teaching School Personnel**

**A. Definitions:**

1. "Educational Interpreter." For the purposes of this Section, "educational interpreter" means a person trained to translate in sign language for students identified to require such services through an Individualized Education Program



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(IEP) or a 504 accommodation plan in order to access academic instruction. This does not in any way restrict the provisions of R7-2-401(B)(14) which defines "interpreter" and provides that each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE, nor does it restrict a school district's ability to develop a job description for someone in a position of "educational interpreter" that requires additional job responsibilities.

2. "Accommodation plan developed to comply with Section 504 of the Rehabilitation Act of 1973, 29 USC 794, et seq. ("504 accommodation plan)". For the purposes of this Section, "504 accommodation plan" means a plan developed for the purpose of specifying accommodations and/or services that will be implemented by classroom teachers and other school personnel so that students will benefit from their educational program.

**B. Educational Interpreters for the Hearing Impaired**

1. Persons employed by or contracting with schools and school districts to provide educational interpreting services for hearing impaired students must meet the following qualifications from and after January 1, 2005:
  - a. Have a high school diploma or GED;
  - b. Hold a valid fingerprint clearance card, and
  - c. Show proficiency in interpreting skills through one of the following:
    - i. A minimum passing score of 3.5 or higher on the Educational Interpreter Performance Assessment (EIPA), or
    - ii. Hold a valid Certificate of Interpretation (CI) and/or Certificate of Transliteration (CT) from the Registry of Interpreters for the Deaf (RID), or
    - iii. Hold a valid certificate from the National Association of the Deaf (NAD) at level 3 or higher.
2. If a public education agency (PEA) is unable to find an individual meeting the above qualifications, the PEA may hire an individual with lesser qualifications, but the PEA is required to provide a professional development plan for the individual they employ to provide educational interpreting services. This professional development plan must include the following:
  - a. Proof of at least twenty-four hours of training in interpreting each year that a valid certification is not held or EIPA passing score is not attained, and
  - b. Documentation of a plan for the individual to meet the required qualifications within three years of employment. If the qualifications are not attained within three years, but progress toward attainment is demonstrated, the plan shall be modified to include an intensive program for up to one year to meet the provisions of subsection (B)(1).
3. An individual employed under the provisions of subsection (2) of this rule must also have the following:
  - a. A valid fingerprint clearance card, and
  - b. A high school diploma or GED.

- C. Compliance with these rules will be reviewed at the same time as a PEA is monitored for compliance with the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq.**

**NOTICE OF FINAL RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR POLLUTION CONTROL**

**PREAMBLE**

1. **Sections Affected**

R18-2-210	<b><u>Rulemaking Action</u></b>
R18-2-333	Amend
R18-2-901	Amend
R18-2-1101	Amend
Appendix 2	Amend
2. **The specific 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)(10), 49-404(A) and 49-425(A)
3. **The effective date of the rules:**

September 27, 2004
4. **A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 1319, April 2, 2004  
Notice of Proposed Rulemaking: 10 A.A.R. 1338, April 9, 2004
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Notices of Final Rulemaking

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**6. 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 adopting 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, and 63, have been updated from July 1, 2001, to July 1, 2003, in R18-2-901 and R18-2-1101(B). Federal regulations already incorporated by reference from 40 CFR Part 61 have been updated from July 1, 2001 to July 1, 2002 in R18-2-1101(A). 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).

**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 bypass 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).

**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 dermal health effects.

**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.

**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 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.

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.

**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). 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). 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).

**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).

**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).

**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 CCCC - 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. 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.

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).

**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.

**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/Standards** [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 hazardous 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 QQQQQ - 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).

**Part 63, Subpart SSSSS - 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.

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 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.

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[X]), 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.

**7. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to 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

**8. 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

**9. 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, if any, have already occurred, and were considered when the federal regulation was proposed and adopted. These rules impose no additional costs on the regulated community, small businesses, political subdivisions, or members of the public.

One of the added federal subparts, 40 CFR Part 63, Subpart AAAA (National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills) has the potential to impact municipalities if emissions exceed 50 Mg/year. ADEQ has determined that its seven permitted municipal solid waste landfills, which are located outside of Maricopa, Pima, and Pinal Counties, are not currently subject to the new subpart.

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

### **10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor technical and grammatical changes were made.

### **11. A summary of the comments made regarding the rule and the agency response to them:**

None

**12. Any other matter prescribed by statute that is applicable to the specific agency or to any other specific rule or class of rules:**

Not applicable

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

New incorporations by reference (subparts or larger)

Location

40 CFR 63, subparts J, XX, QQQ, UUU, AAAA, HHHH, JJJJ, 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)

Location

40 CFR 61, listed subparts and accompanying appendices

R18-2-1101(A)

Incorporations by reference updated to 7/1/03

(may include new sections)

Location

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 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, and all appendices

Appendix 2

**14. Were these rules previously made as emergency rules?**

No

**15. The full text of the rule 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)

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. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.
- 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. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.

1. Subpart A - General Provisions.
2. Subpart D - Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
3. Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
4. Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.
5. Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
6. Subpart E - Standards of Performance for Incinerators.
7. Subpart Ea - Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced after December 20, 1989 and on or Before September 20, 1994.
8. Subpart Eb - Standards of Performance for 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 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 - Standards of Performance for Portland Cement Plants.
11. Subpart G - Standards of Performance for Nitric Acid Plants.
12. Subpart H - Standards of Performance for Sulfuric Acid Plants.
13. Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.
14. Subpart J - Standards of Performance for Petroleum Refineries.
15. Subpart K - Standards of Performance for 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 - Standards of Performance for 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 - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
18. Subpart L - Standards of Performance for Secondary Lead Smelters.
19. Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.
20. Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
21. Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.

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22. Subpart O - Standards of Performance for Sewage Treatment Plants.
23. Subpart P - Standards of Performance for Primary Copper Smelters.
24. Subpart Q - Standards of Performance for Primary Zinc Smelters.
25. Subpart R - Standards of Performance for Primary Lead Smelters.
26. Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.
27. Subpart T - Standards of Performance for Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
28. Subpart U - Standards of Performance for Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
29. Subpart V - Standards of Performance for Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
30. Subpart W - Standards of Performance for Phosphate Fertilizer Industry: Triple Superphosphate Plants.
31. Subpart X - Standards of Performance for Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
32. Subpart Y - Standards of Performance for Coal Preparation Plants.
33. Subpart Z - Standards of Performance for Ferroalloy Production Facilities.
34. Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.
35. Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
36. Subpart BB - Standards of Performance for Kraft Pulp Mills.
37. Subpart CC - Standards of Performance for Glass Manufacturing Plants.
38. Subpart DD - Standards of Performance for Grain Elevators.
39. Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.
40. Subpart GG - Standards of Performance for Stationary Gas Turbines.
41. Subpart HH - Standards of Performance for Lime Manufacturing Plants.
42. Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.
43. Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.
44. Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
45. Subpart NN - Standards of Performance for Phosphate Rock Plants.
46. Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.
47. Subpart QQ - Standards of Performance for Graphic Arts Industry: Publication Rotogravure Printing.
48. Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
49. Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.
50. Subpart TT - Standards of Performance for Metal Coil Surface Coating.
51. Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
52. Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
53. Subpart WW - Standards of Performance for Beverage Can Surface Coating Industry.
54. Subpart XX - Standards of Performance for Bulk Gasoline Terminals.
55. Subpart AAA - Standards of Performance for New Residential Wood Heaters.
56. Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.
57. Subpart DDD - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
58. Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
59. Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
60. Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.
61. Subpart III - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
62. Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.
63. Subpart KKK - Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
64. Subpart LLL - Standards of Performance for Onshore Natural Gas Processing; SO<sub>2</sub> Emissions.
65. Subpart NNN - Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
66. Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.
67. Subpart PPP - Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.
68. Subpart QQQ - Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
69. Subpart RRR - Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
70. Subpart SSS - Standards of Performance for Magnetic Tape Coating Facilities.
71. Subpart TTT - Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business

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Machines.

72. Subpart UUU - Standards of Performance for Calciners and Dryers in Mineral Industries.
73. Subpart VVV - Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
74. Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills.
75. Subpart AAAA - Standards of Performance for 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 - Standards of Performance for 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. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.
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. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington D.C. 20402-9328.
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.
  - ~~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.

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- 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/Phenolic 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.

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- ~~55-59~~ Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys 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. Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
77. Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing.
78. Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
79. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
80. Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
81. Subpart MMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
82. Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
83. Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands.
84. Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
85. Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

**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.

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.