



# Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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Information .....	1222
Rulemaking Guide .....	1223
<b><u>RULES AND RULEMAKING</u></b>	
<b>Final Rulemaking, Notices of</b>	
9 A.A.C. 22 Arizona Health Care Cost Containment System - Administration .....	1225
9 A.A.C. 22 Arizona Health Care Cost Containment System - Administration .....	1237
9 A.A.C. 22 Arizona Health Care Cost Containment System - Administration .....	1241
9 A.A.C. 28 Arizona Health Care Cost Containment System - Arizona Long-term Care System .....	1243
18 A.A.C. 8 Department of Environmental Quality - Hazardous Waste Management .....	1246
<b><u>OTHER AGENCY NOTICES</u></b>	
<b>Public Information, Notices of</b>	
Arizona Department of Child Safety .....	1267
Department of Emergency and Military Affairs - Division of Emergency Management .....	1267
<b>Oral Proceeding on Proposed Rulemaking (Public Meeting), Notices of</b>	
Arizona Department of Child Safety .....	1269
<b><u>GOVERNOR'S OFFICE</u></b>	
<b>Governor's Executive Orders</b>	
E.O. 2015-01: Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies .....	1271
<b><u>ARIZONA COUNTY NOTICES</u></b>	
Maricopa County Air Quality Department .....	1273
Maricopa County Air Quality Department .....	1302
<b><u>INDEXES</u></b>	
Register Index Ledger .....	1446
Rulemaking Action, Cumulative Index for 2015 .....	1447
Other Notices and Public Records, Cumulative Index for 2015 .....	1450
<b><u>CALENDAR/DEADLINES</u></b>	
Rules Effective Dates Calendar .....	1452
Register Publishing Deadlines .....	1454
<b><u>GOVERNOR'S REGULATORY REVIEW COUNCIL</u></b>	
Governor's Regulatory Review Council Deadlines .....	1455

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

# Arizona Administrative REGISTER

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**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

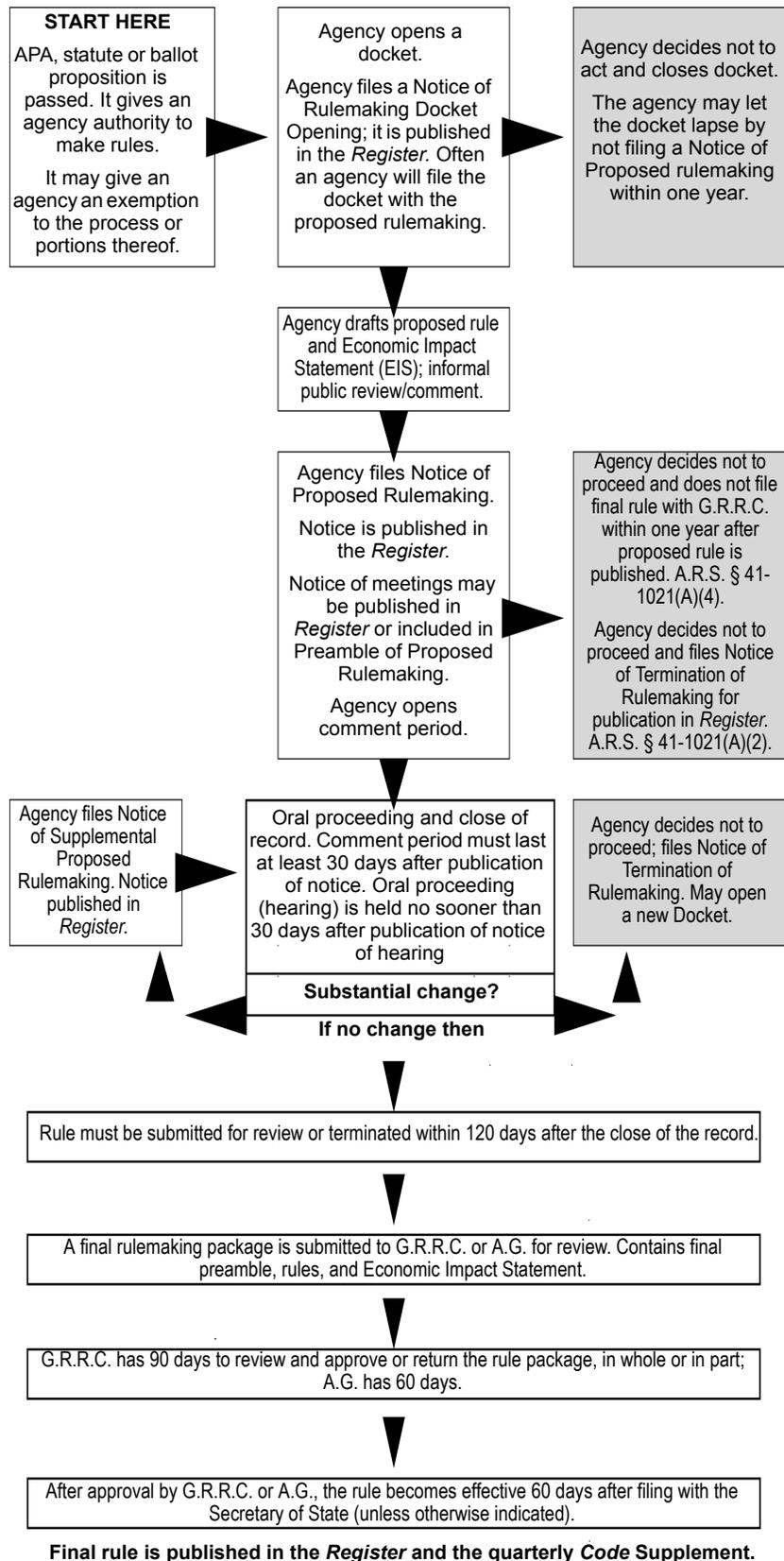
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

# Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.

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## NOTICES OF FINAL RULEMAKING

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This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the *Arizona Administrative Code*.

### TITLE 9. HEALTH SERVICES

#### CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

[R15-74]

#### PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**

R9-22-202	<b><u>Rulemaking Action</u></b>
R9-22-1202	Amend
	Amend
2. **Citations to the agency's statutory rule making authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 36-2903.01, 36-2907  
Implementing statute: A.R.S. §§ 36-2907, 36-2906
3. **The effective date of the rule:**

July 7, 2015

  - a. **If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

The agency is requesting an immediate effective date upon filing with the Secretary of State as specified described under A.R.S. § 41-1032(A)(4). The rulemaking provides a benefit to the public by clarifying payment responsibility for inpatient hospital services. The rulemaking will result in fewer payment disputes and more timely payment of claims. A penalty is not associated with this rulemaking.
  - b. **If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable
4. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 20 A.A.R. 3375, December 5, 2014  
Notice of Proposed Rulemaking: 20 A.A.R. 3334, December 5, 2014
5. **The agency's contact person who can answer questions about the rulemaking:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
701 E. Jefferson St.  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov  
Web site: www.azahcccs.gov



**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Administration is proposing a rulemaking to clarify an issue that has been identified

through the administrative hearing process regarding contractor responsibility for covering inpatient hospital services when both physical and behavioral health services are provided during the same hospital stay. The proposed rule will clarify the reimbursement methodology. The Administration is proposing to clarify through rule, its existing policy that the Regional Behavioral Health Authority (RBHA) is responsible for all inpatient hospital services if the principle diagnosis on the hospital claim is a behavioral health diagnosis. Those claims will be paid in accordance with a per diem fee schedule developed by Arizona Department of Health Services (ADHS) and approved by AHCCCS. Hospital claims that do not have a behavioral health diagnosis as the principle diagnosis will be paid by the acute care contractor using the Diagnosis Related Group (DRG) payment methodology. This proposed amendment will benefit hospitals by clarifying to whom claims should be submitted and the amount of reimbursement that the hospital can expect. The Administration intends to initiate and implement this clarification as soon as possible to reduce billing disputes between hospitals and health plans and to reduce unnecessary administrative hearings arising from those disputes.

In addition, the Governor's Office has approved the rulemaking request on April 27, 2015. The rulemaking is consistent with exemption (2)(b) of the Executive Order 2015-01.

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

A study was not referenced or relied upon when revising the proposed regulations.

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

Not applicable.

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

The Administration anticipates no economic impact on the implementing agency, contractors, providers, small businesses and consumers because the change is clarifying an existing process that is currently implemented in policy and it is consistent with the current rule regarding reimbursement pursuant to R9-22-712.61(B).

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

No significant changes were made between the proposed rulemaking and the final rulemaking.

Clarification to the last sentence of R9-22-1202(A) was made by stating that the ICD code set is required by AHCCCS claims and encounters. The Administration added this language to clarify that AHCCCS requires use of the ICD code set. In addition, under R9-22-1202(C)(4) clarification was made to indicate that AHCCCS is responsible for "covered" inpatient hospital services and where the principal diagnosis on the claim is "not" a behavioral health diagnosis. The meaning of the language was not changed.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The following comments were received as of the close of the comment period of January 5, 2015:



Item #	Comment From and Date rec'd.	Comment	Analysis/ Recommendation
1.	<p>Nathan Jones Northern AZ Regional Behavioral Health Author- ity (NARBHA) Legal Council</p> <p>01/05/15 Verbal com- ment</p>	<p>We are in full support of this rulemaking. We ask for a couple of clarifying points. We are dedicated to following all the rules and laws and contractual expectations of both DBHS and AHCCCS.</p> <p>1. Clarify statement 8 of the NOPR which refers to this as an existing process consistent with current rules. To our knowledge capitation rates have not been based on this particular interpretation. For example current ACOM 432 states that RBHA's are not responsible for non-behavioral health professional fees related to co morbid conditions such as diabetes, hypertension, asthma, etc. I point this out only to say that this rulemaking does represent a change to existing methodology by making the RBHA responsible for all inpatient hospital services when the principal diagnosis on the claim is a behavioral health diagnosis. Again, NARBHA supports this change and all we want to do is provide the best service that we possibly can, but we would respectfully suggest since it does represent a change to existing methodology that we will need some time to implement.</p>	<p>1. Current ACOM Policy 432, which requires a RBHA to pay claims with a primary diagnosis of behavioral health, has been in effect since July 2012. Therefore, Therefore, RBHA's were required to comply with this policy as of the effective date of the policy. The economic impact described in section 8 is accurate.</p> <p>Claims for professional fees are filed separately from inpatient facility claims. Payment of professional fees will vary depending on the primary diagnosis on the professional fee claims.</p> <p>Regardless of the principal diagnosis on the inpatient facility claim, payment responsibility for the professional fee is determined by the primary diagnosis on the professional fee claim.</p> <p>For example, if a member has an inpatient stay with a physical health principal diagnosis but the member receives a psych consult during the inpatient stay, that consult is billed separately on a CMS 1500 with a primary diagnosis of behavioral health, which becomes a RBHA financial responsibility.</p>



	<p>One possible suggestion would be that given the fact that the integrated RBHA contract will be coming into effect on 10/01/15, which would seem a logical implementation timeframe and one we would suggest and support. Given that situations relevant to this rulemaking will often arise with respect to persons who are living with a serious mental illness, for that population come 10/01/15 the acute and behavioral health contractors will be one and the same for that population assuming there has not been an opt out. This would enable the RBHA to provide the highest customer service to AHCCCS, DBHS and to the members. We are proposing a possible 10/01/15 implementation date for the agencies consideration.</p> <p>2. Right now NARBHA subjects non-emergent inpatient hospitalization to prior authorization and emergent hospitalizations to retrospective review based on approved criteria pursuant to the AHCCCS Medical Policy Manual. It is anticipated that this rulemaking will be relevant to emergency situations, especially, and as such, NARBHA would suggest some clarification of the impact to non-inpatient emergency services, such as the emergency department, ambulances, etc. For example current ACOM 432 states an emergency transportation from the community to the hospital ED is the responsibility of the acute care contractor. Whether the rulemaking will change this aspect, whether the issue of correct diagnosis on claims can be explored and utilization and medical management activities, that is some clarification we would request as well. We are trying to suggest these things are in the states interest and to try and provide the best service we can. An effective corporate compliance program, for example, utilization controls, is all parts of the services we provide to the state. These are furthered by RBHA's being able to do things such as, apply authorization and retrospective review criteria with clinical information available, and ensure things such as the diagnosis code on the claim matches the evidence on the chart.</p> <p>3. Finally, NARBHA would like to note that it has not in the memory of any current staff had a claim dispute concerning allocation of financial responsibility between any two plans and the RBHA that has not been resolved amicably without need for a state fair hearing. We think this is evidence of our positive relationship with our provider network and our coordination with the acute care contractors. Once again as part of our service to the state. We respectfully submit that this change should operate prospectively only so that the RBHA can implement it as quickly as possible without changing the resolution of claims that have already been processed in a manner consistent with the understanding of our provider network.</p> <p>Thank you for the opportunity to comment. We want to emphasize again that we are in full support of this change. We ask only these clarifying points and make a few suggestions in interest of only being helpful with the implementation of this rule.</p>	<p>2. This rulemaking is limited to inpatient facility services. Non-inpatient services will be addressed in a separate rulemaking. The comments will be referred to the appropriate parties for consideration when drafting rule related to non-inpatient services.</p> <p>3. See response in item #1 above.</p>
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<p>2.</p>	<p>Julie Bosserman Maricopa Medical Center 01/05/15 Verbal comment</p>	<p>We have a few questions.</p> <p>1. In regards to authorization, NARBHA mentioned that on emergent admissions they do retrospective authorization, in Maricopa County the expectation is that we do prior authorization or notification within the 24 hour or 72 hour based on whether or not the patient is admitted to the ICU or to a floor status. What becomes difficult is when a patient comes in to the medical facility with something to treat medically rather than behavioral health-wise; we are looking to the acute plan for notification, authorization and ongoing concurrent review. It is not until the patient discharges that you actually get the final primary diagnosis. If the patient stays beyond the 24 or 72 hours, and many of ours do, we would exceed the timely notification requirements that are in statute right now. How will this be addressed?</p> <p>2. This dates back to a time before CRS was integrated; we had similar problems then. We would notify the acute plan and then get a denial for the CRS diagnosis. There was a lot of hand holding where the acute plan would deny and refer to CRS, and CRS would deny and refer back to acute plan. Even when it was integrated where APIPA had both acute and CRS patients, the authorization frequently will be routed into the wrong channel inside United Healthcare. You have a stay where you are providing some medically necessary services and the reimbursement is 0 because it goes here and by the time you get the denial and turn around you miss your timely billing. If you could address somehow those administrative issues with authorization and timely filing of the claim?</p> <p>3. Regarding credentialing, we have taken two of these cases to hearing and one thing that does come up, because we are providing only medical services in the acute facility, is that all our physicians are internist; none of our physicians are behavioral health doctors. My guess is that they are billing with a psychiatric diagnosis and are not credentialed with the RBHA. So you have a whole credentialing issue that will come up and you will have all your psychiatric physicians that you have gone through the credentialing and now you will need to credential all your medical doctors with the RBHA.</p> <p>4. My understanding is that rather than the APR DRG reimbursement for a hospital stay it is not going to go to a tiered per day based on the ADHS?</p> <p>5. That is currently around \$670 per day, the APR DRG is hard to compare since that is paid in a lump sum but previous to 10/01/14 we were paid on a tiered per day based on where you're. The ICU day would bring roughly \$2,500 and routine floor around \$1,000, which is significantly more than the \$670 proposed for the tiered per day from ADHS. There will be a significant financial impact to the hospitals making this change if we can get paid and taking a significant cut to the medical reimbursement.</p> <p>6. In rule R9-22-1202 (A) it refers to the mental disorders in the ICD code set. Is it different than the ADHS list that they use, the addendum. Is it different or the same?</p> <p>7. In rule R9-22-1202 (D), in regards to FFS members, is AHCCCS going to be responsible for the FFS members when they have a primary behavioral health diagnosis? What is confusing is where it talks about IHS hospitals or a tribal hospital. What we get is a person who is only eligible for emergency services that come in for withdrawal. I assume the rules applicable would be the same where the RBHAs would be responsible for the emergent service. Would they pay under the APR DRG?</p>	<p>1. In the case of individuals enrolled in managed care, we would like to clarify that by both rule and policy emergency admissions do not require Prior Authorization (PA) and notification cannot be required by the managed care contractor any sooner than the 11<sup>th</sup> day following admission R9-22-210. In reference to FFS, the notification timeframe is 72 hours from the date of admission as cited under R9-22-210; this would only apply when the principal diagnosis is not a behavioral health diagnosis.</p> <p>In the case of the commenter's example the timely notification obligation would have been met to the acute plan. AHCCCS and ADHS/BHS are developing a process in which the acute contractors can assist the RBHA's with authorizing PA and concurrent review through 09/30/15. Effective 10/01/15 the newly awarded integrated RBHA's will be experienced with PA and concurrent review processes.</p> <p>2. This rule is intended to clarify for providers as well as stakeholders the appropriate entity to which to submit a claim for payment.</p> <p>3. This rulemaking relates to claims for inpatient hospital services only. Claims for professional fees are filed separately from inpatient facility claims. The professional claim will have no impact on the inpatient facility claim. With respect to those professional claims that have a behavioral health diagnosis, the RBHA is responsible for payment of professional claims. Therefore, those claims should be filed with the RBHA.</p> <p>The acute plan is responsible for payment of professional claims with a physical health diagnosis. Therefore, those claims should be filed with the acute plan.</p> <p>4. If the principal diagnosis on the inpatient facility claim is behavioral, then the RBHA's will pay the ADHS per diem rate.</p> <p>5. Pursuant to rule, ADHS pays the per diem rates. The difference in payment is a fiscal impact of the APR-DRG rule changes.</p> <p>6. The requirement of this proposed rule is to utilize the latest ICD code set in use for purposes of identifying the principal diagnosis. This is currently the ICD9 code set. Please refer your question directly to ADHS regarding use of the addendum.</p> <p>7. We are assuming that the question is related to services provided to Federal Emergency Services (FES) members. FES members are not assigned to a RBHA. AHCCCS is solely responsible for payment of emergent, behavioral and physical health services for FES members. If the member's service qualifies under the emergency service definition, then the AHCCCS Administration will pay APR DRG rates consistent with R9-22-712.61</p>
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<p>3.</p>	<p>Julie Bosserman Maricopa Medical Center 01/05/15 Written comment</p>	<p>The assignment of financial responsibility by principal diagnosis code has created a lot of confusion because:</p> <p>The ACOM states that the T/RBHA is responsible when the member is <b>medically stable</b>. Patients admitted for acute care services are not “medically stable” and the services provided are medical, not behavioral. For example, acute alcohol withdrawal might require intravenous sedatives to prevent seizures and intubation with mechanical ventilation for airway protection. These patients can be admitted, treated and discharged from an acute hospital <b>without</b> receiving any behavioral health services and the principal diagnosis can be behavioral health. <b>If financial responsibility is going to be assigned by the principal diagnosis, the rule and ACOM must be very clear that the principal diagnosis determines financial responsibility, not the place of service or the services provided. If the principal diagnosis is behavioral, the T/RBHA may be financially responsible for strictly acute care hospitalizations. If the principal diagnosis is medical, an Acute Contractor might be financially responsible for a behavioral health hospitalization.</b></p> <p>2. Admission notification is based on place of service. Acute hospitals notify the acute contractor and behavioral health hospitals notify the T/RBHA. Since the principal diagnosis is not assigned until discharge, facilities are likely to miss the timely notification deadlines if the principal diagnosis does not align with the place of service. <b>How is the rule going to prevent \$0 reimbursement for medically necessary services if the acute plan denies for principal behavioral health diagnosis and the T/RBHA denied for late notification?</b></p> <p>3. It is conceivable that an FES patient can be admitted to an acute care facility with an emergency medical condition related to a principal behavioral health diagnosis. <b>If AHCCCS is responsible for FES reimbursement, how will FES claims with a principal behavioral health diagnosis be adjudicated? Will AHCCCS adjudicate these claims based on the APR-DRG or tier/day? How will the rule ensure these claims are not denied solely on their principal diagnosis?</b></p> <p><b>4. Is credentialing going to be an issue? Our medical doctors are credentialed with the Acute Contractors because they provide acute services. If financial responsibility is going to be assigned by the principal diagnosis, will our medical doctors need to be credentialed with the T/RBHA in order to bill the T/RBHA for acute hospitalizations coded with a principal behavioral health diagnosis?</b></p> <p>5. Current contracts do not address T/RBHA reimbursement for acute stays. <b>What is the expected tier/day reimbursement from the T/RBHA? If the default is ADHS’s rate of \$665.33/day, this is significantly less than the \$2,667.33/day ICU tier and the \$1041.48/day routine tier reimbursement pre-Oct 2014. Depending on the length of stay, this rate will probably be less than the expected APR-DRG payment also. What can be done to ensure hospitals are not significantly underpaid for their services? Will there be an outlier calculation as there was prior to APR-DRG?</b></p> <p>Thank-you for your time and consideration.</p>	<p>1. This is the reason for this rule clarification. ACOM Policy 432 is under revision as well.</p> <p>2. See Item #2 (1) above.</p> <p>3. See Item #2 (7) above.</p> <p>See Item #2 (3) above.</p> <p>5. T/RBHAs will pay the ADHS per diem rates; there is no outlier provision with those rates.</p>
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<p>4.</p>	<p>Jason Bezoza Banner Health 01/05/15</p> <p>Written comments</p>	<p>The Proposed Regulation Perpetuates Confusion On Payment Responsibility Based On Diagnosis and Should Be Clarified</p> <p>Banner was an active participant in the APR-DRG work group. We greatly appreciated the opportunity to assist AHCCCS in crafting this important modernizing change to hospital reimbursement. As with any new reimbursement system, however, no agency, consultant, or work group can anticipate each and every operational or financial repercussion of a new system. Once the focus moves beyond the “big picture” to details, there are invariably unanticipated problems. Such a problem now appears to be emerging with regard to inpatient reimbursement for behavioral health services and medical services originating from behavioral health conditions. Specifically, the proposed R9-22-1202 states, in pertinent part:</p> <p>R9-22-1202. ADHS, Contractor, and Administration and CRS Responsibilities</p> <p>A. ADHS responsibilities. ADHS is responsible for payment of behavioral health services provided to members except as specified under subsection (D) [FFS, ALTCS, and CRS]. ADHS’ responsibility for payment of behavioral health services includes claims for inpatient hospital services, which may include physical health services, when the principle diagnosis on the hospital claim is a behavioral health diagnosis. Behavioral health diagnosis are identified as “mental disorders in the latest “ICD code set.</p> <p>... C. Contractor responsibilities. A contractor shall: ... 4. Be responsible for providing inpatient hospital services, which may include behavioral health inpatient hospital services, when the principle diagnosis on the hospital claim is other than a behavioral health diagnosis. (Underlined in original; italic bold added for emphasis).</p> <p>This language corresponds to that appearing in the APR-DRG regulation at R9-22-715.61(B): ... claims for inpatient services that are covered by a RBHA or TRBHA, where a primary diagnosis is a behavioral health diagnosis, shall be reimbursed as prescribed by ADHS: however, if the primary diagnosis is a medical diagnosis, the claim shall be processed under the DRG methodology. ...</p> <p>We find this language inherently ambiguous. In discussions with various AHCCCS, RBHA, and acute contractor staff, it appears the agency and its contractors believe AHCCCS now equates the presence of a principal “behavioral health diagnosis” with “behavioral health services.” That is, AHCCCS is assuming any time there is a behavioral health diagnosis, the patient receives behavioral health services. Indeed, that is what AHCCCS has stated in the Preamble to these Proposed Rules:</p> <p>The Administration is proposing to clarify through its rule, its existing policy that the RBHA is responsible for all inpatient hospital services if the principle diagnosis on the hospital claim is a behavioral health diagnosis.</p> <p>This assumes a false equivalency between diagnosis and services that is inconsistent with the statutes and regulations taken as a whole, the practice of medicine, the standard of care, and hospital operations industry wide.</p>	<p>1. The objective of this rule is to clarify for hospitals, providers, and other stakeholders which AHCCCS managed care contractor (or T/RBHA) is responsible for the payment of inpatient hospital stays when services are rendered for both physical and behavioral health conditions. We disagree with the commenter that it is less ambiguous to establish a payment rule based on an analysis of the relative degree to which physical health and behavioral health services are described in the detail of the individual claim. As reflected in the proposed rule, the administration has determined that the payment responsibility will be less ambiguous and will result in fewer claim denials if the responsible AHCCCS managed care contractor (or T/RBHA) is identified by the principal diagnosis on the claim for payment. While each inpatient claim can have multiple line-item services provided during a stay (which services can be either physical or behavioral health related), each claim has only one principal diagnosis.</p>
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		<p>The very first sentence of R9-22-1202 begins “ADHS is responsible for payment of behavioral health services . . .” “Behavioral Health Services” is a defined term in R9-22-1201(2)(h), and is restricted to services “for the evaluation and diagnosis or a mental health or substance abuse condition and the planned care, treatment, and rehabilitation of the member.” “Behavioral health services” are not treatments of medical conditions that arise or originate in a behavioral health diagnosis. Some examples from actual cases are:</p> <ul style="list-style-type: none"> <li>• An overdose patient in respiratory distress, on a ventilator and in the ICU for 7 days.</li> <li>• A patient who is in withdrawal and comes to the ED, but has multiple seizures, tachycardia, and an extremely high white blood cell count, who undergoes IV antibiotic treatment and Video EEG.</li> <li>• A chronic smoker who has an acute exacerbation of COPD due to smoking, whose physician describes his condition as arising from “tobacco abuse.”</li> <li>• A patient with confusion and hallucinations, of unknown etiology, whose work up other than initial drug and alcohol screens was entirely neurological, cardiac, renal and infection related, but was ultimately discharged with a diagnosis of “unspecified psychosis.”</li> </ul>	
		<p>Conversely, there are patients in psychiatric units or psychiatric hospitals receiving ONLY behavioral health services who have a principal diagnosis that is not in the “behavioral range” and for whom the RBHA will not pay. Key among these are patients being treated for postpartum depression (code 648.44). This is a recognized behavioral condition, treated as such, and one for which AHCCCS has an explicit clinical policy. Yet the RBHAs will not pay for the services because the code “is not within the behavioral range.”</p> <p>A.A.C. R9-22-1202 should be revised to be consistent with the clear intent of the definitions as well as actual medical practice and standards in the community – patients who receive medical treatment for conditions or effects of their behavioral health principal diagnosis are the payment responsibility of the payer/contractor responsible for acute medical services.</p> <p>We certainly understand that in this electronic and data driven world, the Administration is seeking a “code based” mechanism to streamline financial operations and data collection. But the Administration should not let its desire for simplicity ignore the realities of patient care or create a “black hole” of unpaid claims. And while we understand that the acute contractors have been told they can override diagnosis code denials or recoupments in the claim dispute process after medical review confirms the medical nature of services, this exception process has not been formalized or made public, and we do not know if it is intended to apply to post October 1 claims. We also do not believe the ADHS and the RBHAs have been given the same permission; we certainly have not seen it in operation.</p>	



		<p>We recommend and request the following changes:</p> <ol style="list-style-type: none"> <li>1. The regulation should expressly require that any claim submitted to a payer (ADHS/TRBHA or acute contractor) that denies for improper principal diagnosis code for the payer type be automatically sent for medical review and exception processing based on actual services provided (subject to medical necessity, of course).</li> <li>2. In addition, we ask that the Administration consider establishing a condition code (similar to the "61" used for outliers) that would flag a claim for medical review and exception processing, which could then be documented in the encounter process.</li> </ol> <p>Authorization Problems Created by The Rules Need to Be Addressed.  Diagnosis codes are established after the patient is discharged, not at admission. Indeed the very definition of a "principal diagnosis" is:  "[T]he condition established after study to be chiefly responsible for the admission. Even though another diagnosis may be more severe than the principal diagnosis, the principal diagnosis, as defined above, is [entered on the UB].  CMS Medicare Claims Processing Manual (100-04), Ch. 23 § 10.2</p> <p>The process of assigning diagnosis codes starts with the physician notes and other information in the medical records. After discharge, the record goes through a coding system (software and human validation) that matches the medical record to industry-standard coding requirements, and generates the diagnosis and procedure coding for the claim. This process can take several days, depending on the complexity of the claim and claim type.</p> <p>The Administration's rules require that hospitals notify the responsible plan within a specified time for emergencies and seek authorization. The regulations also permit a plan to deny payment of non-emergency claims for failure to obtain authorization. As currently contemplated, however, the responsible plan is determined by information only available after discharge. Even if limited clinical information about the patient is communicated to admitting staff during the admission process, the coding of that information would not be available, and the information may change at discharge.</p> <p>It is inconsistent with the program goal of "cost containment" and efficiency to promulgate rules which require a hospital to notify two plans for every admission or risk losing the ability to be paid due to failure to notify the "right" payer. In most cases, and absent very obvious circumstances, the hospital will notify the acute contractor. For inpatient admissions, the notified plan has opportunity to concurrently review the stay and can refer the case to the alternate contractor if it believes such a referral is appropriate.</p> <p>We believe that R9-22-1202(C) and (E) should be amended to state that if a hospital notifies or receives authorization from either the acute contractor or ADHS/TRBHA, but subsequently bills the claim to a different AHCCCS payer type based on the principal diagnosis code or subsequent instructions from the authorizing plan, the claim cannot be denied for failure to notify or secure authorization. Put more simply, AHCCCS regulations and policies should presume that notice and authorization information is shared by all AHCCCS payers responsible for the patient. This approach will not only protect the hospital from unfair denials for failure to notify or secure authorization, but will encourage closer communication by the AHCCCS constituent contractors, moving the system closer to an integrated model for all members.</p>	
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<p>5.</p>	<p>Kim Aguirre Northern Cochise Community Hospital 11/21/14 Written comment</p>	<p>Adequacy of Behavioral Per Diem for Medical Cases Finally, we must comment on what we believe will be inadequate rates for medical cases with behavioral principal diagnosis codes if these cases remain an ADHS/TRBHA responsibility. As you are aware, ADHS and its TRBHAs historically have not been responsible for patients being treated medically, even if the principal diagnosis code was “behavioral.” Instead, the ADHS/TRBHA payment responsibility was limited to circumstances in which the patient had a behavioral health principal diagnosis and was receiving “behavioral health services.” The assigned “behavioral” per diem for FY 2014-2015 is \$678.64 per day for all levels of acuity in a general acute care hospital. This rate is consistent with prior ADHS/TRBHA rates for behavioral health services and far below the final AHCCCS tiered per diem rates for hospitals. At the end of FY 2013-2014, the psychiatric tier was approximately \$820 to \$860 per day for Banner hospitals. The ADHS behavioral per diem of \$678.64 is obviously lower than this final psychiatric tier. But more important to this discussion of medical treatment, the ADHS rate is only 2/3 of the final routine tier rate (approximately \$1000 per day), and only 1/4 of the final ICU tier rate (approximately \$2500 per day).</p> <p>We know from our experience that a significant number of patients admitted for withdrawal, suicide attempts, and overdoses are initially admitted to the intensive care unit due to respiratory distress, seizures, cardiac complications, organ failure, fluid or electrolyte imbalances, or other medical complications. Patients are transferred to telemetry or medical floors as their medical condition improves, while still requiring medical treatment. Medical treatment remains the predominant focus until the patient is medically stable and can be discharged to outpatient behavioral treatment or moved to a psychiatric unit or behavioral facility. The cost to Banner for caring for these patients is identical to the cost of caring for any similar medical patient in a general acute care hospital. A per diem based on providing traditional “behavioral health services” is inadequate to cover those costs.</p> <p>To the best of our knowledge, there has been no effort by ADHS or AHCCCS to re-evaluate the behavioral per diem in light of the increase patient acuity that will result from the addition of medical cases to the historic ADHS/TRBHA case mix. We certainly have not been asked to review relevant Banner “principal diagnosis code” claims and encounter data generated by AHCCCS as is typical when the Administration engages in rate setting. If AHCCCS and ADHS are going to persist in using principal behavioral diagnosis code as the determining factor in payer responsibility, the rates should be revisited and, for general acute care hospitals, made commensurate with the final year of the per diems.</p> <p>Thank you again for the opportunity to submit these comments and your consideration. We look forward to continuing to work with AHCCCS and ADHS on the further development of the integrated delivery and payment system through both rule making and policy development. If you have any questions, please contact Jason Bezozo, System Director, Government Relations, at 602-747-8138 or at <a href="mailto:jason.bezozo@bannerhealth.com">jason.bezozo@bannerhealth.com</a>.</p> <p>We welcome a clear rule to the claim process as we go back and forth trying to obtain payment right now primarily with our Emergency Room claims. Please consider this as you finalize the inpatient process.</p>	<p>1. Although this rule delineates fiscal responsibility for inpatient stays, AHCCCS has published AHCCCS Contractor Operations Manual (ACOM) Policy 432 which addresses the emergency room claim issue.</p>
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6.	Julie Bosserman Maricopa Medical Center 11/21/14 Written comment	<p>1. While MIHS appreciates the attempts of this proposed rule to clarify the responsible payer for an inpatient stay, the proposed rule should also clarify that the RBHA is responsible for payment even in situations where the patient was admitted for acute medical services, the Acute Contractor was notified but not the RBHA, and the principal diagnosis on discharge was behavioral health. Conversely, the proposed rule should also clarify that the Acute Contractor is responsible for payment even in situations where the patient was admitted for behavioral health services, the RBHA was notified but not the Acute Contractor, and the principal diagnosis on discharge was medical.</p> <p>2. Currently, the acute contractor is notified when a patient is admitted to MMC for medical services and the RBHA is notified when a patient is admitted to Desert Vista or the Behavioral Health Annex for behavioral health services. Since the principal diagnosis is the condition, after study, which occasioned the admission to the hospital, it may not represent the majority of services provided during the hospitalization. The ambiguity arises when the principal diagnosis assigned at discharge changes the responsible payer and the responsible payer has not received timely notification of the admission.</p> <p>3. Under the proposed rule, the Contractor/RBHA authorizing inpatient services can be prevented from paying a claim secondary to the principal diagnosis on discharge and the claim can be denied by the Contractor/RBHA for lack of notification/prior authorization. It is unclear under the proposed rule where the financial responsibility lies in these circumstances. Is it the RBHA because the principle diagnosis is a behavioral health, even in the absence of prior notification? Or, is it the Contractor as a default payer because the RBHA has denied payment for lack of notification? The proposed rule must make that clear.</p>	<p>See Item #2 (1) above.</p> <p>2. See Item #2 (1) above.</p> <p>3. See Item #2 (1) above.</p>
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**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

No other matters have been prescribed.

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
Although federal law is applicable to the subject matter of the rules, the Administration believes the rules are not more stringent than federal law.
- c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**  
None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**  
Not applicable

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 2. SCOPE OF SERVICES**

Section  
R9-22-202. General Requirements

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES**

Section  
R9-22-1202. ADHS, Contractor, Administration and CRS Responsibilities

**ARTICLE 2. SCOPE OF SERVICES****R9-22-202. General Requirements**

- A.** For the purposes of this Article, the following definitions apply:
1. “Authorization” means written, verbal, or electronic authorization by:
    - a. The Administration for services rendered to a fee-for-service member, or
    - b. The contractor for services rendered to a prepaid capitated member.
  2. Use of the phrase “attending physician” applies only to the fee-for-service population.
- B.** In addition to other requirements and limitations specified in this Chapter, the following general requirements apply:
1. Only medically necessary, cost effective, and federally-reimbursable and state- reimbursable services are covered services.
  2. Covered services for the federal emergency services program (FESP) are under R9-22- 217.
  3. The Administration or a contractor may waive the covered services referral requirements of this Article.
  4. Except as authorized by the Administration or a contractor, a primary care provider, attending physician, practitioner, or a dentist shall provide or direct the member’s covered services. Delegation of the provision of care to a practitioner does not diminish the role or responsibility of the primary care provider.
  5. A contractor shall offer a female member direct access to preventive and routine services from gynecology providers within the contractor’s network without a referral from a primary care provider.
  6. A member may receive physical and behavioral health services as specified in Articles 2 and 12.
  7. The Administration or a contractor shall provide services under the Section 1115 Waiver as defined in A.R.S. § 36-2901.
  8. An AHCCCS registered provider shall provide covered services within the provider’s scope of practice.
  9. In addition to the specific exclusions and limitations otherwise specified under this Article, the following are not covered:
    - a. A service that is determined by the AHCCCS Chief Medical Officer to be experimental or provided primarily for the purpose of research;
    - b. Services or items furnished gratuitously, and
    - c. Personal care items except as specified under R9-22-212.
  10. Medical or behavioral health services are not covered services if provided to:
    - a. An inmate of a public institution; or
    - b. A person who is in residence at an institution for the treatment of tuberculosis.
- C.** The Administration or a contractor may deny payment of non-emergency services if prior authorization is not obtained as specified in this Article and Article 7 of this Chapter. The Administration or a contractor shall not provide prior authorization for services unless the provider submits documentation of the medical necessity of the treatment along with the prior authorization request.
- D.** Services under A.R.S. § 36-2908 provided during the prior period coverage do not require prior authorization.
- E.** Prior authorization is not required for services necessary to evaluate and stabilize an emergency medical condition. The Administration or a contractor shall not reimburse services that require prior authorization unless the provider documents the diagnosis and treatment.
- F.** A service is not a covered service if provided outside the GSA unless one of the following applies:
1. A member is referred by a primary care provider for medical specialty care outside the GSA. If a member is referred outside the GSA to receive an authorized medically necessary service, the contractor shall also provide all other medically necessary covered services for the member;
  2. There is a net savings in service delivery costs as a result of going outside the GSA that does not require undue travel time or hardship for a member or the member’s family;
  3. The contractor authorizes placement in a nursing facility located out of the GSA; or
  4. Services are provided during prior period coverage or during the prior quarter coverage.
- G.** If a member is traveling or temporarily residing outside of the GSA, covered services are restricted to emergency care services, unless otherwise authorized by the contractor.
- H.** A contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in this Chapter and in contract.
- I.** The Administration shall determine the circumstances under which a FFS member may receive services, other than emergency services, from service providers outside the member’s county of residence or outside the state. Criteria



considered by the Administration in making this determination shall include availability and accessibility of appropriate care and cost effectiveness.

- J. The restrictions, limitations, and exclusions in this Article do not apply to a contractor electing to provide non-covered services.
  - 1. The Administration shall not consider the costs of providing a noncovered service to a member in the development or negotiation of a capitation rate.
  - 2. A contractor shall pay for noncovered services from administrative revenue or other contractor funds that are unrelated to the provision of services under this Chapter.
  - 3. If a member requests a service that is not covered or is not authorized by a contractor, or the Administration, an AHCCCS-registered service provider may provide the service according to R9-22-702.
- K. Subject to CMS approval, the restrictions, limitations, and exclusions specified in the following subsections do not apply to American Indians receiving services through IHS or a tribal health program operating under P.L. 93-638 when those services are eligible for 100 percent federal financial participation:
  - 1. R9-22-205(A)(8),
  - ~~2. R9-22-205(B)(4)(f),~~
  - ~~3. R9-22-206,~~
  - ~~4. R9-22-207,~~
  - ~~5. R9-22-212(C),~~
  - ~~6. R9-22-212(D),~~
  - ~~7. R9-22-212(E)(8),~~
  - ~~8. R9-22-215(C)(2) (5), (C)(6), and~~
  - ~~9. R9-22-215(C)(5) (4).~~

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES**

**R9-22-1202. ADHS, Contractor, Administration and CRS Responsibilities**

- A. ADHS responsibilities. ADHS is responsible for payment of behavioral health services provided to members, except as specified under subsection (D). ADHS' responsibility for payment of behavioral health services includes claims for inpatient hospital services, which may include physical health services, when the principal diagnosis on the hospital claim is a behavioral health diagnosis. Behavioral health diagnoses are identified as "mental disorders" in the latest International Classification of Diseases (ICD) code set as required by AHCCCS claims and encounters.
- B. ADHS/DBHS may contract with a TRBHA for the provision of behavioral health services for American Indian members. American Indian members may receive covered behavioral health services:
  - 1. From an IHS or tribally operated 638 facility,
  - 2. From a TRBHA, or
  - 3. From a RBHA.
- C. Contractor responsibilities. A contractor shall:
  - 1. Refer a member to a RBHA under the contract terms;
  - 2. Provide EPSDT developmental and behavioral health screening as specified in R9-22- 213;
  - 3. Coordinate a member's transition of care and medical records; and
  - 4. Be responsible for providing covered inpatient hospital services, which may include behavioral health inpatient hospital services, when the principal diagnosis on the hospital claim is not a behavioral health diagnosis.
- D. Administration and CRS responsibilities.
  - 1. The Administration shall be responsible for payment of behavioral health services provided to an ALTCS FFS or an FES member and for behavioral health services provided by IHS and tribally operated 638 facilities. The Administration is also responsible for payment of behavioral health services provided to these members during prior quarter coverage.
  - 2. CRS shall be responsible for payment of behavioral health services provided to members enrolled with CRS.

**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION**

[R15-75]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R9-22-1001	Amend
R9-22-1002	Amend
R9-22-1003	Amend



**2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 36-2901, 36-2903(F), 36-2903.01(K), and 36-2915.  
Implementing statute: A.R.S. §§ 36-2901, 36-2903(F), 36-2903.01(K), and 36-2915.

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

July 7, 2015

**a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

The agency is requesting an immediate effective date upon filing with the Secretary of State as specified and described under A.R.S. § 41-1032(A)(2), which states "To avoid a violation of federal law or regulation or state law, if the need for an immediate effective date is not created due to the agency's delay or inaction." The rulemaking will bring the agency into compliance with federal law. The agency did not cause a delay or inaction.

**b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 20 A.A.R. 2762, October 10, 2014  
Notice of Proposed Rulemaking: 20 A.A.R. 2745, October 10, 2014

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
701 E. Jefferson St.  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov  
Web site: www.azahcccs.gov

**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Administration is conducting a rule-making necessary to conform AHCCCS rules to federal requirements regarding the obligation of health care providers to bill other insurance (when it is known to exist) before billing AHCCCS. With some exceptions, providers must bill legally liable third parties (like private insurance) before billing AHCCCS. However, federal regulations state that in certain circumstances – such as services provided to children and pregnant women – AHCCCS must pay the provider then AHCCCS or its contractors must seek reimbursement from the third party. In addition, there are a few federal exceptions to the general rule that AHCCCS is the payor of last resort. For example, AHCCCS must assume primary responsibility for payment for services covered through the Indian Health Service or medical services that are provided through schools under the federal Individuals with Disabilities Education Act.

Federal laws that describe Title XIX coordination of benefit requirement and the exceptions to cost avoidance of claims are found in 42 U.S.C. 1396a(a)(25), 42 CFR 433.139.

The following federal laws identify the exceptions to Title XIX as the payor of last resort: 42 CFR 431.110 for IHS; 34 CFR 303.510(c) for the Arizona Early Intervention Program; 34 CFR 300.154 for local educational agencies providing services under the Individuals with Disabilities Education Act (IDEA); 42 USC 300ff-15(a)(6); 300ff-27(b)(7)(F); 300ff-64(f)(1); and 300ff-71(i) for grants under the HIV Health Care Services Program and 45 CFR 400.94 for refugee medical assistance programs.

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

A study was not referenced or relied upon when revising these regulations.

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

Not applicable



- 9. **A summary of the economic, small business, and consumer impact:**  
 The Administration anticipates a minimal economic impact on health plans since the contractors will have the responsibility to pay the claim upfront and then pursue payment by the primary insurer for prenatal, preventive pediatric, and when a third party insurance is provided by an absent parent. The provider will benefit from this change since the claim related to prenatal, preventive pediatric, and third party insurance provided by an absent parent will not be denied and paid when processed if the claim meets timeliness and medically necessary requirements.  
 Minimal = \$1 - \$1M  
 Moderate = \$1M - \$10M  
 Maximum = \$10M - on up
- 10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**  
 No significant changes were made between the proposed rulemaking and the final rulemaking. Technical changes have been made as a result of the Governors Regulatory Review Council staff’s recommendations.
- 11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**  
 No comments were received as of the close of the comment period of November 10, 2014.
- 12. **All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**  
 No other matters are applicable.
  - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
 Not applicable
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
 This rule is not more stringent than the relevant federal laws referenced below. In part, these laws specify that Title XIX is the payor of last resort, except under limited circumstances, that all reasonable measures be taken to ascertain the legal liability of third parties, that coordination of benefits be implemented, and that the AHCCCS shall make payment for specified services without regard to the liability of a third party such that reimbursement from the third party will take place after payment to the provider. Thus, the Administration is promulgating rule to conform third party liability and coordination of benefit requirements in Article 10 to federal law, describing those entities which are the secondary payor to AHCCCS such as Indian Health Services and Tribal 638 facilities and the Arizona Early Intervention Program. In addition, these rules clarify specific services for which AHCCCS and its Contractors shall “pay and chase” the claim rather than “cost avoid” the claim, including prenatal care for pregnant women and preventive pediatric care.  
  
 Federal laws that describe Title XIX coordination of benefit requirement and the exceptions to cost avoidance of claims are found in 42 U.S.C. 1396a(a)(25), 42 CFR 433.139.  
  
 The following federal laws identify the exceptions to Title XIX as the payor of last resort: 42 CFR 431.110 for IHS; 34 CFR 303.510(c) for the Arizona Early Intervention Program; 34 CFR 300.154 for local educational agencies providing services under the Individuals with Disabilities Education Act (IDEA); 42 USC 300ff-15(a)(6); 300ff-27(b)(7)(F); 300ff-64(f)(1); and 300ff-71(i) for grants under the HIV Health Care Services Program and 45 CFR 400.94 for refugee medical assistance programs.
  - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
 Not applicable
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**  
 None
- 14. **Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**  
 Not applicable.
- 15. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION



## ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES

### Section

- R9-22-1001. Definitions  
 R9-22-1002. General Provisions  
 R9-22-1003. Cost Avoidance

## ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES

### R9-22-1001. Definitions

In addition to the definitions in A.R.S. §§ 36-2901, 36-2923 and 9 A.A.C. 22, Article 1, the following definitions apply to this Article:

“Absent parent” means an individual who is absent from the home and is legally responsible for providing financial and/or medical support for a dependent child.

“Cost avoid” means to deny a claim and return the claim to the provider for a determination of the amount of first- or third-party liability.

“First-party liability” means the obligation of any insurance plan or other coverage obtained directly or indirectly by a member that provides benefits directly to the member to pay all or part of the expenses for medical services incurred by AHCCCS or a member.

“Third-party” means a person, entity, or program that is, or may be, liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or member.

“Third-party liability” means any individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished to a member under a state plan.

### R9-22-1002. General Provisions

AHCCCS is the payor of last resort unless specifically prohibited by applicable state or federal law. ~~Entities that pay before AHCCCS include but are not limited to~~ AHCCCS is not the payor of last resort when the following entities are the third-party:

1. Indian Health Services (IHS/638), contract health.
2. Title IV-E,
3. Arizona Early Intervention Program (AZEIP), ~~and~~
4. ~~Contract health.~~
4. Local educational agencies providing services under the Individuals with Disabilities Education Act under 34 CFR Part 300.
5. Entities and contractors of entities providing services under grants awarded as part of the HIV Health Care Services Program under 42 USC 300ff et seq. and
6. The Arizona Refugee Resettlement Program operated under 45 CFR Part 400, Subpart (G).

### R9-22-1003. Cost Avoidance

- A. The Administration’s reimbursement responsibility.
1. The Administration shall pay no more than the difference between the Capped Fee-For-Service schedule and the amount of the third-party liability, unless Medicare is the third-party.
  2. If Medicare is the third-party that is liable, the Administration shall pay the Medicare copayment, coinsurance, and deductible regardless of the Capped Fee-For-Service Schedule, as described under 9 A.A.C. 29, Article 3.
- B. The Contractor’s reimbursement responsibility.
1. If the contract between the contractor and the provider does not state otherwise, a contractor shall pay no more than the difference between the contracted rate and the amount of the third-party liability.
  2. If the provider does not have a contract with the contractor, a contractor shall pay no more than the difference between the Capped Fee-For-Service rate and the amount of the third-party liability.
- C. ~~The requirement to cost avoid applies to all AHCCCS covered services under Article 2 of this Chapter, unless otherwise specified in this Section.~~ The following parties shall take reasonable measures to identify potentially legally liable first- or third-party sources:
1. AHCCCS, the Administration, or a contractor;
  2. A provider;
  3. A noncontracting provider; and
  4. A member.
- D. Except as specified under subsection (E), the Administration or a contractor shall cost avoid a claim for AHCCCS covered services under Article 2 if the Administration or a contractor has established the probable existence of a liable party at the time the claim is filed. Establishing liability takes place when the Administration or the contractor receives confirmation that another party is legally responsible for payment of a health care service under Article 2.
- ~~D.E. When the Administration or a contractor determines that a third party may be liable for services provided, the Administration or contractor shall pay the full amount of the claim according to the Capped-Fee-For-Service Schedule or the contracted rate as described under subsection (B), and then seek reimbursement from any liable parties, when if the claim is for:~~





- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
A study was not referenced or relied upon when revising this regulation.
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. A summary of the economic, small business, and consumer impact:**  
The Administration has petitioned the Governors Regulatory Review Council (GRRC) to allow this rulemaking to be made without an economic impact statement. The petition was approved by GRRC October 7, 2014. The Administration does not anticipate an economic impact since this program has been repealed and unenforced since 2013.
- 10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**  
No significant changes were made between the proposed rulemaking and the final rulemaking, The Notice of Final rulemaking text was updated with recent changes made to R9-22-1431 in a rulemaking made effective January 7, 2014. These changes were not captured in the Notice of Proposed rulemaking published on October 3, 2014. This was an oversight on behalf of the rulewriter but considered a technical change since the program ceased to be funded as of December 31, 2013. The differences were: Where the term “Department” was used it was changed to say “Administration or its designee”, invalid cross-references were removed and the income % updated to 156%. When necessary, technical changes were made as a result of the Governors Regulatory Review Council staff’s recommendations.
- 11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**  
No comments were received as of the close of the comment period of November 3, 2014.
- 12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
Federal law is applicable to the subject matter of the rule, but the rule was not more stringent than federal law. Because the federal waiver governing this program has expired, as identified under item 6, the rule is no longer necessary.
- c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
- 13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**  
None
- 14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**  
Not applicable
- 15. The full text of the rules follows:**

## TITLE 9. HEALTH SERVICES

### CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

#### ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS

Section  
R9-22-1431. Family Planning Services Extension Program (FPEP) Repeal



ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS

R9-22-1431. Family Planning Services Extension Program (FPEP) Repeal

- A. A member who loses eligibility for AHCCCS medical coverage due to the postpartum period ending and who has no other creditable coverage...
B. Review of eligibility.
C. Changes in the member's income after the initial or review eligibility determination shall not impact the member's eligibility during the following 12-month period.
D. The Administration or its designee shall deny or terminate a member from FPEP under this Section if the member:
E. The Administration or its designee shall not reinstate eligibility under this Section after the effective date of a discontinuance of eligibility unless the discontinuance is overturned on appeal or resulted from an administrative error.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ARIZONA LONG-TERM CARE SYSTEM

[R15-77]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rule:
a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):



**4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 21 A.A.R. 495, April 3, 2015  
Notice of Proposed Rulemaking: 21 A.A.R. 487, April 3, 2015

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Mariaelena Ugarte  
Address: AHCCCS  
701 E. Jefferson St.  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov  
Web site: www.azahcccs.gov

**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

This rulemaking is required as a result of the May 2014 Ninth Circuit Court of Appeals Decision in *Alvarez et al v Betlach*. Litigation challenging AHCCCS coverage of incontinence briefs for members in the ALTCS Program was filed in federal court in 2009 by the Arizona Center for Disability Law. The lawsuit sought to compel AHCCCS to provide incontinence briefs and supplies to members in the Arizona Long Term Care Program who were age 21 years and older and who were incontinent as a result of their disabilities in order to prevent skin breakdown. The current rule applicable to this population limits coverage of incontinence briefs for members age 21 and older to circumstances when medically necessary to treat a medical condition, such as an infection, but not for preventive purposes. The Ninth Circuit Court of Appeals determined that AHCCCS is required to provide coverage of incontinence briefs prescribed for members in the Arizona Long-Term Care Program who are 21 years of age and older when medically necessary to prevent skin breakdown and infection.

*Although the AHCCCS Administration filed a Petition of Certiorari with the United States Supreme Court, the Court denied the Petition. As a result, AHCCCS must comply with the Ninth Circuit Court of Appeals Decision which expands coverage of incontinence briefs to include preventive purposes for ALTCS members age 21 years and older.*

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

A study was not referenced or relied upon when revising the regulations for Incontinence Briefs.

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

Not applicable.

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

The Administration anticipates a moderate to high economic impact on the implementing agency, contractors, small businesses and consumers after consideration of national data of incontinence, based on age and gender, which was applied to the ALTCS population. The AHCCCS Administration estimates utilization of incontinence briefs by members in the Arizona Long Term Care Program who are age 21 years and older and who receive services in a home and community based setting (HCBS) to be approximately 25.3%. Accordingly, it is estimated that approximately 8,158 members in the ALTCS Program who are 21 years of age and over and who receive HCBS services may require incontinence briefs for preventive purposes at an estimated annual cost to the Contractors of \$13M.

Minimal = under \$1M

Moderate = \$1M to \$10M

High = \$10M and above

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

No significant changes were made between the proposed rulemaking and the final rulemaking. Technical changes have been made as recommended by the Governor's Regulatory Review Council staff, such as, the conjunction "and" was added to R9-28-202(B)(1).

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The following comments were received as of the close of the comment period of May 4, 2015.



Item #	Rule Cite Line #	Comment From and Date rec'd.	Comment	Analysis/ Recommendation
1.	R9-28-206	Theresa McMahan 03/20/15	Are you aware that "Institutional" includes Skilled Nursing Facilities?	Yes. Please refer to A.A.C. R9-28-204. It is Skilled Nursing Facilities and Intermediate Care Facilities
2.	R9-28-206	Theresa McMahan 03/20/15	Exactly what constitutes a "documented medical condition that causes incontinence of bowel and/or bladder"?	The PCP or attending physician who writes the prescription is responsible for making the determination regarding the member's need for incontinence briefs as delineated in the rule.
3.	R9-28-206	Theresa McMahan 03/20/15	Does this include Severe or Profound Intellectual Disability in the absence of another diagnosis?	The PCP or attending physician who writes the prescription is responsible for making the determination regarding the member's need for incontinence briefs as delineated in the rule.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

No other matters are applicable.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 2. COVERED SERVICES**

Section

R9-28-202. ~~Medical~~ Scope of Services

R9-28-206. ALTCS Services that may be Provided to a Member Residing in either an Institutional or HCBS Setting

**ARTICLE 2. COVERED SERVICES**

**R9-28-202. ~~Medical~~ Scope of Services**

**A.** The Administration or a contractor shall cover medical services specified in 9 A.A.C. 22, Article 2 for a member, subject to the limitations and exclusions specified in Article 2, unless otherwise specified in this Chapter.

**B.** In addition, for members living in an HCBS setting, incontinence briefs for a member 21 years of age and older, including pull-ups, are covered in order to:

1. Treat a medical condition; and

2. Prevent skin breakdown when all the following are met:

a. The member is incontinent due to a documented medical condition that causes incontinence of bowel and/or bladder.

b. The PCP or attending physician has issued a prescription ordering the incontinence briefs.

c. Incontinence briefs do not exceed 180 briefs per month unless the prescribing physician presents evidence of medical necessity for more than 180 briefs per month.

d. The member obtains incontinence briefs from vendors within the Contractor's network, and



- e. Prior authorization has been obtained if required by the Administration, Contractor, or Contractor’s designee, as appropriate. Contractors shall not require prior authorization more frequently than every twelve months.

**C. Incontinence brief coverage for a member under age 21 is described under R9-22-212.**

**R9-28-206. ALTCS Services that may be Provided to a Member Residing in either an Institutional or HCBS Setting**

The Administration shall cover the following services if the services are provided to a member within the limitations listed:

1. Occupational and physical therapies, speech and audiology services, and respiratory therapy:
  - a. The duration, scope, and frequency of each therapeutic modality or service is prescribed by the member’s primary care provider or attending physician;
  - b. The therapy or service is authorized by the member’s contractor or the Administration; and
  - c. The therapy or service is included in the members case management plan;
  - d. AHCCCS will not cover more than 15 outpatient physical therapy visits for the contract year with the exception of the required Medicare coinsurance and deductible payment as described in 9 A.A.C. 29, Article 3.
2. Medical supplies, durable medical equipment, and customized durable medical equipment, which conform with the requirements and limitations of 9 A.A.C. 22, Article 2 and as described under R9-28-202 for persons in HCBS settings;
3. Ventilator dependent services:
  - a. Inpatient or institutional services are limited to services provided in a general hospital, special hospital, NF, or ICF-MR. Services provided in a general or special hospital are included in the hospital’s unit tier rate under 9 A.A.C. 22, Article 7;
  - b. A ventilator dependent member may receive the array of home and community based services under R9-28-205 as appropriate.
4. Hospice services:
  - a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;
  - b. Covered hospice services for a member are those allowable under 42 CFR 418.202, December 20, 1994, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments; and
  - c. Covered hospice services do not include:
    - i. Medical services provided that are not related to the terminal illness, or
    - ii. Home delivered meals.
  - d. Medicare is the primary payor of hospice services for a member if applicable.

**NOTICE OF FINAL RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

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

[R15-73]

**PREAMBLE**

<b><u>1. Article, Part or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R18-8-260	Amend
R18-8-261	Amend
R18-8-262	Amend
R18-8-263	Amend
R18-8-264	Amend
R18-8-265	Amend
R18-8-266	Amend
R18-8-268	Amend
R18-8-270	Amend
R18-8-271	Amend
R18-8-273	Amend
<b><u>2. Citations to the agency’s statutory rulemaking authority to include the authorizing statutes (general) and the implementing statutes (specific):</u></b>	
Authorizing Statutes: A.R.S. §§ 41-1003 and 49-104	
Implementing Statute: A.R.S. § 49-922	



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

September 5, 2015

**4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rules:**

Notice of Rulemaking Docket Opening: 20 A.A.R. 103, January 10, 2014

Notice of Proposed Rulemaking: 20 A.A.R. 2501, September 12, 2014

**5. The agency’s contact person who can answer questions about the rulemaking:**

Name: Mark Lewandowski

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

Telephone: (602) 771-2230, or (800) 234-5677, enter 771-2230 (Arizona only)

Fax: (602) 771-4381

E-mail: lewandowski.mark@azdeq.gov

**6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Summary. The Arizona Department of Environmental Quality (DEQ) is amending the state’s hazardous waste rules to incorporate changes in federal regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The amendments in this final rule adopt changes to federal regulations that were in effect as of July 1, 2013 for most sections, and update the general incorporation date in Arizona hazardous waste rules from July 1, 2006 to July 1, 2013. A later incorporation date is established in two Arizona rule sections to capture EPA’s solvent-contaminated wipes rule, effective January 31, 2014. This rule also makes technical corrections that the United States Environmental Protection Agency (EPA) has said are necessary to renew Arizona’s authorization to implement federal hazardous waste regulations. DEQ-initiated technical corrections are also included. EPA’s 2008 rule revising the definition of solid waste is not incorporated by this rulemaking. EPA rules recently vacated by a federal court are also excluded or removed.

Background. Congress passed RCRA in 1976 to establish a national “cradle to grave” regulatory system to control the generation, transportation, treatment, storage and disposal of hazardous wastes. Similar to other national environmental laws, states are encouraged to assume most of the responsibility for the program and become “authorized” to implement RCRA and its underlying regulations. This process ensures national consistency and minimum standards while providing flexibility to states to implement the national standards with state and local solutions.

The requirements for state hazardous waste program authorization are found in 40 CFR 271. Federal hazardous waste regulations change from year to year, so states with authorization such as Arizona have a continuing obligation to revise their programs to keep up with federal changes and remain authorized states. [40 CFR 271.21(e)(1)]

Arizona’s hazardous waste rules are found in 18 A.A.C. 8, Article 2 and have been in effect since 1984. EPA granted “final” authorization to Arizona in 1985 to operate its hazardous waste program in Arizona in lieu of the federal hazardous waste program, subject to the limitations imposed by HSWA (see 50 FR 47736, November 20, 1985). EPA last authorized revisions to Arizona’s hazardous waste program on March 17, 2004. (69 FR 12544) Due largely to federal and Arizona requirements requiring equivalency with federal regulations (see 42 U.S.C. 6926(b) and A.R.S. § 49-922(A)), Arizona’s hazardous waste rules incorporate the federal hazardous waste regulations by reference and are mostly identical to the federal regulations. DEQ regularly compares Arizona’s hazardous waste rules to the federal regulations and amends the Arizona rules, as necessary, to comply with state statute and to facilitate continued authorization. Without continued authorization, EPA, rather than DEQ, would administer parts of the hazardous waste program in Arizona. DEQ’s objective with this rulemaking is to continue administering the federal hazardous waste program in Arizona in place of EPA. DEQ believes that regular incorporation of changes and additions to federal language into Arizona rules will simplify and facilitate continued authorization.

What EPA regulations are being incorporated in this rule?

The following is a list of changes in federal hazardous waste regulations that were effective as federal law as of July 1, 2013 or January 31, 2014 and that are incorporated into Arizona rules. They are discussed more fully later.

- 2007 Technical Correction. A correction in 40 CFR 273 that reinserts a definition for “on-site” inadvertently omitted in a previous EPA rulemaking; 72 FR 35666, June 29, 2007.



- National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments; 73 FR 18970, April 8, 2008.
- Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019; 73 FR 31756, June 4, 2008.
- Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities; 73 FR 72912, December 1, 2008. Technical corrections at 75 FR 79304, December 20, 2010.
- Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes; 75 FR 1236, January 8, 2010.
- Hazardous Waste Technical Corrections and Clarifications Rule; 75 FR 12989, March 18, 2010.
- Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, etc.; 75 FR 78918, December 17, 2010.
- Land Disposal Restrictions: Revision of the Treatment Standards for Carbamate Wastes; 76 FR 34147, June 13, 2011.
- Hazardous Waste Technical Corrections and Clarifications Rule; 77 FR 22229, April 13, 2012.
- Revisions to Procedural Rules to Clarify Practices and Procedures Applicable in Permit Appeals Pending Before the Environmental Appeals Board; 78 FR 5281, January 25, 2013.
- Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes; 78 FR 46447, July 31, 2013; (eff. January 31, 2014).

Two EPA rules that became final just after July 1, 2006 were already incorporated by DEQ in its last hazardous waste rulemaking: one regulating cathode ray tubes, and the other, a large corrections rulemaking. For that reason they are not included in this rulemaking. DEQ's last hazardous waste rulemaking was published at 14 A.A.R. 409, February 8, 2008.

#### What other changes are being made to Arizona hazardous waste rules?

DEQ is also making a number of technical corrections in this rule. Changes requested by EPA and related to an authorization review of Arizona rules done in 2009 are at R18-8-260(E)(12)(i), R18-8-260(F)(2), renumbered R18-8-260(F)(6)(a) and R18-8-262(I). Arizona initiated changes are located throughout the rule including R18-8-262(H), R18-8-264(H), R18-8-265(H) and (K), R18-8-270(S), and R18-8-271(Q). The textual changes at R18-8-264(H) and R18-8-265(H) reverse an error DEQ made in incorporating EPA's manifest rule in 2006. The textual changes at R18-8-261(I) also correct earlier incorporation errors.

Arizona Performance Track rules. On May 14, 2009, EPA published a notice indicating that it would be terminating its National Environmental Performance Track Program. ADEQ intends to continue its performance track program known as the Arizona Environmental Performance Track Program. DEQ has made changes to R18-8-260(F)(4) to allow remaining RCRA Performance Track incentives to continue under the Arizona program.

#### Descriptions of EPA regulations incorporated

- 2007 Technical Correction; 72 FR 35666, June 29, 2007. EPA made a technical correction to 40 CFR 273.9 by reinserting a definition for "on-site" that had been inadvertently omitted; 72 FR 35666, June 29, 2007. The definition disappeared between the publication of the July 1, 2005 and July 1, 2006 editions of "40 CFR Parts 266 to 299". It probably was left out during the codification of EPA's Mercury Containing Equipment rule, which was published in the August 5, 2005 FR, and during which § 273.9 was amended. EPA reinserted the previous version of the definition without change.
- National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments; 73 FR 18970, April 8, 2008. In this rulemaking, EPA finalized amendments to the national emission stan-



dards for hazardous air pollutants (NESHAP) for hazardous waste combustors (HWCs), which EPA promulgated on October 12, 2005. EPA clarified several compliance and monitoring provisions, and also corrected several omissions and typographical errors in the final rule. DEQ has determined that none of these types of HWCs exist in Arizona at the present time. DEQ is adopting these amendments under the authority of A.R.S. § 49-922, which directs DEQ to adopt rules to establish a hazardous waste management program equivalent to and consistent with the federal hazardous waste regulations promulgated pursuant to subtitle C of RCRA.

In authorization documents related to the Hazardous Waste portion of this final rule, EPA did not consider the provisions of these amendments to be either more or less stringent than the previous federal requirements, so that states are not required to adopt and seek authorization for them. The EPA rulemaking amended 40 CFR Parts 63, 264, and 266. In this rulemaking, DEQ incorporates into state rule all of the amendments to 264 and 266, without modification. DEQ has proposed to incorporate the amendments to Part 63 in a separate rulemaking. See 20 A.A.R. 1798, July 18, 2014.

- Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019; 73 FR 31756, June 4, 2008. In this rule, EPA amended the list of hazardous wastes from non-specific sources (called F-wastes) by modifying the scope of the EPA Hazardous Waste No. F019 (wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process). EPA amended the F019 listing to exempt wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process, provided that the wastes are not placed outside on the land prior to shipment to a landfill for disposal, and the wastes are placed in landfill units that are subject to or meet the specified landfill design criteria.

In its Federal Register notice for the final rule, EPA stated that the rule was less stringent than the previous federal requirements, so that states are not required to adopt and seek authorization for it. Nevertheless, EPA strongly encouraged states to adopt it. The provisions of the rule must be adopted by an authorized state before they are effective in that state.

The EPA rulemaking amended 40 CFR Parts 261 and 302. In this rulemaking, DEQ is incorporating into state rule the amendments to Part 261, without modification.

- Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities; 73 FR 72912, December 1, 2008. Technical corrections at 75 FR 79304, December 20, 2010. In this rule, EPA finalized an alternative set of generator requirements applicable to laboratories owned by eligible academic entities. The rule provided a flexible and protective set of regulations that address the specific nature of hazardous waste generation and accumulation in laboratories at colleges and universities, as well as other eligible academic entities formally affiliated with colleges and universities. The final EPA rule is optional. Affected entities have the choice of managing their hazardous wastes in accordance with the new alternative regulations or remaining subject to the existing generator regulations.

In its Federal Register notices for the final rule and corrections, EPA considered them to be neither more nor less stringent than the previous federal requirements, so that states are not required to adopt and seek authorization for them. Nevertheless, EPA strongly encouraged states to adopt them. They must be adopted by an authorized state before it can be effective in that state.

The EPA rulemakings amended 40 CFR Parts 261 and 262. In this rulemaking, DEQ is incorporating into state rule all of the amendments to Parts 261 and 262, without modification.

- Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes; 75 FR 1236, March 18, 2010. In this rule, EPA implemented recent changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD) and established notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country. It also specified that all exception reports concerning hazardous waste exports be sent to the International Compliance and Assurance Division in the Office of Enforcement and Compliance Assurance's Office of Federal Activities in Washington, DC, and required U.S. receiving facilities to match EPA provided import consent documentation to incoming hazardous waste import shipments and to submit to EPA a copy of the matched import consent documentation and RCRA hazardous waste manifest for each import shipment.



According to EPA, the rule contains amendments that are both more stringent and less stringent than current federal law. Authorized states must adopt the more stringent parts to maintain authorization. EPA strongly recommends that authorized states adopt those amendments that are less stringent. The EPA rulemaking amended Parts 262, 263, 264, 265, 266, and 271. In this rulemaking, DEQ incorporated into state rule all of the amendments without modification.

- Hazardous Waste Technical Corrections and Clarifications Rule; 75 FR 12989, March 18, 2010. By direct final rule, EPA made a large number of technical changes that correct or clarify several parts of the hazardous waste regulations that relate to hazardous waste identification, manifesting, the hazardous waste generator requirements, standards for owners and operators of hazardous waste treatment, storage and disposal facilities, standards for the management of specific types of hazardous waste and specific types of hazardous waste management facilities, the land disposal restrictions program, and the hazardous waste permit program. The EPA rulemaking amended Parts 260, 261, 262, 263, 264, 265, 266, 268 and 270. On June 4, 2010, EPA withdrew six of the changes. In this rulemaking, DEQ has incorporated into state rule all of the remaining changes without modification.
- Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, etc.; 75 FR 78918, December 17, 2010. In this rule, EPA amended its regulations under RCRA to remove saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded. EPA characterized the changes in the rule as less stringent than the existing Federal requirements. Therefore, States will not be required to adopt and seek authorization for the changes. The EPA rulemaking amended Parts 261 and 268. In this rulemaking, DEQ incorporates into state rule all of the amendments without modification.
- Land Disposal Restrictions: Revision of the Treatment Standards for Carbamate Wastes; 76 FR 34147, June 13, 2011. EPA issued a Direct Final Rule to revise the Land Disposal Restrictions (LDR) standards for hazardous wastes from the production of carbamates and carbamate commercial chemical products, off-specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. EPA characterized the changes in the rule as neither more nor less stringent than the existing Federal requirements. Therefore, States will not be required to adopt and seek authorization for the changes. The rule was promulgated pursuant to HSWA authority and took effect in all states, regardless of their authorization status. The EPA rulemaking amended Parts 268 and 271. In this rulemaking, DEQ incorporates into state rule all of the amendments to Part 268 without modification.
- Hazardous Waste Technical Corrections and Clarifications Rule; 77 FR 22229, April 13, 2012. In this rule, the EPA took final action on two of six technical amendments that were withdrawn in a June 4, 2010, Federal Register partial withdrawal notice. The two technical amendments were: A correction of the typographical error in the entry "K107" in a table listing hazardous wastes from specific sources; and a conforming change to alert certain recycling facilities that they have existing certification and notification requirements under the Land Disposal Restrictions regulations. The EPA changes were to Parts 261 and 266. ADEQ has incorporated those changes without modification.
- Revisions to Procedural Rules to Clarify Practices and Procedures Applicable in Permit Appeals Pending before the Environmental Appeals Board; 78 FR 5281, January 25, 2013; (eff. March 26, 2013) In this rule, EPA revised existing procedures for appeals from RCRA, UIC (underground injection control) and certain water and air permits that are filed with the Environmental Appeals Board (EAB) in an effort to simplify the review process and make it more efficient. Amendments were made to §§ 124.10, 124.16, 124.19, 124.60, 270.42 and 270.155. DEQ opted out of the EAB appeal process for RCRA permits located at 40 CFR 124.19 by 1991 [See R18-8-271(Q)]. DEQ is incorporating only the changes to the part 270 sections with modifications as shown in R18-8-270(P) and (U). In R18-8-271, DEQ is clarifying that it is not incorporating subparts C, D, and G of part 124, which relate to non-RCRA permits, and to RCRA standardized permits, respectively.
- Conditional Exclusions From Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes; 78 FR 46447, July 31, 2013; (parts 260 and 261) (eff. January 31, 2014) In this rule, EPA modified its hazardous waste management regulations for solvent-contaminated wipes by revising the definition of solid waste to conditionally exclude solvent-contaminated wipes that are cleaned and reused and by revising the definition of hazardous waste to conditionally exclude solvent-contaminated wipes that are disposed. The rule's purpose was to provide a consistent regulatory framework appropriate to the level of risk posed by solvent-contaminated wipes while maintaining protection of human health and the environment and reducing overall compliance costs for industry, many of which are small businesses. The rule includes requirements and conditions that are less stringent than those required under the base



RCRA hazardous waste program but is not effective in authorized states until adopted. The EPA changes were to Parts 260 and 261. ADEQ has incorporated those changes without modification.

What regulations are not being incorporated in this rule?

• Standardized Permit Rule; 70 FR 53419, September 8, 2005. In this rule, EPA finalized revisions to the RCRA hazardous waste permitting program to allow for a “standardized permit.” In its last two hazardous waste rulemakings, DEQ discussed but did not propose to incorporate the Standardized Permit rule. No facilities have thus far indicated an interest in a standardized permit. At this time, DEQ has decided to continue with this position, and not burden the hazardous waste rules with an extra set of procedures for a class of permits no one is interested in.

• EPA Revisions to the Solid Waste Definition; 73 FR 64668, October 30, 2008. Effective December 29, 2008, EPA revised the definition of solid waste to exclude certain hazardous secondary materials from regulation under Subtitle C of RCRA. For some time, EPA has been revisiting this rule and has stated that it would modify the rule as a result of a June 30, 2009 public meeting and comments it received. EPA proposed revisions to this rule on July 22, 2011. No final EPA action had been taken at the time of this state rulemaking. Therefore, DEQ is not incorporating the 2008 rule by reference at this time. Adoption of the 2008 rule is not required for authorization.

• Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas; 75, January 2, 2008. This rule was vacated by a federal court. See *Sierra Club & La. Env'tl. Action Network v. EPA*; United States Court of Appeals for the District of Columbia Circuit; Decided; June 27, 2014.

• Expansion of RCRA Comparable Fuel Exclusion, 73 FR 77954, December 19, 2008; and Withdrawal of the Emission-Comparable Fuel Exclusion under RCRA, 75 FR 33712, June 15, 2010. A federal court recently nullified these rulemakings and vacated 40 CFR 261(a)(14) and 261.38. See *NRDC v. EPA*; United States Court of Appeals for the District of Columbia Circuit; Decided June 27, 2014.

• Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities; 79 FR 350, January 3, 2014 (parts 260 and 261) (eff. March 14, 2014). DEQ hazardous waste rules normally incorporate federal regulations revised as of July 1 of a calendar year because this coincides with the revision date for CFR volumes containing Title 40 and makes it simpler to determine the applicable EPA regulations. DEQ makes an exception to this general rule if there is significant stakeholder interest. Through the drafting of this final rule, DEQ received no stakeholder inquiries about this federal regulation. This regulation should be incorporated in DEQ’s next hazardous waste rulemaking.

• Modification of the Hazardous Waste Manifest System; Electronic Manifests, 79 FR 7517, February 7, 2014, eff. Aug. 6, 2014. This EPA rule was published on February 7, but not effective as a final agency action until August, 2014. In addition, EPA indicated that the actual “implementation and compliance date” would be even later. DEQ will consider this rule for incorporation with its next hazardous waste rulemaking.

• Correction in used oil rebuttable presumption text at 40 CFR 261.3. 79 FR 35290, published and effective. June 20, 2014.

• Revisions to the Export Provisions of the Cathode Ray Tube (CRT) rule. 79 FR 36220, published June 26, 2014, effective December 26, 2014.

**7. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or 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 rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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

Identification of the rulemaking:

18 A.A.C. 8, Article 2 (For further information, see Part 6 of this preamble.)

Program Description. Under A.R.S. § 49-922 and federal law, Arizona’s Hazardous Waste Program is responsible for ensuring that all regulated hazardous waste in Arizona is stored, transported, and disposed of properly, and is largely a preventative program to keep hazardous waste from entering the environment. The program maintains an



inventory of hazardous waste generators, transporters and treatment, storage, and disposal (TSD) facilities in Arizona. Permits are issued, managed, and maintained for TSD facilities; this activity includes permit modifications, renewals, closure plans, and financial assurance reviews. Generators, transporters and TSD facilities are inspected periodically. Hazardous waste complaints are investigated. Compliance data is collected and stored. Hazardous waste is tracked from generation to disposal. Compliance assistance is provided, enforcement actions are pursued against significant violators, and oversight is provided for the remediation of contaminated sites.

DEQ's Hazardous Waste Program regulates a universe of over 1500 facilities, including metal platers, chemical manufacturers, laboratories, explosive and munition manufacturers, pesticide manufacturers, hazardous waste TSD facilities, and military installations. There are currently 13 permitted TSD facilities, 181 to 265 large quantity generators, 901 to 1513 small quantity generators, and 217 to 340 transporters. An EPA report shows that over 200,000 tons of hazardous waste were generated in Arizona in 2011. DEQ processes over 30,000 manifests tracking this waste annually. An EPA report of Arizona's 50 largest hazardous waste generators and other related information from 2011 can be found at [www.epa.gov/osw/inforesources/data/br11/state11.pdf](http://www.epa.gov/osw/inforesources/data/br11/state11.pdf)

There are eleven separate federal regulations that are incorporated by this rule, spanning 7 years through July 1, 2013, and for one regulation through January 31, 2014. Looking just at the federal regulations to be incorporated, this rulemaking as a whole will decrease the cost of regulatory compliance by a significant amount. However, the rulemaking's significance for ADEQ's continued authorization is equally important as the rule will also minimize the cost of compliance and preserve procedural rights for Arizona businesses by assuring that ADEQ and not EPA is administering the hazardous waste program. Finally, the rulemaking will close the confusing 7 year gap between the federal regulations and the state rules. DEQ believes that the probable benefits of these rules will outweigh the probable costs.

Impact of EPA regulations incorporated. This rule incorporates into Arizona hazardous waste rules eleven federal rulemakings that became effective between approximately October 11, 2005 and January 31, 2014. EPA has characterized ten of the regulations as either equivalent to or less stringent than previous federal regulations, and DEQ anticipates that there will be only positive economic impacts now that they are adopted into state rule. In addition, although none of the ten equivalent or less stringent changes are required for authorization (because states have the right under federal law to be more stringent), some of the changes would not be effective in Arizona unless adopted by the state. Incorporating these rules by reference reduces the regulatory burden for regulated entities in Arizona.

Incorporating equivalent or less stringent federal regulations also facilitates continued authorization of DEQ's hazardous waste program because there are fewer differing provisions for EPA to analyze and compare. Continued authorization is beneficial because it allows the hazardous waste program to be administered by DEQ at the state level rather than by EPA in San Francisco or Washington.

Incorporation of the rule covering the listed hazardous waste F019 in automobile manufacturing and the rule covering hazardous waste combustors will have little direct impact in Arizona because there are currently no facilities in Arizona that would be subject to them. DEQ believes that incorporating the academic laboratories rule will have a potentially positive economic impact because it creates an option for eligible academic entities to handle what would otherwise be hazardous waste as less regulated "unwanted materials." If an eligible academic entity decides there would be no net benefit in switching to this option, it can choose to stay in the current hazardous waste system. DEQ believes that there are about 30 academic entities currently generating hazardous waste that would be eligible for this option.

In this rulemaking, DEQ has not incorporated EPA's 2005 standardized permits rule, which EPA characterized in 2005 as a rule that "will relieve regulatory burden for all small entities eligible for the rule" "in the form of administrative paperwork burden reduction cost savings." (70 FR at 53447) EPA's hazardous waste standardized permit is not a general permit as defined by A.R.S. § 41-1001, since each standardized permit applies to just one facility. It is actually a simplified individual permit. Since 2005, no sources that DEQ permits have responded to DEQ inquiries indicating interest in switching to or initially using this potentially simpler permit. This lack of interest is, in part, recognition of the transition costs in changing permits, including terminating the current permit. DEQ believes that HW facilities know their costs and potential savings better than a government agency and further believes that if an economic incentive is not there for these facilities, adding the procedure into state rules would have unnecessarily made the rules more complex, and increased the cost of the rulemaking.

One federal regulation, the transboundary rule dealing with exports of spent lead-acid batteries, contained changes that were more stringent than the previous federal regulations. Under both A.R.S. § 49-922 and federal law, ADEQ must adopt federal changes that increase stringency to maintain its program as "equivalent to and consistent with"



the federal program. DEQ also recognized that it had to incorporate this more stringent federal change into Arizona rules to maintain DEQ's authorization for the federal hazardous waste program. Continued authorization is beneficial because it allows the hazardous waste program to be administered by DEQ at the local level rather than by the EPA in San Francisco or Washington.

Technical corrections. This rule also makes a number of state-initiated and EPA-suggested technical corrections. None of the technical corrections would have any economic impact.

The technical corrections to R18-8-260(E)(12)(i) and (F) are necessary for authorization according to communications from EPA during its recent authorization review of Arizona rules. These are sections where, during previous rulemakings, DEQ unintentionally assumed authority for actions that must remain with EPA because the authority is nondelegable. R18-8-260(E)(12) lists exceptions to the general incorporation rule that "EPA" means "DEQ". The corrections are additional exceptions added at R18-8-260(E)(12)(i). The corrections at R18-8-260(F)(2) and renumbered (F)(6) involve exceptions to the general rule that "Administrator" means "Director" and "United States" means "Arizona."

**Reduction of Impact on Small Businesses.** A.R.S. § 41-1035 requires state agencies to reduce the impact of a rulemaking on small businesses, if possible. As discussed above, DEQ has determined that most of the changes have either a potentially positive impact or no impact on small businesses because they are equivalent to or less stringent than the standards currently in existence. The more stringent changes could impact Arizona small businesses if they export spent lead-acid batteries but DEQ is not aware of any of these businesses.

In EPA's rulemaking, EPA "examined a subset of small entities expected to face the largest relative impacts as measured by cost to sales ratios. The average annual gross sales of the potentially impacted small companies within this subset with fewer than 20 employees were found to range from \$0.4 million to \$4.1 million, depending upon the NAICS sector. The annual compliance costs for these companies, as a percentage of average annual gross sales, were found to range from 0.01 percent to 0.08 percent."(75 FR at 1252)

In addition to the impact being relatively small, DEQ has no legal or feasible option other than to adopt the more stringent federal changes. Moreover, adopting more stringent federal changes helps ensure that DEQ remains the primary administrator of the Hazardous Waste Program, and not EPA. This is beneficial to small and large businesses alike.

**Conduct Change Analysis.** Under A.R.S. § 41-1055(A)(1), the agency must discuss the conduct the rule is designed to affect and how it will affect it. The state and federal hazardous waste rules together establish a 'cradle to grave' management system for hazardous waste that deters conduct that would endanger human health or the environment. As stated previously, a significant purpose of the state rules is to allow and encourage EPA to renew its authorization of Arizona's hazardous waste program and prevent EPA from being sole administrator of the program. If EPA became the sole administrator of the hazardous waste program in Arizona, entities previously regulated by DEQ would be harmed in ways that include more difficult communications, probable increased fees and penalties, and a more uncertain regulatory environment.

**Rules More Stringent than Corresponding Federal Law and Imposing the Least Burden Necessary to Achieve the Regulatory Objective.** [A.R.S. § 41-1052(C)(3) and (C)(9)] Since 1984, DEQ hazardous waste rules have contained several procedural requirements that are more stringent than EPA's. These more stringent procedural requirements are authorized by A.R.S. § 49-922, which in directing DEQ to adopt rules, prohibits only non-procedural standards that are more stringent than EPA:

- 1) Hazardous Waste Manifests. DEQ requires hazardous waste generators, transporters and TSD (treatment, storage or disposal) facilities to provide a copy of all hazardous waste manifests to DEQ monthly. [See R18-8-262(I) and (J); R18-8-263(C), R18-8-264(J) and R18-8-265(J).] Federal regulations do not require manifests to be provided to EPA.
- 2) Annual Reports. Hazardous waste large quantity generators and TSD facilities must submit reports [to DEQ] annually rather than every two years as the federal regulations require. [See R18-8-260(E)(3); R18-8-262(H), R18-8-264(I) and R18-8-265(I).]
- 3) Recyclers and Small Quantity generators are required to submit annual reports to DEQ rather than no reports at all. [R18-8-261(J) and R18-8-262(H)]

These more stringent procedural requirements have been in effect since 1984. The Arizona Department of Health Services in 1984, and DEQ since 1987, determined that these more stringent procedural features are necessary for



Arizona to achieve the underlying regulatory objective, which is to “establish a hazardous waste management program equivalent to and consistent with the federal hazardous waste regulations.” [A.R.S. § 49-922(A)] In addition, A.R.S. § 49-922(B)(1) and (2) require rules for “records of hazardous waste” and “submission of reports.” It is clear that DEQ, as the primary enforcement agency, needs to receive a copy of manifests, and that as the primary enforcement agency, it should determine the frequency of reports needed. DEQ’s authority in A.R.S. § 49-922(A) allows procedural requirements to be more stringent than EPA and these are necessary to achieve the objective.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

No changes were made at the time the final rule was submitted to the Governor’s Regulatory Review Council (GRRC). As a result of GRRC staff review, some minor changes were made to make the rule more clear, concise and understandable.

**11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

ADEQ received no public or stakeholder comments about the rulemaking.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

A.R.S. § 41-1037(A)(1) and (2). This rulemaking amends an existing rule that requires a regulatory permit. This rulemaking does not require a general permit because:

- 1) A specific alternative permit is authorized by state statute under A.R.S. § 49-922(B)(5) and;
- 2) General permits as defined as defined by A.R.S. § 41-1001 are not recognized under federal hazardous waste regulations with which ADEQ is required to be consistent.

However, it should be noted that ADEQ has already adopted a federal general permit rule that is similar to Arizona general permits. 40 CFR 270.60, “Permits by Rule”, applies to 3 types of facilities: 1) ocean disposal barges or vessels; 2) injection wells; and 3) publicly owned treatment works. Under the federal rule, these three types of facilities are “deemed to have a RCRA permit if the conditions listed are met.” Only the third category exists in Arizona, and DEQ has incorporated the federal general permit rule for publicly owned treatment works through R18-2-270(A). Note: The hazardous waste standardized permit not incorporated in this rule is not a general permit as defined by A.R.S. § 41-1001, since each standardized permit applies to just one facility.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

A.R.S. § 41-1052(D)(9): These rules are not more stringent than corresponding federal laws, except where there is statutory authority. Since EPA’s first authorization of Arizona’s hazardous waste program in 1985, Arizona rules have been more stringent than EPA’s in the areas of reports and manifests. (See 50 FR at 47736, November 20, 1985) This is authorized under A.R.S. § 49-922(B) which states that DEQ may not adopt a non-procedural standard that is more stringent than EPA. A brief discussion of these more stringent procedural requirements and why they are necessary to achieve the regulatory objective is in item 9 of this preamble.

**c. Whether a person submitted an analysis to the agency regarding the rule’s impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:**

No person has submitted a competitiveness analysis under A.R.S. § 41-1055(I).

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

<u>Federal Citation</u>	<u>State Citation</u>
40 CFR 260	R18-8-260(C)
40 CFR 261	R18-8-261(A)
40 CFR 262	R18-8-262(A)
40 CFR 263	R18-8-263(A)
40 CFR 264	R18-8-264(A)
40 CFR 265	R18-8-265(A)
40 CFR 266	R18-8-266(A)
40 CFR 268	R18-8-268
40 CFR 270	R18-8-270(A)
40 CFR 124	R18-8-271(A)
40 CFR 273	R18-8-273

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable



15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY  
HAZARDOUS WASTE MANAGEMENT

ARTICLE 2. HAZARDOUS WASTES

Section

- R18-8-260. Hazardous Waste Management System: General
- R18-8-261. Identification and Listing of Hazardous Waste
- R18-8-262. Standards Applicable to Generators of Hazardous Waste
- R18-8-263. Standards Applicable to Transporters of Hazardous Waste
- R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities
- R18-8-268. Land Disposal Restrictions
- R18-8-270. Hazardous Waste Permit Program
- R18-8-271. Procedures for Permit Administration
- R18-8-273. Standards for Universal Waste Management

ARTICLE 2. HAZARDOUS WASTES

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

- A. Federal regulations cited in this Article are those revised as of ~~July 1, 2006~~ July 1, 2013 (and no future editions), unless otherwise noted. 40 CFR 124, 260 through 266, 268, 270 and 273 or portions of these regulations, are incorporated by reference, as noted in the text. Federal statutes and regulations that are cited within 40 CFR 124, 260 through 270, and 273 that are not incorporated by reference may be used as guidance in interpreting federal regulatory language.
- B. No change
- C. All of 40 CFR 260 and the accompanying appendix, revised as of ~~January 29, 2007~~ January 31, 2014 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the Department of Environmental Quality (DEQ) with the exception of the following:
  - 1. 40 CFR 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33; ~~and with the exception of the~~
  - 2. The revisions for standardized permits as published at 70 FR 53419;
  - 3. The revisions to the solid waste definition as published at 73 FR 64668;
  - 4. The revisions for the gasification rule as published at 73 FR 57, is incorporated by reference, modified by the following subsections, and on file with the Department of Environmental Quality (DEQ). Copies of 40 CFR 260 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).
- D. No change
  - 1. No change
  - 2. No change
    - a. No change
      - i. No change
      - ii. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
    - c. No change
      - i. At the time the information is submitted to, or otherwise obtained by, the DEQ;
      - ii. No change
      - iii. No change
    - d. No change
      - i. No change
      - ii. No change
      - iii. No change
    - e. No change
      - i. No change



- (1) No change
      - (2) No change
    - ii. No change
      - (1) No change
      - (2) No change
    - iii. No change
      - (1) No change
      - (2) No change
      - (3) No change
      - (4) No change
  - f. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
- E. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
  - 10. No change
  - 11. No change
  - 12. [“EPA,” “Environmental Protection Agency,” “United States Environmental Protection Agency,” “U.S. EPA,” “EPA HQ,” “EPA Regions,” and “Agency” mean the DEQ with the following exceptions:
    - a. Any references to EPA identification numbers;
    - b. Any references to EPA hazardous waste numbers;
    - c. Any reference to EPA test methods or documents;
    - d. Any reference to EPA forms;
    - e. Any reference to EPA publications;
    - f. Any reference to EPA manuals;
    - g. Any reference to EPA guidance;
    - h. Any reference to EPA Acknowledgment of Consent;
    - i. References in §§ 260.2(b) (as incorporated by R18-8-260(D)(2)); 260.10 (definitions of “Administrator,” “EPA region,” “Federal agency,” “Person,” and “Regional Administrator” (as incorporated by R18-8-260(E)); 260, Appendix I (as incorporated by R18-8-260(C)); 260.11(a) (as incorporated by R18-8-260(C)); 261, Appendix IX (as incorporated by R18-8-261(A)); 261.39(a)(5) (as incorporated by R18-8-261(A)); 262.21 (as incorporated by R18-8-262(A)); 262.32(b) (as incorporated by R18-8-262(A)); 262.50 through 262.57 (as incorporated by R18-8-262(A)); 262.60(c) and (e) (as incorporated by R18-8-262(A)); 262.80 through 262.89 (as incorporated by R18-8-262(A)); 262, Appendix (as incorporated by R18-8-262(A)); 263.10(a) Note (as incorporated by R18-8-263(A)); 264.12(a)(2), 264.71(a)(3), 264.71(d), 265.12(a)(2), 265.71(a)(3), 265.71(d); 268.1(e)(3) (as incorporated by R18-8-268); 268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona (as incorporated by R18-8-268);



- 270.1(a)(1) (as incorporated by R18-8-270);
- 270.1(b) (as incorporated by R18-8-270(B));
- 270.2 (definitions of “Administrator,” “Approved program or Approved state,” “Director,” “Environmental Protection Agency,” “EPA,” “Final authorization,” “Permit,” “Person,” “Regional Administrator,” and “State/EPA agreement”) (as incorporated by R18-8-270(A));
- 270.3 (as incorporated by R18-8-270(A));
- 270.5 (as incorporated by R18-8-270(A));
- 270.10(e)(1) through (2) (as incorporated by R18-8-270(A) and R18-8-270(D));
- 270.11(a)(3) (as incorporated by R18-8-270(A));
- 270.32(a) and (c) (as incorporated by R18-8-270(M) and R18-8-270(O));
- 270.51 (as incorporated by R18-8-270(~~P~~)(Q));
- 270.72(a)(5) and (b)(5) (as incorporated by R18-8-270(A));
- 124.1(f) (as incorporated by R18-8-271(B));
- 124.5(d) (as incorporated by R18-8-271(D));
- 124.6(e) (as incorporated by R18-8-271(E));
- 124.10(c)(1)(ii) (as incorporated by R18-8-271(I)); and
- 124.13 (as incorporated by R18-8-271(L)).]

- 13. No change
- 14. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. No change
  - a. No change
  - b. No change
- 23. No change
- 24. No change
- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
- 32. No change

- F. § 260.10, titled “Definitions,” as amended by subsection (E) also is amended as follows, with all definitions in §§ 260.10 (as incorporated by R18-8-260), applicable throughout this Article unless specified otherwise.
  - 1. No change
  - 2. “Administrator,” “Regional Administrator,” “state Director,” or “Assistant Administrator for Solid Waste and Emergency Response” mean the [Director or the Director’s authorized representative, except in §§:
    - 260.10, in the definitions of “Administrator,” “Regional Administrator,” and “hazardous waste constituent” (as incorporated by R18-8-260(E));
    - 261.41 (as incorporated by R18-8-261);
    - 261, Appendix IX (as incorporated by R18-8-261(A));
    - 262, Subpart E;
    - 262, Subpart H;
    - 262, Appendix (as incorporated by R18-8-262);
    - 264.12(a) (as incorporated by R18-8-264(A));
    - 265.12(a) (as incorporated by R18-8-265(A));



- 268.5, 268.6, 268.42(b), and 268.44, which are nondelegable to the state of Arizona (as incorporated by R18-8-268);
- 270.2, in the definitions of “Administrator”, “Director”, “Major facility”, “Regional Administrator”, and “State/EPA agreement” (as incorporated by R18-8-270(A));
- 270.3 (as incorporated by R18-8-270(A));
- 270.5 (as incorporated by R18-8-270(A));
- 270.10(e)(1), (2), and (4) (as incorporated by R18-8-270(A) and R18-8-270(D));
- 270.10(f) and (g) (as incorporated by R18-8-270(A) and R18-8-270(E));
- 270.11(a)(3) (as incorporated by R18-8-270(A));
- 270.14(b)(20) (as incorporated by R18-8-270(A));
- 270.32(b)(2) (as incorporated by R18-8-270(N));
- 270.51 (as incorporated by R18-8-270(A));
- 124.5(d) (as incorporated by R18-8-271(D));
- 124.6(e) (as incorporated by R18-8-271 (E));
- 124.10(b) (as incorporated by R18-8-271(I));~~].~~

3. No change
  - a. No change
  - b. No change
  - c. No change
4. [~~“Member of the Performance Track Program” or “Performance Track member facility” means a facility or generator that has been accepted by EPA for membership in the National Environmental Performance Track Program (as described at <http://www.epa.gov/performance-track/>) and by DEQ for membership in~~ is a current member of the Arizona Environmental Performance Track Program (as described at <http://www.azdeq.gov/function/about-track.html>) ~~http://www.azdeq.gov/function/programs/azept) and is still a member of both programs. The Environmental Performance Track Programs are voluntary programs for top environmental performers. Facility members must demonstrate a good record of compliance, past success in achieving environmental goals, and commit to future specific quantified environmental goals, environmental management systems, local community outreach, and annual reporting of measurable results.]~~
5. No change
6. No change
7. “United States” means [Arizona except ~~for~~ the following:
  - a. ~~§ 261.39(a)(5) (as incorporated by R18-8-261).~~
  - ab. References in §§ 262.50, 262.51, 262.53(a), 262.54(c), 262.54(g)(2), 262.54(i), 262.55(a), 262.55(c), 262.56(a)(4), 262.60(a), ~~and~~ 262.60(b)(2) and 262.60(d) (as incorporated by R18-8-262).
  - bc. All references in Part 263 (as incorporated by R18-8-263), except §§ 263.10(a) and 263.22(c).}
  - d. § 266.80]

- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
- M. No change
  1. No change
  2. No change
  3. No change
- N. No change
  1. No change
  2. No change
  3. No change

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

- A. All of 40 CFR 261 and accompanying appendices, revised as of ~~January 29, 2007~~ January 31, 2014 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:
  1. The revisions for standardized permits as published at 70 FR 53419;
  2. The revisions to the solid waste definition as published at 73 FR 64668;



3. The revisions for the gasification rule as published at 73 FR 57:

4. 40 CFR 261.4(a)(16) and 261.38, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 261 are available at www.gpoaccess.gov/cfr/index.html.

- B. No change
- C. No change
- D. No change
- E. No change

F. § 261.5, titled “Special requirements for hazardous waste generated by conditionally exempt small quantity generators,” paragraph (f)(3) is amended as follows:

(3) A conditionally exempt small quantity generator may either treat or dispose of [the] acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

- (i) Permitted under part 270 of this ~~Chapter~~ chapter [(as incorporated by R18-8-270)];
- (ii) In interim status under parts 270 and 265 of this ~~Chapter~~ chapter [(as incorporated by R18-8-270 and R18-8-265)];
- (iii) Authorized to manage hazardous waste by a state with a hazardous waste management program approved under part 271 of this ~~Chapter~~ chapter;
- (iv) Permitted, licensed, or registered by a state to manage municipal [or industrial solid waste and approved by the owner or operator of the solid waste facility to accept acute hazardous waste from conditionally exempt small quantity generators that have not been excluded from disposing of their waste at such a facility under applicable provisions of the Solid Waste Management Act, A.R.S. §§ 49-701 through 49-791 and] is subject to Part 258 of this ~~Chapter~~ chapter;
- (v) Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in §§ 257.5 through 257.30 of this chapter; or
- (vi) A facility which:
  - (A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
  - (B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
- (vii) For universal waste managed under § part 273 of this chapter [(as incorporated by R18-8-273)], a universal waste handler or destination facility subject to the requirements of § part 273 of this chapter.

G. § 261.5, titled “Special requirements for hazardous waste generated by conditionally exempt small quantity generators,” paragraph (g) is amended as follows:

(g) In order for hazardous waste [, other than acute hazardous waste,] generated by a conditionally exempt small quantity generator in quantities of ~~less than~~ 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this [subsection], the generator [shall] comply with the following requirements:

- (1) § 262.11 of this chapter [(as incorporated by R18-8-262)];
- (2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If [such generator] accumulates at any time ~~more than a total of~~ 1,000 kilograms or greater of [its] hazardous wastes, all of those accumulated [hazardous] wastes are subject to regulation under the special provisions of § part 262 applicable to generators of ~~between~~ greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of §§ parts 263 through 266, 268, 270, and 271 of this chapter [(as incorporated by R18-8-262, R18-8-263 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271)] and the applicable notification requirements of section 3010 of RCRA. The time period of § 262.34(d) [(as incorporated by R18-8-262)] for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;
- (3) A conditionally exempt small quantity generator may either treat or dispose of [its] hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:
  - (i) Permitted under part 270 of this ~~Chapter~~ chapter [(as incorporated by R18-8-270)];
  - (ii) In interim status under parts 270 and 265 of this ~~Chapter~~ chapter [(as incorporated by R18-8-270 and R18-8-265)];
  - (iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this ~~Chapter~~ chapter;
  - (iv) Permitted, licensed, or registered by a ~~state~~ State to manage municipal [or industrial solid waste and approved by the owner or operator of the solid waste facility to accept hazardous waste from conditionally exempt small quantity generators who have not been excluded from disposing of their waste at such a facility pursuant to applicable provisions of the Solid Waste Management Act, A.R.S. §§ 49-701 through 49-791 and] is subject to Part 258 of this ~~Chapter~~ chapter;
  - (v) Permitted, licensed, or registered by a ~~state~~ State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in §§ 257.5 through 257.30 of this chapter; or



- (vi) A facility which:
    - (A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
    - (B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
  - (vii) For universal waste managed under part 273 of this ~~Chapter~~ chapter [(as incorporated by R18-8-273)], a universal waste handler or destination facility subject to the requirements of part 273 of this ~~Chapter~~ chapter.
- H.** No change
- I.** § 261.6, titled “Requirements for recyclable materials,” paragraphs (a)(1) through (a)(3) are amended as follows:
- (a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (b) and (c) of this section, except for the materials listed in paragraphs (a)(2) and (a)(3) of this section. Hazardous wastes that are recycled [shall] be known as “recyclable materials.”
  - (2) The following recyclable materials are not subject to the requirements of this section but are regulated under [40 CFR 266, subparts C, ~~F, G, and H~~ through N (as incorporated by R18-8-266)] and all applicable provisions in parts ~~268, 270 and 124 of this Chapter~~ chapter [(as incorporated by ~~R18-8-268, R18-8-270 and R18-8-271~~)]:
    - (i) Recyclable materials used in a manner constituting disposal (40 CFR part 266, subpart C);
    - (ii) Hazardous wastes burned ~~for energy recovery (as defined in section 266.100(a))~~ in boilers and industrial furnaces that are not regulated under [40 CFR 264 or 265, subpart O (as incorporated by R18-8-264 and R18-8-265)] (40 CFR part 266, subpart H);
    - (iii) Recyclable materials from which precious metals are reclaimed (40 CFR part 266, subpart F);
    - (iv) Spent lead acid batteries that are being reclaimed (40 CFR part 266, subpart G).
    - ~~(v) U.S. Filter Recovery Services XL waste (40 CFR 266, subpart O).~~
  - (3) The following recyclable materials are not subject to regulation under [40 CFR 262 through 266, 268, 270, or 124 (as incorporated by R18-8-262 through R18-8-266, R18-8-268, R18-8-270, and R18-8-271)] and are not subject to the notification requirements of section 3010 of RCRA:
    - (i) Industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in § 262.58:
      - (A) A person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, [shall] comply with the requirements applicable to a primary exporter in §§ 262.53, 262.56(a)(1)-(4), (6), and (b), and 262.57, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in subpart E of part 262, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;
      - (B) Transporters transporting a shipment for export may not accept a shipment if [the transporter] knows the shipment does not conform to the EPA Acknowledgment of Consent, [shall] ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and [shall] ensure that [the EPA Acknowledgment of Consent] is delivered to the [subsequent transporter or] facility designated by the person initiating the shipment.
    - (ii) Scrap metal that is not excluded under § 261.4(a)(13);
    - (iii) Fuels produced from the refining of oil-bearing hazardous ~~wastes~~ waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under § 261.4(a)(12) (as incorporated by R18-8-261));
    - (iv)(A) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under [A.R.S. § 49-801] and so long as no other hazardous wastes are used to produce the hazardous waste fuel;
    - (B) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining[,], production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under [A.R.S. § 49-801]; and
    - (C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under [A.R.S. § 49-801].
- J.** No change
- K.** No change



**R18-8-262. Standards Applicable to Generators of Hazardous Waste**

- A. All of 40 CFR 262 and the accompanying appendix, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 262 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. § 262.41, titled “Biennial report,” is amended as follows:
  - (a) A generator [shall] prepare and submit a single copy of [an annual] report to the [Director] by March 1 [for the preceding calendar] year. The [annual] report [shall] be submitted on [a form provided by the DEQ according to the instructions for the form, shall describe] generator activities during the previous [calendar] year, and shall include the following information:
    - (1) The EPA identification number, name, [location,] and [mailing] address of the generator.
    - (2) The calendar year covered by the report.
    - (3) The EPA identification number, name, and [mailing] address for each off-site [TSD] facility to which waste was shipped during the [reporting] year [, including the name and address of all applicable foreign facilities for exported shipments.]
    - (4) The name, [mailing address], and the EPA identification number of each transporter used [by the generator] during the reporting year.
    - (5) A [waste] description, EPA hazardous waste number (from 40 CFR 261, subpart C or D) [(as incorporated by R18-8-261), U.S. Department of Transportation] hazard class, [concentration, physical state,] and quantity of each hazardous waste [:
      - i. Generated];
      - ii. Shipped off-site. This information must be listed by EPA identification number of each off-site facility to which waste was shipped; and
      - iii. Accumulated at the end of the year].
    - (6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.
    - (7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984.
    - (8) The certification signed by the generator or [the generator’s] authorized representative [, and the date the report was prepared].
    - (9) [A waste description, EPA hazardous waste number, concentration, physical state, quantity, and handling method of each hazardous waste handled on-site in elementary neutralization or wastewater treatment units.]
    - (10)[Name and telephone number of facility contact responsible for information contained in the report.]
  - (b) Any generator who treats, stores, or disposes of hazardous waste on-site, [and is subject to the HWM facility requirements of R18-8-264, R18-8-265, or R18-8-270,] shall submit [an annual] report covering those wastes in accordance with the provisions of 40 CFR 264.75 [(as incorporated by R18-8-264~~(G)~~(I)), and § 265.75 [(as incorporated by R18-8-265~~(G)~~(I)).
- I. Manifests required in 40 CFR 262, subpart B, titled “The Manifest,” (as incorporated by R18-8-262) shall be submitted to the DEQ in the following manner:
  - 1. A generator initiating a shipment of hazardous waste required to be manifested shall submit to the DEQ, no later than 45 days following the end of the month of shipment, one copy of each manifest with the signature of that generator and transporter, and the signature of the owner or operator of the designated facility, for any shipment of hazardous waste transported or delivered within that month. If a conforming manifest is not available, the generator shall submit an Exception Report in compliance with § 262.42 (as incorporated by R18-8-262).
  - 2. A generator shall designate on the manifest in item ~~13~~ “Waste No. Codes,” the EPA hazardous waste number or numbers for each hazardous waste listed on the manifest.
  - 3. A member of the Performance Track Program, as defined in R18-8-260(F), that initiates a shipment of hazardous waste required to be manifested shall submit the manifest to DEQ as specified in subsections (1) and (2), except a manifest may be submitted to DEQ within 45 days following the end of the calendar quarter of shipment rather than within 45 days following the end-of-the month of shipment.
- J. No change
- K. No change
- L. No change
- M. No change

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

- A. All of 40 CFR 263, revised as of ~~July 1, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections of ~~R18-8-263~~, and on file with the DEQ. Copies of 40 CFR 263 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).
- B. No change
- C. No change
- D. No change
- E. No change

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

- A. All of 40 CFR 264 and accompanying appendices, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149, 264.150, and 264.301(l), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 264 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).
- B. No change
- C. No change
- D. No change
  - 1. No change
  - 2. No change
- E. No change
- F. No change
- G. § 264.56, titled “Emergency procedures,” paragraph (d)(2) is amended as follows:
  - (2) [The emergency coordinator, or designee, shall] immediately notify [the DEQ at (602) 771-2330 or (800) 234-5677, extension 771-2330, and notify] either the government official designated as the on-scene coordinator for that geographical area, (~~in the applicable regional contingency plan under 40 CFR 1510~~) or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report [shall include the following]:
    - (i) Name and telephone number of reporter;
    - (ii) Name and address of facility;
    - (iii) Time and type of incident (for example, release, fire);
    - (iv) Name and quantity of material(s) involved, to the extent known;
    - (v) The extent of injuries, if any; and
    - (vi) The possible hazards to human health, or the environment, outside the facility.
- H. § 264.71, titled “Use of manifest system,” paragraph (a)~~(4)(2)(iv)~~ is amended as follows:
  - Within 30 days ~~after the of~~ after the delivery, send a copy of the ~~signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery)~~ to the generator [and submit one copy of each manifest to DEQ, according to R18-8-264~~(+)(J).~~ (+)(J).] and
- I. No change
- J. No change
  - 1. No change
  - 2. If a facility receiving hazardous waste from off-site is also a generator, the owner or operator shall also submit generator manifests as required by R18-8-262~~(+)(I).~~ (+)(I).]
- K. No change
- L. No change
- M. No change
- N. No change
- O. No change
- P. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change

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

- A. All of 40 CFR 265 and accompanying appendices, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 265 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).
- B. No change
- C. No change



- D. No change
  - 1. No change
  - 2. No change
- E. No change
- F. No change
- G. § 265.56, titled “Emergency procedures,” paragraph (d)(2) is amended as follows:
  - (2) [The emergency coordinator, or designee, immediately shall] notify [the DEQ at (602) 771-2330 or 800/234-5677, and notify] either the government official designated as the on-scene coordinator for that geographical area, ~~(in the applicable regional contingency plan under 40 CFR 1510)~~ or the National Response Center (using their 24-hour toll-free number 800/424-8802). The report [shall include the following]:
    - (i) Name and telephone number of the reporter;
    - (ii) Name and address of the facility;
    - (iii) Time and type of incident (for example, release, fire);
    - (iv) Name and quantity of material(s) involved, to the extent known;
    - (v) The extent of injuries, if any; and
    - (vi) The possible hazards to human health, or the environment, outside the facility.
- H. § 265.71, titled “Use of manifest system,” paragraph (a)~~(4)(2)(iv)~~ is amended as follows:
 

Within 30 days ~~after the of~~ delivery, send a copy of the ~~signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery)~~ to the generator [and submit one copy of each manifest to DEQ, according to R18-8-265~~(I)-(J)~~;] and
- I. No change
- J. No change
- K. § 265.90, titled “Applicability,” paragraphs (a) and (d)(1), and § 265.93, titled “Preparation, evaluation, and response,” paragraph ~~(3)(a)~~ (as incorporated by R18-8-265), are amended by deleting the following phrase: “within one year”; and § 265.90, titled “Applicability,” paragraph (d)(2) (as incorporated by R18-8-265), is amended by deleting the following phrase: “Not later than one year.”
- L. No change
- M. No change
- N. No change
  - 1. No change
  - 2. No change
  - 3. No change

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

- A. All of 40 CFR 266 and accompanying appendices, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 266 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).
- B. § 266.100, titled “Applicability” paragraph (c) is amended as follows:
  - (c) The following hazardous wastes and facilities are not subject to regulation under this subpart:
    - (1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in subpart C of part 261 [(as incorporated by R18-8-261)] of this ~~Chapter~~ chapter. Such used oil is subject to regulation under [A.R.S. §§ 49-801 through 49-818] rather than this subpart;
    - (2) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
    - (3) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iii)- and (iv) [(as incorporated by R18-8-261)] of this ~~Chapter~~ chapter, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under § 261.5 [(as incorporated by R18-8-261)] of this ~~Chapter~~ chapter; and
    - (4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

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

All of 40 CFR 268 and accompanying appendices, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), with the exception of Part 268, Subpart B, is incorporated by reference and on file with the DEQ. Copies of 40 CFR 268 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

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

- A. All of 40 CFR 270 and the accompanying appendices, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference, modified by the following subsections, and on file with the DEQ with the exception of the following:
  - 1. §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64;
  - 2. The revisions for standardized permits as published at 70 FR 53419;
  - 3. The revisions to the solid waste definition as published at 73 FR 64668. is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 270 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).



- B.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
  - 2. No change
    - a. Waters of the state as defined in A.R.S. § 49-201(31), excluding surface impoundments as defined in § 260.10 (as incorporated by R18-8-260); and
    - b. No change
- C.** No change
- D.** No change
- E.** No change
- F.** No change
- G.** No change
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
  - 3. No change
  - 4. No change
  - 5. No change
    - a. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
    - c. No change
    - d. No change
  - 6. No change
    - a. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
      - vi. No change
      - vii. No change
      - viii. No change
      - ix. No change
    - c. No change
  - 7. No change
  - 8. No change
  - 9. No change
- H.** No change
- I.** No change
- J.** No change
- K.** No change
- L.** No change
- M.** No change
- N.** No change
- O.** No change
- P.** § 270.42, titled “Permit modification at the request of permittee”, paragraph (f)(3), is amended as follows:
  - (3) An automatic authorization that goes into effect under paragraph (b)(6)(iii) or (v) of this section may be appealed under [Title 41, Chapter 6, Article 10, Arizona Revised Statutes.]
- P-Q.** No change
- Q-R.** No change
- R-S.** § 270.65, titled “Research, development, and demonstration permits,” is amended as follows:
  - (a) The [Director] may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under ~~Part~~ part 264 or 266



[(as incorporated by R18-8-264 and R18-8-266).] [A research, development, and demonstration] permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

- (1) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in paragraph (d) of this ~~subsection~~ section, and
  - (2) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the [Director] deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and
  - (3) Shall include such requirements as the [Director] deems necessary to protect human health and the environment [, including requirements regarding monitoring, operation, financial responsibility, closure, and remedial action, and such requirements as the Director] deems necessary regarding testing and providing of information [relevant] to the [Director] with respect to the operation of the facility.
- (b) For the purpose of expediting review and issuance of permits under this ~~Section~~ section, the [Director] may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements [, or add conditions to the permit in accordance with the permitting procedures set forth in R18-8-270 and R18-8-271,] except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.
  - (c) The [Director] may order an immediate termination of all operations at the facility at any time [the Director] determines that termination is necessary to protect human health and the environment.
  - (d) Any permit issued under this ~~subsection~~ section may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.

~~S.T.~~ No change

U. § 270.155 titled “May the decision to approve or deny my RAP application be administratively appealed?”, paragraph (a), is amended as follows:

(a) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Director’s decision to approve or deny your RAP application [under Title 41, Chapter 6, Article 10, Arizona Revised Statutes.] Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under § 124.15 of this chapter [(as incorporated by R18-8-271)] (or a decision under § 270.29 [(as incorporated by R18-8-270)] to deny a permit for the active life of a RCRA hazardous waste management facility or unit.)

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

- A. All of 40 CFR 124 ~~and the accompanying appendix~~, revised as of ~~July 1, 2006~~ July 1, 2013 (and no future editions), ~~relating to HWM facilities~~, with the exception of §§ 124.1 (b) through (e), 124.2, 124.4, 124.16, 124.20, ~~and~~ 124.21, ~~and subparts C, D, and G~~ and with the exception of the revisions for standardized permits as published at 70 FR 53419, is incorporated by reference, modified by the following subsections, and on file with the DEQ. Copies of 40 CFR 124 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).
- B. No change
- C. No change
- D. § 124.5, titled “Modification, revocation, and reissuance, or termination of permits,” is replaced by the following:
  - (a) Permits may be modified, revoked, and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director’s initiative. However, permits may only be modified, revoked, and reissued, or terminated for the reasons specified in §§ 270.41 or 270.43 (as incorporated by R18-8-270). All requests shall be in writing and shall contain facts or reasons supporting the request.
  - (b) If the Director decides the request is not justified, the Director shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.
  - (c) Modification, revocation or reissuance of permits procedures.
    - (1) If the Director tentatively decides to modify or revoke and reissue a permit under §§ 270.41 or 270.42(c) (as incorporated by R18-8-270), the Director shall prepare a draft permit under § 124.6 (as incorporated by R18-8-271(E)), incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.
    - (2) In a permit modification under this [subsection], only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. The permit modification shall have the same expiration date as the unmodified permit. When a permit is revoked and reissued under this subsection, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
    - (3) “Classes 1 and 2 modifications” as defined in § 270.42 (as incorporated by R18-8-270) are not subject to the requirements of this subsection.



- (d) If the Director tentatively decides to terminate a permit under § 270.43 (as incorporated by R18-8-270), the Director shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 124.6 (as incorporated by R18-8-271(E)). In the case of permits that are processed or issued jointly by both the DEQ and the EPA, a notice of intent to terminate shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibilities from the EPA to the state.
- (e) The Director shall base all draft permits, including notices of intent to terminate, prepared under this subsection on the administrative record as defined in § 124.9 (as incorporated by R18-8-271(H)).]

E. No change

F. No change

G. No change

H. No change

I. No change

J. No change

K. No change

L. No change

M. No change

N. No change

O. No change

P. No change

Q. § 124.19, titled “Appeal of RCRA, UIC, and PSD permits,” is replaced by the following:

A final permit decision (or a decision under § 270.29 (as incorporated by R18-8-270(A)) to deny a permit for the active life of a RCRA hazardous waste management facility or unit issued under § 124.15 (as incorporated by R18-8-271(N)) is an appealable agency action as defined in A.R.S. § ~~49-1092~~ 41-1092 and is subject to appeal under A.R.S. Title 41, Ch. 6, Art. 10.

R. No change

S. No change

T. No change

**R18-8-273. Standards for Universal Waste Management**

All of 40 CFR 273, revised as of ~~July 14, 2006~~ July 1, 2013 (and no future editions), is incorporated by reference and on file with the DEQ. Copies of 40 CFR 273 are available at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).



NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

NOTICE OF PUBLIC INFORMATION
ARIZONA DEPARTMENT OF CHILD SAFETY

[M15-170]

- 1. Name of the Agency: Arizona Department of Child Safety (DCS)
2. The topic of the public information matter: Soliciting public input on proposed rules for the following topics. Substantiation of Report Findings, Adoption Subsidy, Independent Living Program, and Release of Department Information.
3. The Public Information relating to the topic: The Department of Child Safety was granted rulemaking authority under A.R.S. § 8-453(A)(5), and an 18-month exemption from the rulemaking requirements of Title 41, Chapter 6 under Arizona Laws 2014, Second Special Session, Chapter 1, Section 158 (Senate Bill 1001).
4. The name and address of agency personnel to whom questions and comments may be addressed: Complete information and an opportunity to provide written comments on-line regarding the proposed rules can be found at: https://dcs.az.gov/about/dcs-rules-rulemaking

NOTICE OF PUBLIC INFORMATION
DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
ARIZONA MILITARY AFFAIRS COMMISSION

[M15-172]

- 1. Agency name: Arizona Military Affairs Commission
Title and its heading: 8, Emergency and Military Affairs
Chapter and its heading: 3, Department of Emergency and Military Affairs – Division of Military Affairs
Articles and their headings: 1, Military Installation Fund
2. The public information relating to the listed Section: The Arizona Administrative Code (A.A.C.) Title 8, Chapter 3, Article 1, Section 102 requires the Department to provide notice in the Arizona Administrative Register of the application deadline for awards from the Military Installation Fund at least 60 days before the application deadline.



The Military Installation Fund was established to allocate monies as stipulated by A.R.S. § 26-262 in order to acquire private property, real estate, rights to real estate, property management, and infrastructure that is vital to the preservation of a military installation in this state. Eighty (80) percent of fund awards shall be distributed as listed above, and specifically for purchase of, and projects on, private property owners, with the remaining twenty (20) percent awarded to cities, towns, and counties for property enhancements, capital, and infrastructure improvement projects, renovations, and management of property that is considered critical to the continued success of military installations.

The application period has been extended through August 31, 2015. All applications must either be postmarked by August 28, 2015 or turned into the Department in person or email by 3:00 p.m. on August 31, 2015 for consideration of funding from the Military Installation Fund.

**3. The name, address, and telephone number of agency personnel to whom questions and comment on the public information may be addressed:**

Name: Military Installation Fund Program Manager  
Address: Department of Emergency and Military Affairs  
5636 E. McDowell Rd., Bldg 5101  
Phoenix, AZ 85008  
Telephone: (602) 267-2732  
E-mail: MIF@azdema.gov  
Website: [www.azgovernor.gov/MAC/](http://www.azgovernor.gov/MAC/)

**4. The website where persons may obtain information about the application:**  
<http://www.azdema.gov/mifapplication/mifapplication.html>

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**NOTICES OF ORAL PROCEEDING**

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If an agency schedules an oral proceeding, a public workshop, or another type of meeting on a proposed rulemaking, a rulemaking docket opening, or a proposed delegation agreement, the agency shall prepare a Notice of Oral Proceeding, a Notice of Public Workshop, or Notice of Meeting (specifying the type of meeting) for publication in the *Register*.

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**NOTICE OF ORAL PROCEEDING ON PROPOSED RULEMAKING**

**ARIZONA DEPARTMENT OF CHILD SAFETY**

[M15-171]

- 1. Name of the agency:** Arizona Department of Child Safety
  
- 2. Title and its heading:** 21, Child Safety

**Chapter and its heading:** 1, Department of Child Safety - Administration

**Article and its heading:** 1, Release of Department Information  
5, Substantiation of Report Findings

**Title and its heading:** 21, Child Safety

**Chapter and its heading:** 5, Department of Child Safety - Permanency and Support Services

**Article and its heading:** 1, Independent Living Program  
5, Adoption Subsidy
  
- 3. Articles, Parts, or Sections (as applicable) being proposed**  
The Department of Child Safety is providing the public an opportunity to provide comment for the following Articles:  
Chapter 1, Article 1, Release of Department Information  
Chapter 1, Article 5, Substantiation of Report Findings  
Chapter 5, Article 1, Independent Living Program  
Chapter 5, Article 5, Adoption Subsidy
  
- 4. Citations to all notices published in the Register concerning the proposed rulemaking:**  
Notice of Public Information: 21 A.A.R. 1055, July 10, 2015
  
- 5. The date, time, and location of the oral proceedings:**  
Tuesday, August 11, 2015  
Joel Valdez Main Library  
101 N. Stone Ave.  
Tucson, AZ 85701  
5p.m. – 7p.m.

Thursday, August 13, 2015  
Arizona Bridge to Independent Living  
Disability Empowerment Center  
5025 E. Washington St.  
Phoenix, AZ 85034  
5p.m. – 7p.m.
  
- 6. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed:**  
The public may provide on-line comments to the draft rules at: <https://dcs.az.gov/about/dcs-rules-rulemaking>  
Comments can be sent by mail to:  
Name: Carrie Senseman, Lead Rules Analyst  
Address: Department of Child Safety  
P.O. Box 6030, Site Code C010-23  
Phoenix, AZ 85005-6030  
Telephone: (602) 255-2534



Fax: (602) 255-3264

Comments must be postmarked by August 13, 2015

**Americans with Disabilities Act:** Persons with disabilities may request reasonable accommodations by contacting the Arizona Department of Child Safety, Carrie Senseman, at (602) 255-2534. Please make requests as early as possible to allow time to arrange the accommodation.



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2015-01

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2015, as a notice to the public regarding state agencies' rulemaking activities.

[M15-02]

WHEREAS, Arizona has lost more jobs per capita than any other state and has yet to recover all of those jobs;

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, each agency of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency, subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency, subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court or the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
g. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
h. To address matters pertaining to the control, mitigation or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
3. Paragraphs 1 and 2 apply to all State agencies, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission, or (c) any State agency whose agency head is not appointed by the Governor. Those State agencies to which Paragraphs 1 and 2 do not apply are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
4. Pursuant to Article 5, Section 4 of the Arizona Constitution and Arizona Revised Statutes Section 41-101(A)(1), the State agencies identified in Paragraph 3 must provide the Office of the Governor with a written report for each proposed rule 30 days prior to engaging in any rulemaking proceeding and must also provide the Office of the



Governor with a written report within 15 days of any rulemaking. The reports required by this Paragraph shall explain, in detail, how the rulemaking advances the priorities and principles set forth in this Order.

5. No later than September 1, 2015, each State agency shall provide to the Office of the Governor an evaluation of their rules, with recommendations for which rules could be amended or repealed consistent with the priorities and principles set forth in this Order. The evaluation shall also include a summary of licensing time frames and describe how those time frames compare to real processing time, and whether or not they can be reduced. Additionally, each agency shall identify any existing licenses or permits in which a general permit could be used in lieu of an individual permit, pursuant to Arizona Revised Statutes Section 41-1037.
6. No later than July 1, 2015, each State agency shall provide to the Office of the Governor an update on divisions where electronic reporting and payment are not implemented and a suggested plan for how to implement this customer-service-oriented service.
7. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
8. This Executive Order expires on December 31, 2015.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this fifth day of January in the year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-ninth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**



COUNTY NOTICES ACCORDING TO A.R.S. § 49-112

This section of the Arizona Administrative Register contains County Notices (according to A.R.S. § 49-112).

Each county writes rules and regulations in its own unique style. Although these notices are published in the Register, they do not conform to the standards specified in

the Arizona Rulemaking Manual. With the exception of minor formatting changes, County Notices (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

NOTICE OF EXPEDITED RULEMAKING

MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS

[M15-173]

PREAMBLE

AQ-2015-001-INCORPORATION BY REFERENCE 2014-2015

1. Rules affected

- Rule 321: Municipal Solid Waste Landfills
Rule 360: New Source Performance Standards
Rule 370: Federal Hazardous Air Pollutant Program
Rule 371: Acid Rain
Appendix G: Incorporated Materials

Rulemaking action

- Amend
Amend
Amend
Amend
Amend

2. Statutory authority for the rulemaking:

Authorizing Statutes: A.R.S. §§ 49-474, 49-479, and 49-480
Implementing Statutes: A.R.S. §§ 41-1055, 49-112 and 49-471.08

3. Name and address of department personnel with whom persons may communicate regarding the rulemaking:

Name: Cheri Dale
Planning and Analysis Division
Maricopa County Air Quality Department
Address: 1001 N. Central Ave., Suite 125
Phoenix, AZ 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179
E-mail: aqplanning@mail.maricopa.gov

4. Demonstration of compliance with A.R.S. §49-471.08 expedited rulemaking:

The department is proposing to declare this as an expedited rule making action as described in A.R.S. § 49-471.08(A).

A.R.S. § 49-471.08(A)(1):

Demonstration that the rule or ordinance making is substantially identical to the sense, meaning and effect of the federal or state rule or law from which it is derived.

Rule 321 is substantially identical to 40 CFR 60, Subpart WWW.

Rule 360 is substantially identical to 40 CFR 60 revisions:

- Subpart A. [80 FR 13672, March 16, 2015].
- Subpart Da. [79 FR 68777, November 19, 2014; and at 80 FR 24218, April 30, 2015].
- Subpart IIII. [79FR 48072, August 15, 2014].
- Subpart AAA. [80 FR 13672, March 16, 2015].
- Subpart OOOO. [79 FR 79018, December 31, 2014].
- Subpart QQQQ. [80 FR 13672, March 16, 2015].

Rule 370 is substantially identical to 40 CFR 63 revisions:



- Subpart N. [80 FR 22116, April 21, 2015].
- Subpart DD. [80 FR 14248, March 18, 2015].
- Subpart YY. [79 FR 60898, October 8, 2014].
- Subpart III. [79 FR 48073, August 15, 2014].
- Subpart OOO. [79 FR 60898, October 8, 2014].
- Subpart XXX. [80 FR 37366, June 30, 2015].
- Subpart YYYY. [80 FR 364247, June 24, 2015].
- Subpart ZZZZ. [79FR 48072, August 15, 2014].
- Subpart DDDDDD. [80 FR 5938, February 4, 2015].
- Subpart UUUUU. [79 FR 68777, November 19, 2014; 79 FR 68795, November 19, 2014; at 80 FR 15510, March 25, 2015; and at 80 FR 24218, April 30, 2015].

Rule 371 is substantially identical to 40 CFR Parts 72, 74, 75 and 76 and all accompanying appendices.

Appendix G is substantially identical to:

- 40 CFR 50. [80 FR 12264, March 6, 2015].
- 40 CFR 50, Appendix J. [79 FR 49307, August 20, 2014].
- 40 CFR 50, Appendix L. [80 FR 32114, June 5, 2015].
- 40 CFR 51, Appendix S, Section IV. [80 FR 12264, March 6, 2015].
- 40 CFR 60, Appendix A-8. [80 FR 13672, March 16, 2015].
- 40 CFR 60, Appendix I. [80 FR 13672, March 16, 2015].
- AP-42. [80 FR 26925, May 11, 2015].

**In addition, the department is proposing the following:**

- To add 40 CFR 60, Subpart QQQQ—Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces [Added at 80 FR 13672, March 16, 2015] to Rule 360.
- To add 40 CFR 63, Subpart LL—National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants to Rule 370. This subpart was originally promulgated on October 7, 1997 (62 FR 52407) but was not incorporated by reference into Rule 370 at that time.
- To add the following to Appendix G to address provisions in the New Source Review (NSR) Program:
  - 1) 40 CFR 51.100;
  - 2) 40 CFR 51.165(a)(1);
  - 3) 40 CFR 51.165(a)(2)(ii)(A) through (F);
  - 4) 40 CFR 51.165(a)(3)(i)(A) through (B);
  - 5) 40 CFR 51.165(a)(3)(ii)(A) through (D);
  - 6) 40 CFR 51.165(a)(3)(ii)(G);
  - 7) 40 CFR 51.165(a)(6)(i) through (vi);
  - 8) 40 CFR 51.165(a)(11)(b)(2);
  - 9) 40 CFR 51.165(f)(1) through (15);
  - 10) 40 CFR 51.166(o);
  - 11) 40 CFR 51.166(p);
  - 12) 40 CFR 51.301;
  - 13) 40 CFR 51.307; and
  - 14) Attainment and Nonattainment Area Designations: 40 CFR 81.303 as amended as of July 1, 2010.
- To clarify the specific sections of the “Arizona Testing Manual for Air Pollutant Emissions,” that are incorporated into Appendix G.
- To insert section numbers for standards not yet designated by the EPA into Rule 360 and Rule 370. The proposed inclusion of a placeholder number will reduce the need to continually renumber Rule 360 and 370 to accommodate the addition of future federal standards.



- To correct typographical or other clerical errors; make minor grammatical changes to improve readability or clarity; modify the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules; and make various other minor changes of a purely editorial nature. As these proposed changes do not alter the sense, meaning, or effect of the rule, they are not described in detail here, but can be readily discerned in the “strikeout and underline” version of the rule contained in Item #6 of this notice.

**A.R.S. § 49-471.08(A)(2):**

Written finding by the Control Officer setting forth the reasons why the rule or ordinance making is necessary and does not alter the sense, meaning or effect of the federal or state rule or law from which it is derived.

This rulemaking is required to update the applicability dates in these rules. It incorporates subparts that have been passed by the federal government which are required to be implemented by the department. Rules 321, 360, 370, 371, and Appendix G do not alter the sense, meaning or effect of the state rules and federal regulations from which they are derived, as they incorporate language that is essentially the same as the state's applicable rules and the federal code of regulations.

**A.R.S. § 49-471.08(A)(3):**

Demonstration that fees established in the rule or ordinance do not exceed limits specified in § 49-112.

Rules 321, 360, 370, 371, and Appendix G do not establish fees. Any costs associated with these rules will come from permit application fees for sources obtaining a permit revision to reflect new emission limits, due to applicability of a new standard. Therefore, fees associated with these rules will be exactly the same as fees associated with similar permits and would not exceed any limits specified in § 49-112.

**5. Public comments regarding the proposed rulemaking:**

This is a proposed expedited rule making. Written comments will be accepted if received between the date of this publication and August 31, 2015, by 5:00 PM. Written comments may be mailed, e-mailed or hand delivered to the department. Written comments received during the comment period will be considered formal comments to the expedited rulemaking and will be responded to in the Notice of Final Rulemaking.

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

**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III – CONTROL OF AIR CONTAMINANTS**  
**RULE 321**  
**MUNICIPAL SOLID WASTE LANDFILLS**  
**INDEX**

**SECTION 100 – GENERAL**

- 101 PURPOSE
- 102 APPLICABILITY
- 103 AVAILABILITY OF INFORMATION

**SECTION 200 – DEFINITIONS**

- 201 ADMINISTRATOR
- 202 AFFECTED FACILITY
- 203 COMMENCED
- 204 CONSTRUCTION
- 205 MODIFICATION
- 206 MUNICIPAL SOLID WASTE LANDFILL (MSW LANDFILL)
- 207 NMOC
- 208 OWNER OR OPERATOR

**SECTION 300 – STANDARDS**

- 301 STANDARDS OF PERFORMANCE FOR MSW LANDFILLS
- 302 DELAYED APPLICABILITY

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

~~Adopted 05/14/97; Revised 03/01/00; Revised 03/07/01; Revised 11/19/03; Revised 03/15/06; Revised 12/17/08; Revised 09/16/09; Revised 07/07/10; Revised 08/17/11; Revised 07/25/12; Revised 03/26/2014; and Revised 11/05/2014.~~

Adopted 05/14/1997; Revised 03/01/2000; Revised 03/07/2001; Revised 11/19/2003; Revised 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 03/26/2014; Revised 11/05/2014; and Revised MM/DD/YYYY.

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III – CONTROL OF AIR CONTAMINANTS**

**RULE 321  
MUNICIPAL SOLID WASTE LANDFILLS**

**SECTION 100 – GENERAL**

- 101 PURPOSE:** To limit the emission of non-methane organic compounds from municipal solid waste landfills.
- 102 APPLICABILITY:** The provisions of this rule shall apply to each municipal solid waste landfill for which construction, reconstruction, or modification commenced prior to May 30, 1991, and which has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.
- 103 AVAILABILITY OF INFORMATION:** Copies of 40 CFR 60, Subpart WWW are available electronically at: ~~eeefr.gpo.ac-~~  
~~ees.gov~~ <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>; at the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004; or by calling (602) 506-6010 for information. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org).

**SECTION 200 – DEFINITIONS:** See Rule 100 of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

- 201 ADMINISTRATOR** – The Control Officer, except that the Control Officer shall not be empowered to approve alternative or equivalent test methods.
- 202 AFFECTED FACILITY** – Any municipal solid waste landfill to which this rule is applicable.
- 203 COMMENCED** – State or condition where an owner or operator has undertaken a continuous program of construction; or where an owner or operator has entered into a contractual obligation to undertake and complete such a program.
- 204 CONSTRUCTION** – The fabrication, erection, or installation of an affected facility.
- 205 MODIFICATION** – Any physical change in, or change in the method of operation of, an affected facility which would result in a change in actual emissions.
- 206 MUNICIPAL SOLID WASTE LANDFILL (MSW LANDFILL)** – An entire, publicly or privately owned, disposal facility in a contiguous geographical space where household waste is placed in or on land. Portions of a MSW landfill may be separated by access roads.
- 207 NMOC** – Non-methane organic compound.
- 208 OWNER OR OPERATOR** – Any person who owns, leases, operates, controls, or supervises an affected facility.

**SECTION 300 – STANDARDS**

- 301 STANDARDS OF PERFORMANCE FOR MSW LANDFILLS** The federal standards of performance for municipal solid



waste landfills set forth in 40 CFR 60, Subpart WWW adopted as of ~~July 1, 2014~~ July 1, 2015, and all accompanying appendices, excluding 40 CFR 60.750, are adopted and incorporated by reference with the amendments and revisions set forth in this section. This adoption by reference includes no future editions or revisions. Each owner or operator of an affected facility shall comply with the requirements of 40 CFR 60, Subpart WWW as adopted and, where applicable, revised herein.

**301.1 Collection and Control System Design Plan:** 40 CFR 60.752(b)(2)(i) is amended to read: “Submit a collection and control design plan prepared by a professional engineer to the Administrator for approval not later than 12 months after submittal of the initial NMOC emission rate report.”

**301.2 Design Capacity Report:** 40 CFR 60.757(a) is amended to read “Each owner or operator of an affected facility shall submit an initial design capacity report to the Administrator within 90 days from May 14, 1997.” 40 CFR 60.757(a)(1) is deleted.

**301.3 NMOC Emission Rate Report:** 40 CFR 60.757(b) is amended to read “Each owner or operator of an affected facility shall submit an NMOC emission rate report to the Administrator initially and annually thereafter, except as provided for in paragraphs (b)(1)(ii) or (b)(3) of this section. The Administrator may request such additional information as may be necessary to verify the reported NMOC emission rate.” 40 CFR 60.757(b)(1)(i) is amended to read: “The initial NMOC emission rate report shall be submitted within 90 days from May 14, 1997 and may be combined with the initial design capacity report required in paragraph (a) of this section. Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for in paragraphs (b)(1)(ii) and (b)(3) of this section.”

**302 DELAYED APPLICABILITY:** For an affected facility that first becomes subject to the collection and control system requirement of 40 CFR 60.752 after May 14, 1997, the design plan shall be due not later than 12 months after submittal or scheduled submittal of an NMOC emission rate report of 50 megagrams (55.12 tons) per year or more.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III – CONTROL OF AIR CONTAMINANTS**  
**RULE 360**  
**NEW SOURCE PERFORMANCE STANDARDS**  
**INDEX**

**SECTION 100 – GENERAL**

- 101 PURPOSE
- 102 APPLICABILITY
- 103 AVAILABILITY OF INFORMATION
- 104 FEDERAL DELEGATION AUTHORITY

**SECTION 200 – DEFINITIONS**

- 201 ADMINISTRATOR
- 202 AFFECTED FACILITY
- 203 COMMENCED
- 204 CONSTRUCTION
- 205 MODIFICATION
- 206 OWNER OR OPERATOR
- 207 STANDARD
- 208 STATIONARY SOURCE

**SECTION 300 – STANDARDS**

- 301 ADOPTED FEDERAL STANDARDS
- 302 ADDITIONAL REQUIREMENTS

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

Revised 07/13/88; Revised 04/06/92; Revised 11/20/96; Revised 05/14/97; Revised 08/19/98; Revised 04/07/99; Revised 03/01/00; Revised 03/07/01; Revised 11/19/03; Revised 03/15/06; Revised 12/17/08; Revised 09/16/09; Revised 07/07/10; Revised 08/17/11; Revised 07/25/12; Revised March 26, 2014; and Revised 11/05/2014.

Revised 07/13/1988; Revised 04/06/1992; Revised 11/20/1996; Revised 05/14/1997; Revised 08/19/1998; Revised 04/07/1999; Revised 03/01/2000; Revised 03/07/2001; Revised 11/19/2003; Revised 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 03/26/2014; Revised 11/05/2014; and **Revised MM/DD/YYYY**.

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III – CONTROL OF AIR CONTAMINANTS**

**RULE 360  
NEW SOURCE PERFORMANCE STANDARDS**

**SECTION 100 – GENERAL**

- 101 PURPOSE:** To establish acceptable design and performance criteria for specified new or modified emission sources.
- 102 APPLICABILITY:** The provisions of this rule apply to the owner or operator of any stationary source which contains an affected facility on which the construction, reconstruction, or a modification is commenced after the date of publication of any standard applicable to such facility in 40 CFR 60 and for which federal delegation of the implementation and enforcement of the standards to the Maricopa County Air Quality Department (department) has been accomplished. Any such stationary source must also comply with other Maricopa County Air Pollution Control Regulations.
- 103 AVAILABILITY OF INFORMATION:** Copies of all 40 CFR, Part 60 revisions currently enforced by the department are available electronically at: ~~ecfr.gpoaccess.gov~~ <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>; at the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004; or by calling (602) 506-6010 for information. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org).
- 104 FEDERAL DELEGATION AUTHORITY:** The department shall enforce the federal new source performance standards (NSPS) (40 CFR Part 60) listed in Section 300 of this rule which have been delegated to the County by the United States Environmental Protection Agency (EPA) for such enforcement. The department may, in addition, enforce such other NSPS as delegated for such enforcement by the EPA to the County.

**SECTION 200 – DEFINITIONS:** For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

- 201 ADMINISTRATOR** – As used in Part 60, Title 40, Code of Federal Regulations, shall mean the Control Officer, except that the Control Officer shall not be empowered to approve alternate or equivalent test methods or alternative standards/work practices, or other nondelegable authorities such as those listed in 40 CFR 60.4(d), except as specifically provided in each subpart.
- 202 AFFECTED FACILITY** – With reference to a stationary source, any apparatus to which a standard is applicable.
- 203 COMMENCED** – With respect to the definition of "new source" in Section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction, reconstruction, or modification or that an owner or operator has entered into a contracted obligation to undertake and complete, within a reasonable time, a continuous program of construction, reconstruction or modification.
- 204 CONSTRUCTION** – The fabrication, erection, or installation of an affected facility.
- 205 MODIFICATION** – Any physical change in, or change in the method of operation of, an existing facility which increases the amount of any contaminant (to which a standard applies) emitted into the atmosphere by that facility or which results in the



emission of any air contaminant (to which a standard applies) into the atmosphere not previously emitted.

206 **OWNER OR OPERATOR** – Any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

207 **STANDARD** – A standard of performance promulgated under this rule.

208 **STATIONARY SOURCE** – Any building, structure, facility, or installation which emits or may emit any air pollutant.

**SECTION 300 – STANDARDS**

301 **ADOPTED FEDERAL STANDARDS:** The federal standards of performance for those subparts of 40 CFR 60 adopted as of ~~July 1, 2014~~ July 1, 2015, as listed below, and all accompanying appendices are adopted and incorporated by reference, in the Maricopa County Air Pollution Control Regulations as indicated. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth herein. Incorporation by reference does not include nondelegable functions of the EPA Administrator.

301.1 **Subpart A**—General Provisions; exclude any sections dealing with equivalency determinations or innovative technology waivers, as covered in Sections 111(h)(3) and 111(j) respectively of the Clean Air Act.

301.2 **Subpart D**—Standards of Performance for Fossil-Fuel-Fired Steam Generators for which Construction is Commenced after August 17, 1971.

301.3 **Subpart Da**—Standards of Performance for Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.

301.4 **Subpart Db**—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

301.5 **Subpart Dc**—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

301.6 **Subpart E**—Standards of Performance for Incinerators.

301.7 **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.

301.8 **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.

301.9 **Subpart Ec**—Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced after June 20, 1996.

301.10 **Subpart F**—Standards of Performance for Portland Cement Plants.

301.11 **Subpart G**—Standards of Performance for Nitric Acid Plants.

301.12 **Subpart Ga**—Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011.

301.13 **Subpart H**—Standards of Performance for Sulfuric Acid Plants.

301.14 **Subpart I**—Standards of Performance for Hot Mix Asphalt Facilities.

301.15 **Subpart J**—Standards of Performance for Petroleum Refineries.

301.16 **Subpart Ja**—Standards of Performance for Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced after May 14, 2007.

301.17 **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.



- 301.18 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.
- 301.19 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.
- 301.20 Subpart L**—Standards of Performance for Secondary Lead Smelters.
- 301.21 Subpart M**—Standards of Performance for Secondary Brass and Bronze Production Plants.
- 301.22 Subpart N**—Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction Commenced after June 11, 1973.
- 301.23 Subpart Na**—Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction Commenced after January 20, 1983.
- 301.24 Subpart O**—Standards of Performance for Sewage Treatment Plants.
- 301.25 Subpart P**—Standards of Performance for Primary Copper Smelters.
- 301.26 Subpart Q**—Standards of Performance for Primary Zinc Smelters.
- 301.27 Subpart R**—Standards of Performance for Primary Lead Smelters.
- 301.28 Subpart S**—Standards of Performance for Primary Aluminum Reduction Plants.
- 301.29 Subpart T**—Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
- 301.30 Subpart U**—Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
- 301.31 Subpart V**—Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
- 301.32 Subpart W**—Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
- 301.33 Subpart X**—Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
- 301.34 Subpart Y**—Standards of Performance for Coal Preparation and Processing Plants.
- 301.35 Subpart Z**—Standards of Performance for Ferroalloy Production Facilities.
- 301.36 Subpart AA**—Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974, and on or before August 17, 1983.
- 301.37 Subpart AAa**—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.
- 301.38 Subpart BB**—Standards of Performance for Kraft Pulp Mills.
- 301.39 Subpart BBa**—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.
- 301.40 Subpart CC**—Standards of Performance for Glass Manufacturing Plants.
- 301.41 Subpart DD**—Standards of Performance for Grain Elevators.
- 301.42 Subpart EE**—Standards of Performance for Surface Coating of Metal Furniture.
- 301.43 Subpart FF**—(Reserved)
- ~~301.43~~ **301.44 Subpart GG**—Standards of Performance for Stationary Gas Turbines.



- 301.44** **301.45**Subpart HH—Standards of Performance for Lime Manufacturing Plants.
  - 301.46** **Subpart II**—(Reserved)
  - 301.47** **Subpart JJ**—(Reserved)
  
- 301.45** **301.48**Subpart KK—Standards of Performance for Lead-Acid Battery Manufacturing Plants.
- 301.46** **301.49**Subpart LL—Standards of Performance for Metallic Mineral Processing Plants.
- 301.47** **301.50**Subpart MM—Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
- 301.48** **301.51**Subpart NN—Standards of Performance for Phosphate Rock Plants.
  - 301.52** **Subpart OO**—(Reserved)
  
- 301.49** **301.53**Subpart PP—Standards of Performance for Ammonium Sulfate Manufacture.
- 301.50** **301.54**Subpart QQ—Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
- 301.51** **301.55**Subpart RR—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
- 301.52** **301.56**Subpart SS—Standards of Performance for Industrial Surface Coating: Large Appliances.
- 301.53** **301.57**Subpart TT—Standards of Performance for Metal Coil Surface Coating.
- 301.54** **301.58**Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
- 301.55** **301.59**Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced after January 5, 1981, and on or before November 7, 2006.
- 301.56** **301.60**Subpart VVa—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced after November 7, 2006.
- 301.57** **301.61**Subpart WW—Standards of Performance for the Beverage Can Surface Coating Industry.
- 301.58** **301.62**Subpart XX—Standards of Performance for Bulk Gasoline Terminals.
  - 301.63** **Subpart YY**—(Reserved)
  - 301.64** **Subpart ZZ**—(Reserved)
  
- 301.59** **301.65**Subpart AAA—Standards of Performance for New Residential Wood Heaters.
- 301.60** **301.66**Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry.
  - 301.67** **Subpart CCC**—(Reserved)
  
- 301.61** **301.68**Subpart DDD—Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
  - 301.69** **Subpart EEE**—(Reserved)
  
- 301.62** **301.70**Subpart FFF—Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
- 301.63** **301.71**Subpart GGG—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced after January 4, 1983, and on or before November 7, 2006.
- 301.64** **301.72**Subpart GGGa—Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced after November 7, 2006.



- ~~301.65~~ **301.73** **Subpart HHH**—Standards of Performance for Synthetic Fiber Production Facilities.
- ~~301.66~~ **301.74** **Subpart III**—Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
- ~~301.67~~ **301.75** **Subpart JJJ**—Standards of Performance for Petroleum Dry Cleaners.
- ~~301.68~~ **301.76** **Subpart KKK**—Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
- ~~301.69~~ **301.77** **Subpart LLL**—Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions.
- 301.78** **Subpart MMM**—(Reserved)
- ~~301.70~~ **301.79** **Subpart NNN**—Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
- ~~301.71~~ **301.80** **Subpart OOO**—Standards of Performance for Nonmetallic Mineral Processing Plants.
- ~~301.72~~ **301.81** **Subpart PPP**—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.
- ~~301.73~~ **301.82** **Subpart QQQ**—Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems.
- ~~301.74~~ **301.83** **Subpart RRR**—Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
- ~~301.75~~ **301.84** **Subpart SSS**—Standards of Performance for Magnetic Tape Coating Facilities.
- ~~301.76~~ **301.85** **Subpart TTT**—Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
- ~~301.77~~ **301.86** **Subpart UUU**—Standards of Performance for Calciners and Dryers in Mineral Industries.
- ~~301.78~~ **301.87** **Subpart VVV**—Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
- ~~301.79~~ **301.88** **Subpart WWW**—Standards of Performance for Municipal Solid Waste Landfills.
- 301.89** **Subpart XXX**—(Reserved)
- 301.90** **Subpart YYY**—(Reserved)
- 301.91** **Subpart ZZZ**—(Reserved)
- ~~301.80~~ **301.92** **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.
- ~~301.81~~ **301.93** **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.
- ~~301.82~~ **301.94** **Subpart EEEE**—Standards of Performance for Other Solid Waste Incineration Units for which Construction is Commenced after December 9, 2004, or for which Modification or Reconstruction is Commenced on or after June 16, 2006.
- 301.95** **Subpart GGGG**—(Reserved)
- 301.96** **Subpart HHHH**—(Reserved)
- ~~301.83~~ **301.97** **Subpart IIII**—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.
- ~~301.84~~ **301.98** **Subpart JJJJ**—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
- ~~301.85~~ **301.99** **Subpart KKKK**—Standards of Performance for Stationary Combustion Turbines.



~~301.86~~ **301.100** Subpart LLLL—Standards of Performance for New Sewage Sludge Incineration Units.

**301.101** Subpart NNNN—(Reserved)

~~301.87~~ **301.102** Subpart OOOO—Standards for Crude Oil and Natural Gas Production, Transmission and Distribution.

**301.103** Subpart PPPP—(Reserved)

**301.104** Subpart OOOO—Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.

**302** **ADDITIONAL REQUIREMENTS:** From the general standards identified in Section 301 of this rule, delete 40 CFR 60.4, 60.5, and 60.6. All requests, reports, applications, submittals, and other communications to the Control Officer pursuant to this rule shall be submitted to the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III – CONTROL OF AIR CONTAMINANTS**  
**RULE 370**  
**FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM**

**INDEX**

**SECTION 100 – GENERAL**

- 101 PURPOSE
- 102 APPLICABILITY
- 103 AVAILABILITY OF INFORMATION
- 104 FEDERAL DELEGATION AUTHORITY

**SECTION 200 – DEFINITIONS**

- 201 ADMINISTRATOR
- 202 AMENDED WATER
- 203 EXISTING SOURCE
- 204 FEDERALLY LISTED HAZARDOUS AIR POLLUTANT
- 205 GOVERNMENT-ISSUED PHOTO IDENTIFICATION CARD
- 206 HAZARDOUS AIR POLLUTANT
- 207 MAJOR SOURCE
- 208 MODIFICATION
- 209 NESHAP
- 210 NEW SOURCE
- 211 STATIONARY SOURCE

**SECTION 300 – STANDARDS**

- 301 STANDARDS OF PERFORMANCE FOR FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS
- 302 STANDARDS OF PERFORMANCE FOR FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
- 303 ADDITIONAL REQUIREMENTS

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401 CONTROL TECHNOLOGY DETERMINATIONS FOR MAJOR SOURCES IN ACCORDANCE WITH CLEAN AIR ACT SECTIONS, SECTIONS 112(g) AND 112(j)
- 402 COMPLIANCE EXTENSIONS FOR EARLY REDUCTION OF FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

~~Revised 07/13/88; Revised 04/06/92; Repealed and Adopted 11/15/93; Revised 11/20/96; Revised 05/14/97; Revised 05/20/98; Revised 08/19/98; Revised 03/01/00; Revised 03/07/01; Revised 11/19/03; Revised 03/15/06; Revised 12/17/08; Revised 09/16/09; Revised 07/07/10; Revised 08/17/11; Revised 07/25/12; Revised March 26, 2014; and Revised 11/05/2014.~~

Revised 07/13/1988; Revised 04/06/1992; Repealed and Adopted 11/15/1993; Revised 11/20/1996; Revised 05/14/1997; Revised 05/20/1998; Revised 08/19/1998; Revised 03/01/2000; Revised 03/07/2001; Revised 11/19/2003; Revised 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 03/26/2014; Revised 11/05/2014; and Revised MM/DD/YYYY.

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III – CONTROL OF AIR CONTAMINANTS**

**RULE 370  
FEDERAL HAZARDOUS AIR POLLUTANT PROGRAM**

**SECTION 100 – GENERAL**

- 101 **PURPOSE:** To establish emission standards for federally listed hazardous air pollutants.
- 102 **APPLICABILITY:** The provisions of this rule apply to the owner or operator of any stationary source for which a standard is prescribed under this rule, and for which federal delegation of the implementation and enforcement of the standards to the Maricopa County Air Quality Department (department) has been accomplished. Any such stationary source must also comply with other Maricopa County Air Pollution Control Regulations.
- 103 **AVAILABILITY OF INFORMATION:** Copies of all 40 CFR, Part 61 and Part 63 revisions currently enforced by the department are available electronically at: ~~eeef.gpoaccess.gov~~ <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collection-Code=CFR>; at the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004; or by calling (602) 506-6010 for information. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org).
- 104 **FEDERAL DELEGATION AUTHORITY:** The department shall enforce the national emission standards for hazardous air pollutants (NESHAPs) (40 CFR 61 and 40 CFR 63) listed in Section 300 of this rule which have been delegated to the County by the United States Environmental Protection Agency (EPA) for such enforcement. The department in addition, may enforce such other NESHAPs as delegated for such enforcement by the EPA to the County.

**SECTION 200 – DEFINITIONS:** For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

- 201 **ADMINISTRATOR** – As used in Parts 61 and 63, Title 40, Code of Federal Regulations, shall mean the Control Officer, except that the Control Officer shall not be empowered to approve alternate or equivalent test methods, alternative standards/work practices, or other nondelegable authorities, except as specifically provided in each subpart.
- 202 **AMENDED WATER** – Water to which surfactant (wetting agent) has been added to increase the ability of the liquid to penetrate asbestos-containing material (ACM).
- 203 **EXISTING SOURCE** – Any stationary source other than a new source.
- 204 **FEDERALLY LISTED HAZARDOUS AIR POLLUTANT** – Any air pollutant listed pursuant to Section 112(b) of the Act.



- 205 **GOVERNMENT-ISSUED PHOTO IDENTIFICATION CARD** – Includes, but is not limited to, a valid driver's license, a valid non-operating identification license, a valid tribal enrollment card or tribal identification card, or other valid government issued photo identification that includes the name, address, and photograph of the card holder.
- 206 **HAZARDOUS AIR POLLUTANT** – Any air pollutant regulated under Section 112 of the Act, any air pollutant subject to NESHAP, or any air pollutant designated by the Director as a hazardous air pollutant pursuant to A.R.S. § 49-426.04.
- 207 **MAJOR SOURCE** – A stationary source or group of stationary sources located within a contiguous area, and under common control, and that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any federally listed hazardous air pollutant or 25 tons per year or more of any combination of federally listed hazardous air pollutants. A lesser quantity or, in the case of radionuclides, a different criteria may be established by the Administrator pursuant to Section 112 of the Act and may be adopted by the Board of Supervisors by rule.
- 208 **MODIFICATION** – Any physical change in, or change in the method of operation of a major source which increases the actual emissions of any federally listed hazardous air pollutant emitted by such source by more than a de minimis amount, or which results in the emission of any federally listed hazardous air pollutant, not previously emitted by more than a de minimis amount.
- 209 **NESHAP** – National emission standards for hazardous air pollutants pursuant to 40 CFR Part 61 and Part 63.
- 210 **NEW SOURCE** – A stationary source, the construction or reconstruction of which commences after the Administrator first proposes regulations under Section 112 of the Act establishing an emission standard applicable to such source.
- 211 **STATIONARY SOURCE** – Any building, structure, facility, or installation which emits or may emit any air pollutant.

**SECTION 300 – STANDARDS**

**301 STANDARDS OF PERFORMANCE FOR FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS:** The federally listed hazardous air pollutants as listed in Table 370.1 of this rule and NESHAPs adopted as of ~~July 1, 2014~~ July 1, 2015, as listed below and as which can be found at 40 CFR 61 and all accompanying appendices, are incorporated by reference with the listed exclusions and additions and shall be applied by the Control Officer. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth herein. Incorporation by reference does not include nondelegable functions of the EPA Administrator.

**301.1 Subpart A**—General Provisions; exclude any sections dealing with equivalency determinations that are nontransferable through Section 112(e)(3) of the Act.

**301.2 Subpart C**—National Emission Standard for Beryllium.

**301.3 Subpart D**—National Emission Standard for Beryllium Rocket Motor Firing.

**301.4 Subpart E**—National Emission Standard for Mercury.

**301.5 Subpart F**—National Emission Standard for Vinyl Chloride.

**301.6 Subpart G**—(Reserved).

~~301.6~~ **301.7 Subpart J**—National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.

~~301.7~~ **301.8 Subpart L**—National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants.

~~301.8~~ **301.9 Subpart M**—National Emission Standard for Asbestos.

a. Each owner or operator of a demolition activity or renovation activity involving a facility as defined in 40 CFR 61, Subpart M shall:

(1) Fully comply with all requirements of 40 CFR 61, Subpart M.

(2) Thoroughly inspect the facility within 12 months of commencement of demolition or renovation activity for the presence of asbestos, including Category I and Category II nonfriable ACM. Include the date of this



inspection on the written notification.

- (3) Provide the Control Officer with written notification of intention to demolish or to renovate in the manner described in 40 CFR 61.145.
  - (4) Update all notifications in accordance with 40 CFR 61.145(b). For renovations described in 40 CFR 61.145(a)(4)(iii), notifications shall expire every December 31, with new notices required at least 10 working days before the end of the calendar year preceding the year for which notice is being given. All other notifications shall expire one year from either the original postmark date or commercial delivery date or date of hand delivery to the Control Officer. For a demolition activity or renovation activity that continues beyond the expiration date, the owner or operator of the demolition or renovation activity shall notify the Control Officer in accordance with 40 CFR 61.145(b) at least 10 working days prior to the expiration of the original notice and pay all applicable fees prescribed by Rule 280 of these rules.
  - (5) Pay all applicable fees prescribed by Rule 280 of these rules.
- b. In addition, each owner or operator of a demolition activity or renovation activity shall comply with the following requirements:
- (1) Certification, training, and record keeping requirements:
    - (a) All facilities scheduled for demolition or renovation shall be inspected by a currently certified Asbestos Hazard Emergency Response Act (AHERA) accredited asbestos building inspector (herein referenced as inspector), as required by either AHERA or the Asbestos School Hazard Abatement Reauthorization Act (ASHARA).
    - (b) Each owner and operator of a facility shall maintain a copy of any reports of inspections made for a facility for two years from completion of project, including laboratory test results of samples collected. A copy of the inspection reports and laboratory test results shall be on-site and available for inspection at the facility, upon request of the Department, during all demolition and renovation (asbestos setup, removal, handling, collecting, containerizing, cleanup and dismantling) activities.
    - (c) All asbestos workers shall maintain current AHERA worker certification. All asbestos contractor/supervisors shall maintain current AHERA/ASHARA contractor/supervisor certification and shall be on-site at all times during any active asbestos abatement work at or above NESHAP threshold amounts. A legible copy of all asbestos workers and contractor/supervisor's current training certificates from an EPA accredited training provider shall be available for inspection at all times at the demolition or renovation site.
    - (d) All asbestos workers and contractor/supervisors shall have color photo identification on-site and available for inspection, upon request of the Department, at all times during asbestos setup, removal, handling, collecting, containerizing, cleanup and dismantling. The color photo identification shall be from an EPA accredited training provider verifying the certification requirements in section (b)(1)(c), or a current government-issued photo identification card.
  - (2) Asbestos renovation and demolition standards:
    - (a) A facility owner or operator shall not create visible dust emissions when removing or transporting to the disposal site Category I nonfriable asbestos-containing material (ACM) and Category II nonfriable ACM that remain nonfriable Category I ACM and nonfriable Category II ACM.
    - (b) Inspection viewing devices at facilities are required at all asbestos renovation projects where regulated asbestos-containing material (RACM) is being abated, except for roofing projects involving Category I nonfriable ACM and Category II nonfriable ACM exclusively. Viewing devices shall be so designed as to allow an inspector to view the facility from the outside, either through ports or by video monitoring.
    - (c) All exposed RACM subject to cutting or dismantling operations and all RACM being removed from a facility or a facility component shall be kept adequately wet by using amended water to control the release of asbestos fibers. The use of amended water will not be required in the case of an ordered dem-



olition, as defined in 40 CFR 61.145(a)(3), where the debris is suspected to contain or is known to contain ACM, however ordered demolitions are subject to 40 CFR 61.145(c)(9). Specific exemptions are listed under 40 CFR 61.145(c)(3)(i)(A), 40 CFR 61.145(c)(3)(ii) and/or 40 CFR 61.145(c)(7)(i). To claim these exemptions, the owner or operator shall follow the requirements of 40 CFR 61.145(c)(3)(i)(B), 40 CFR 61.145(c)(3)(iii) and/or 61.145(c)(7)(ii) and (iii).

- (d) All RACM shall be contained in transparent, leak-tight wrapping and shall remain adequately wet to prevent dust emissions during removal, transport, storage, and proper landfill disposal following local, county, state, and federal regulations. Affix a visible and legible label to each individual wrapping with the name of the site owner or operator and the name and address of the location that generated the RACM.

~~301.9~~ **301.10** Subpart N—National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

~~301.10~~ **301.11** Subpart O—National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

~~301.11~~ **301.12** Subpart P—National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

**301.13** Subpart S—(Reserved).

**301.14** Subpart U—(Reserved).

~~301.12~~ **301.15** Subpart V—National Emission Standard for Equipment Leaks (Fugitive Emission Sources).

**301.16** Subpart X—(Reserved).

~~301.13~~ **301.17** Subpart Y—National Emission Standard for Benzene Emissions from Benzene Storage Vessels.

**301.18** Subpart Z—(Reserved).

**301.19** Subpart AA—(Reserved).

~~301.14~~ **301.20** Subpart BB—National Emission Standard for Benzene Emissions from Benzene Transfer Operations.

**301.21** Subpart CC—(Reserved).

**301.22** Subpart DD—(Reserved).

**301.23** Subpart EE—(Reserved).

~~301.15~~ **301.24** Subpart FF—National Emission Standard for Benzene Waste Operations.

**302 STANDARDS OF PERFORMANCE FOR FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES:** The federally listed hazardous air pollutants as listed in Table 370.1 of this rule and NESHAPs adopted as of ~~July 1, 2014~~ July 1, 2015, as listed below and as which can be found at 40 CFR 63, and all accompanying appendices, are incorporated by reference, as applicable requirements, with the listed exclusions and additions and shall be applied by the Control Officer. This incorporation by reference includes no future editions or amendments. Each owner or operator subject to the requirements of the following subparts shall comply with the requirements of those subparts and the additional requirements set forth. Incorporation by reference does not include nondelegable functions of the EPA Administrator.

**302.1** Subpart A—General Provisions.

**302.2** Subpart F—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

**302.3** 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.

**302.4** Subpart H—National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.



- 302.5** **Subpart I**—National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- 302.6** **Subpart J**—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
- 302.7** **Subpart K**—(Reserved).
- ~~302.7~~ **302.8****Subpart L**—National Emission Standards for Coke Oven Batteries.
- ~~302.8~~ **302.9****Subpart M**—National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- ~~302.9~~ **302.10****Subpart N**—National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- ~~302.10~~ **302.11****Subpart O**—Ethylene Oxide Emissions Standards for Sterilization Facilities.
- 302.12** **Subpart P**—(Reserved).
- ~~302.11~~ **302.13****Subpart Q**—National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- ~~302.12~~ **302.14****Subpart R**—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- ~~302.13~~ **302.15****Subpart S**—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
- ~~302.14~~ **302.16****Subpart T**—National Emission Standards for Halogenated Solvent Cleaning.
- ~~302.15~~ **302.17****Subpart U**—National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
- 302.18** **Subpart V**—(Reserved).
- ~~302.16~~ **302.19****Subpart W**—National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
- ~~302.17~~ **302.20****Subpart X**—National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
- 302.21** **Subpart Z**—(Reserved).
- ~~302.18~~ **302.22****Subpart AA**—National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants.
- ~~302.19~~ **302.23****Subpart BB**—National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants.
- ~~302.20~~ **302.24****Subpart CC**—National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
- ~~302.21~~ **302.25****Subpart DD**—National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
- ~~302.22~~ **302.26****Subpart EE**—National Emission Standards for Magnetic Tape Manufacturing Operations.
- 302.27** **Subpart FF**—(Reserved).
- ~~302.23~~ **302.28****Subpart GG**—National Emission Standards for Aerospace Manufacturing and Rework Facilities.
- ~~302.24~~ **302.29****Subpart HH**—National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities.
- ~~302.25~~ **302.30****Subpart JJ**—National Emission Standards for Wood Furniture Manufacturing Operations.
- ~~302.26~~ **302.31****Subpart KK**—National Emission Standards for the Printing and Publishing Industry.
- 302.32** **Subpart LL**—National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.



- ~~302.27~~ **302.33**Subpart MM—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.
- 302.34** **Subpart NN**—(Reserved).
- ~~302.28~~ **302.35**Subpart OO—National Emission Standards for Tanks – Level 1.
- ~~302.29~~ **302.36**Subpart PP—National Emission Standards for Containers.
- ~~302.30~~ **302.37**Subpart QQ—National Emission Standards for Surface Impoundments.
- ~~302.31~~ **302.38**Subpart RR—National Emission Standards for Individual Drain Systems.
- ~~302.32~~ **302.39**Subpart SS—National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
- ~~302.33~~ **302.40**Subpart TT—National Emission Standards for Equipment Leaks – Control Level 1.
- ~~302.34~~ **302.41**Subpart UU—National Emission Standards for Equipment Leaks – Control Level 2 Standards.
- ~~302.35~~ **302.42**Subpart VV—National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- ~~302.36~~ **302.43**Subpart WW—National Emission Standards for Storage Vessels (Tanks) – Control Level 2.
- ~~302.37~~ **302.44**Subpart XX—National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
- ~~302.38~~ **302.45**Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
- 302.46** **Subpart ZZ**—(Reserved).
- 302.47** **Subpart AAA**—(Reserved).
- 302.48** **Subpart BBB**—(Reserved).
- ~~302.39~~ **302.49**Subpart CCC—National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- ~~302.40~~ **302.50**Subpart DDD—National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- ~~302.41~~ **302.51**Subpart EEE—National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
- 302.52** **Subpart FFF**—(Reserved).
- ~~302.42~~ **302.53**Subpart GGG—National Emission Standards for Pharmaceuticals Production.
- ~~302.43~~ **302.54**Subpart HHH—National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities.
- ~~302.44~~ **302.55**Subpart III—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- ~~302.45~~ **302.56**Subpart JJJ—National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
- 302.57** **Subpart KKK**—(Reserved).
- ~~302.46~~ **302.58**Subpart LLL—National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry.
- ~~302.47~~ **302.59**Subpart MMM—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- ~~302.48~~ **302.60**Subpart NNN—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.



- ~~302.49~~ 302.61 **Subpart OOO**—National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
- ~~302.50~~ 302.62 **Subpart PPP**—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
- ~~302.51~~ 302.63 **Subpart QQQ**—National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
- ~~302.52~~ 302.64 **Subpart RRR**—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- 302.65 **Subpart SSS**—(Reserved).
- ~~302.53~~ 302.66 **Subpart TTT**—National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
- ~~302.54~~ 302.67 **Subpart UUU**—National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
- ~~302.55~~ 302.68 **Subpart VVV**—National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
- 302.69 **Subpart WWW**—(Reserved).
- ~~302.56~~ 302.70 **Subpart XXX**—National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
- 302.71 **Subpart YYY**—(Reserved).
- 302.72 **Subpart ZZZ**—(Reserved).
- ~~302.57~~ 302.73 **Subpart AAAA**—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
- 302.74 **Subpart BBBB**—(Reserved).
- ~~302.58~~ 302.75 **Subpart CCCC**—National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast.
- ~~302.59~~ 302.76 **Subpart DDDD**—National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.
- ~~302.60~~ 302.77 **Subpart EEEE**—National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
- ~~302.61~~ 302.78 **Subpart FFFF**—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
- ~~302.62~~ 302.79 **Subpart GGGG**—National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
- ~~302.63~~ 302.80 **Subpart HHHH**—National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
- ~~302.64~~ 302.81 **Subpart IIII**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
- ~~302.65~~ 302.82 **Subpart JJJJ**—National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
- ~~302.66~~ 302.83 **Subpart KKKK**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
- 302.84 **Subpart LLLL**—(Reserved).
- ~~302.67~~ 302.85 **Subpart MMMM**—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
- ~~302.68~~ 302.86 **Subpart NNNN**—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
- ~~302.69~~ 302.87 **Subpart OOOO**—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics



and Other Textiles.

- ~~302.70~~ **302.88**Subpart PPPP—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
- ~~302.71~~ **302.89**Subpart QQQQ—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
- ~~302.72~~ **302.90**Subpart RRRR—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
- ~~302.73~~ **302.91**Subpart SSSS—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
- ~~302.74~~ **302.92**Subpart TTTT—National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
- ~~302.75~~ **302.93**Subpart UUUU—National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
- ~~302.76~~ **302.94**Subpart VVVV—National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
- ~~302.77~~ **302.95**Subpart WWWW—National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
- ~~302.78~~ **302.96**Subpart XXXX—National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
- ~~302.79~~ **302.97**Subpart YYYYY—National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
- ~~302.80~~ **302.98**Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
- ~~302.81~~ **302.99**Subpart AAAAA—National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
- ~~302.82~~ **302.100**Subpart BBBBB—National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
- ~~302.83~~ **302.101**Subpart CCCCC—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
- ~~302.84~~ **302.102**Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters.
- ~~302.85~~ **302.103**Subpart EEEEE—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
- ~~302.86~~ **302.104**Subpart FFFFF—National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.
- ~~302.87~~ **302.105**Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants: Site Remediation.
- ~~302.88~~ **302.106**Subpart HHHHH—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
- ~~302.89~~ **302.107**Subpart IIIII—National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants.
- ~~302.90~~ **302.108**Subpart JJJJJ—National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
- ~~302.91~~ **302.109**Subpart KKKKK—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
- ~~302.92~~ **302.110**Subpart LLLLL—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
- ~~302.93~~ **302.111**Subpart MMMMM—National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
- ~~302.94~~ **302.112**Subpart NNNNN—National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.



- ~~302.112~~ **302.113** Subpart OOOOO—(Reserved).
- ~~302.95~~ **302.114**Subpart PPPPP—National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards.
- ~~302.96~~ **302.115**Subpart QQQQQ—National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
- ~~302.97~~ **302.116**Subpart RRRRR—National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
- ~~302.98~~ **302.117**Subpart SSSSS—National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
- ~~302.99~~ **302.118**Subpart TTTTT—National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
- ~~302.100~~ **302.119**Subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units.
- ~~302.120~~ **302.120** Subpart VVVVV—(Reserved).
- ~~302.101~~ **302.121**Subpart WWWW—National Emission Standards for Hospital Ethylene Oxide Sterilizers.
- ~~302.122~~ **302.122** Subpart XXXXX—(Reserved).
- ~~302.102~~ **302.123**Subpart YYYYY—National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
- ~~302.103~~ **302.124**Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
- ~~302.125~~ **302.125** Subpart AAAAAA—(Reserved).
- ~~302.104~~ **302.126**Subpart BBBB—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
- ~~302.105~~ **302.127**Subpart CCCCC—National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
- ~~302.106~~ **302.128**Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
- ~~302.107~~ **302.129**Subpart EEEEE—National Emission Standards for Hazardous Air Pollutants: Primary Copper Smelting Area Sources.
- ~~302.108~~ **302.130**Subpart FFFFF—National Emission Standards for Hazardous Air Pollutants: Secondary Copper Smelting Area Sources.
- ~~302.109~~ **302.131**Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.
- ~~302.110~~ **302.132** Subpart HHHHH—National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.
- ~~302.133~~ **302.133**Subpart IIIII—(Reserved).
- ~~302.111~~ **302.134**Subpart JJJJJ—National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers.
- ~~302.135~~ **302.135** Subpart KKKKK—(Reserved).
- ~~302.112~~ **302.136**Subpart LLLLL—National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.



- ~~302.113~~ **302.137**Subpart MMMMMM—National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
- ~~302.114~~ **302.138**Subpart NNNNNN—National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
- ~~302.115~~ **302.139**Subpart OOOOOO—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
- ~~302.116~~ **302.140**Subpart PPPPPP—National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area.
- ~~302.117~~ **302.141**Subpart QQQQQQ—National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
- ~~302.118~~ **302.142**Subpart RRRRRR—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
- ~~302.119~~ **302.143**Subpart SSSSSS—National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
- ~~302.120~~ **302.144**Subpart TTTTTT—National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
- 302.145**Subpart UUUUUU—(Reserved).
- ~~302.121~~ **302.146**Subpart VVVVVV—National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources
- ~~302.122~~ **302.147**Subpart WWWWWW—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
- ~~302.123~~ **302.148**Subpart XXXXXX—National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
- ~~302.124~~ **302.149**Subpart YYYYYY—National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.
- ~~302.125~~ **302.150**Subpart ZZZZZZ—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.
- ~~302.126~~ **302.151**Subpart AAAAAA—National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing.
- ~~302.127~~ **302.152**Subpart BBBBBB—National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.
- ~~302.128~~ **302.153**Subpart CCCCCC—National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.
- ~~302.129~~ **302.154**Subpart DDDDDD—National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.
- ~~302.130~~ **302.155**Subpart EEEEEEE—National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.
- 302.156** **Subpart FFFFFFFF**—(Reserved).
- 302.157** **Subpart GGGGGG**—(Reserved).
- ~~302.131~~ **302.158**Subpart HHHHHHH—National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production.



**303 ADDITIONAL REQUIREMENTS:**

- 303.1** From the general standards identified in Section 301 of this rule, delete 40 CFR 61.04. All requests, reports, applications, submittals, and other communications to the Control Officer pursuant to this rule shall be submitted to the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004.
- 303.2** Where the Act has established provisions, including specific schedules, for the regulation of source categories pursuant to Sections 112(e)(5) and 112(n) of the Act, the Control Officer may enforce those provisions.
- 303.3** For any category or subcategory of sources licensed by the U.S. Nuclear Regulatory Commission, the Board of Supervisors shall not adopt and the Control Officer shall not enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation adopted by the Administrator pursuant to Section 112 of the Act.
- 303.4** If the Administrator finds by rule that regulation is not appropriate or necessary or that alternative control strategies should be applied, the Control Officer shall administer and enforce this rule based on the Administrator's findings.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401 CONTROL TECHNOLOGY DETERMINATIONS FOR MAJOR SOURCES IN ACCORDANCE WITH CLEAN AIR ACT SECTIONS, SECTIONS 112(g) AND 112(j):** 40 CFR 63.40 through 40 CFR 63.44 and 40 CFR 63.50 through 40 CFR 63.56 are adopted by reference as of ~~July 1, 2014~~ July 1, 2015.
- 402 COMPLIANCE EXTENSIONS FOR EARLY REDUCTION OF FEDERALLY LISTED HAZARDOUS AIR POLLUTANTS:** 40 CFR 63.70 through 40 CFR 63.81 and Table 370.1 are adopted by reference as of ~~July 1, 2014~~ July 1, 2015.

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

**TABLE 370-1. FEDERAL LIST OF HAZARDOUS AIR POLLUTANTS**

A. All of the following are federally listed hazardous air pollutants:

<u>CAS No.</u>	<u>Chemical Name</u>
75-07-0	Acetaldehyde
60-35-5	Acetamide
75-05-8	Acetonitrile
98-86-2	Acetophenone
53-96-3	2Acetylaminofluorene
107-02-8	Acrolein
79-06-1	Acrylamide
79-10-7	Acrylic acid
107-13-1	Acrylonitrile
107-05-1	Allyl chloride
92-67-1	4Aminobiphenyl
62-53-3	Aniline
90-04-0	oAnisidine
1332-21-4	Asbestos
71-43-2	Benzene (including benzene from gasoline)
92-87-5	Benzidine
98-07-7	Benzotrichloride
100-44-7	Benzyl chloride
92-52-4	Biphenyl
117-81-7	Bis(2ethylhexyl)phthalate (DEHP)
542-88-1	Bis(chloromethyl)ether
75-25-2	Bromoform
106-99-0	1,3Butadiene
156-62-7	Calcium cyanamide
133-06-2	Captan
63-25-2	Carbaryl



75-15-0	Carbon disulfide
56-23-5	Carbon tetrachloride
463-58-1	Carbonyl sulfide
120-80-9	Catechol
133-90-4	Chloramben
57-74-9	Chlordane
7782-50-5	Chlorine
79-11-8	Chloroacetic acid
532-27-4	2Chloroacetophenone
108-90-7	Chlorobenzene
510-15-6	Chlorobenzilate
67-66-3	Chloroform
107-30-2	Chloromethyl methyl ether
126-99-8	Chloroprene
1319-77-3	Cresols/Cresylic acid (isomers and mixture)
95-48-7	oCresol
108-39-4	mCresol
106-44-5	pCresol
98-82-8	Cumene
94-75-7	2,4D, salts and esters
3547-04-4	DDE
334-88-3	Diazomethane
132-64-9	Dibenzofurans
96-12-8	1,2Dibromo3chloropropane
84-74-2	Dibutylphthalate
106-46-7	1,4Dichlorobenzene(p)
91-94-1	3,3Dichlorobenzidene
111-44-4	Dichloroethyl ether (Bis(2chloroethyl)ether)
542-75-6	1,3Dichloropropene
62-73-7	Dichlorvos
111-42-2	Diethanolamine
121-69-7	N,NDiethyl aniline (N,NDimethylaniline)
64-67-5	Diethyl sulfate
119-90-4	3,3Dimethoxybenzidine
60-11-7	Dimethyl aminoazobenzene
119-93-7	3,3'Dimethyl benzidine
79-44-7	Dimethyl carbamoyl chloride
68-12-2	Dimethyl formamide
57-14-7	1,1Dimethyl hydrazine
131-11-3	Dimethyl phthalate
77-78-1	Dimethyl sulfate
534-52-1	4,6Dinitroocresol, and salts
51-28-5	2,4Dinitrophenol
121-14-2	2,4Dinitrotoluene
123-91-1	1,4Dioxane (1,4Diethyleneoxide)
122-66-7	1,2Diphenylhydrazine
106-89-8	Epichlorohydrin (1Chloro2,3epoxypropane)
106-88-7	1,2Epoxybutane
140-88-5	Ethyl acrylate
100-41-4	Ethyl benzene
51-79-6	Ethyl carbamate (Urethane)
75-00-3	Ethyl chloride (Chloroethane)
106-93-4	Ethylene dibromide (Dibromoethane)
107-06-2	Ethylene dichloride (1,2Dichloroethane)
107-21-1	Ethylene glycol
151-56-4	Ethylene imine (Aziridine)
75-21-8	Ethylene oxide
96-45-7	Ethylene thiourea
75-34-3	Ethylidene dichloride (1,1Dichloroethane)
50-00-0	Formaldehyde



76-44-8	Heptachlor
118-74-1	Hexachlorobenzene
87-68-3	Hexachlorobutadiene
77-47-4	Hexachlorocyclopentadiene
67-72-1	Hexachloroethane
822-06-0	Hexamethylene1,6diisocyanate
680-31-9	Hexamethylphosphoramide
110-54-3	Hexane
302-01-2	Hydrazine
7647-01-0	Hydrochloric acid
7664-39-3	Hydrogen fluoride (Hydrofluoric acid)
123-31-9	Hydroquinone
78-59-1	Isophorone
58-89-9	Lindane (all isomers)
108-31-6	Maleic anhydride
67-56-1	Methanol
72-43-5	Methoxychlor
74-83-9	Methyl bromide (Bromomethane)
74-87-3	Methyl chloride (Chloromethane)
71-55-6	Methyl chloroform (1,1,1Trichloroethane)
60-34-4	Methyl hydrazine
74-88-4	Methyl iodide (Iodomethane)
108-10-1	Methyl isobutyl ketone (Hexone)
624-83-9	Methyl isocyanate
80-62-6	Methyl methacrylate
1634-04-4	Methyl tert butyl ether
101-14-4	4,4Methylene bis (2chloroaniline)
75-09-2	Methylene chloride (Dichloromethane)
101-68-8	Methylene diphenyl diisocyanate (MDI)
101-77-9	4,4'Methylenedianiline
91-20-3	Naphthalene
98-95-3	Nitrobenzene
92-93-3	4Nitrobiphenyl
100-02-7	4Nitrophenol
79-46-9	2Nitropropane
684-93-5	NNitrosoNmethyleurea
62-75-9	NNitrosodimethylamine
59-89-2	NNitrosomorpholine
56-38-2	Parathion
82-68-8	Pentachloronitrobenzene (Quintobenzene)
87-86-5	Pentachlorophenol
108-95-2	Phenol
106-50-3	pPhenylenediamine
75-44-5	Phosgene
7803-51-2	Phosphine
7723-14-0	Phosphorus
85-44-9	Phthalic anhydride
1336-36-3	Polychlorinated biphenyls (Aroclors)
1120-71-4	1,3Propane sultone
57-57-8	betaPropiolactone
123-38-6	Propionaldehyde
114-26-1	Propoxur (Baygon)
78-87-5	Propylene dichloride (1,2Dichloropropane)
75-56-9	Propylene oxide
75-55-8	1,2Propylenimine (2Methylaziridine)
91-22-5	Quinoline
106-51-4	Quinone
100-42-5	Styrene
96-09-3	Styrene oxide
1746-01-6	2,3,7,8Tetrachlorodibenzopdioxin



79-34-5	1,1,2,2Tetrachloroethane
127-18-4	Tetrachloroethylene (Perchloroethylene)
7550-45-0	Titanium tetrachloride
108-88-3	Toluene
95-80-7	2,4Toluene diamine
584-84-9	2,4Toluene diisocyanate
95-53-4	oToluidine
8001-35-2	Toxaphene (chlorinated camphene)
120-82-1	1,2,4Trichlorobenzene
79-00-5	1,1,2Trichloroethane
79-01-6	Trichloroethylene
95-95-4	2,4,5Trichlorophenol
88-06-2	2,4,6Trichlorophenol
121-44-8	Triethylamine
1582-09-8	Trifluralin
540-84-1	2,2,4Trimethylpentane
108-05-4	Vinyl acetate
593-60-2	Vinyl bromide
75-01-4	Vinyl chloride
75-35-4	Vinylidene chloride (1,1Dichloroethylene)
1330-20-7	Xylenes (isomers and mixture)
95-47-6	oXylenes
108-38-3	mXylenes
106-42-3	pXylenes
0	Antimony Compounds
0	Arsenic Compounds inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds <sup>[1]</sup>
0	Glycol ethers <sup>[2]</sup>
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers <sup>[3]</sup>
0	Nickel Compounds
0	Polycyclic Organic Matter <sup>[4]</sup>
0	Radionuclides (including radon) <sup>[5]</sup>
0	Selenium Compounds

**B.** The following applies for all listings above which contain the word "compounds" or are glycol ethers: unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

[1] X'CN where X = H' or any other group where a formal dissociation may occur (e.g. KCN or Ca(CN)2).

[2] a.Includes mono and di ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH<sub>2</sub>CH<sub>2</sub>)<sub>n</sub>OR' where:

n = 1, 2, or 3;

R = alkyl C7 or less; or

R = phenyl or alkyl substituted phenyl;

R' = H or alkyl C7 or less; or

OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate.



b. Glycol ethers do not include ethylene glycol monobutyl ether (EGBE, 2-Butoxyethanol) (CAS No. 111-76-2).

- [3] Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter one micrometer or less.
- [4] Includes organic compounds which have more than one benzene ring and which have a boiling point greater than or equal to 212 °F (100 °C).
- [5] A type of atom which spontaneously undergoes radioactive decay.

**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III – CONTROL OF AIR CONTAMINANTS**  
**RULE 371**  
**ACID RAIN**  
**INDEX**

**SECTION 100 – GENERAL**

- 101PURPOSE
- 102APPLICABILITY
- 103SEVERABILITY
- 104AVAILABILITY OF INFORMATION
- 105FEDERAL DELEGATION AUTHORITY

**SECTION 200 – DEFINITIONS (NOT APPLICABLE)**

**SECTION 300 – STANDARDS**

- 301INCORPORATED SUBPARTS OF THE FEDERAL ACID RAIN REGULATIONS
- 302FEDERAL REGULATORY REVISIONS

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

~~Adopted 02/15/95; Revised 04/03/96; Revised 03/01/00; Revised 03/07/01; Revised 11/19/03; Revised 03/15/06; Revised 12/17/08; Revised 09/16/09; Revised 07/07/10; Revised 08/17/11; Revised 07/25/12; Revised March 26, 2014; and Revised 11/05/2014.~~

Adopted 02/15/1995; Revised 04/03/1996; Revised 03/01/2000; Revised 03/07/2001; Revised 11/19/2003; Revised 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 03/26/2014; Revised 11/05/2014; and Revised MM/DD/YYYY.

**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION III – CONTROL OF AIR CONTAMINANTS**  
**RULE 371**  
**ACID RAIN**

**SECTION 100 – GENERAL**

- 101 PURPOSE:** To incorporate by reference the Acid Rain federal regulations in order to obtain delegated authority to enforce portions of the Clean Air Act Amendments of 1990 (CAAA).
- 102 APPLICABILITY:** This rule applies to those affected units as described in 40 Code of Federal Regulations (CFR) 72.6 which has been adopted by reference and no future additions or amendments. Any such stationary source must also comply with other



Maricopa County Air Pollution Control Regulations.

- 103 **SEVERABILITY:** If the provisions or requirements of the regulations incorporated pursuant to this rule conflict with any of the remaining portions of these rules, the regulations incorporated pursuant to this rule shall apply and shall take precedence.
- 104 **AVAILABILITY OF INFORMATION:** Copies of 40 CFR Part 72 (Permits Regulation), 40 CFR Part 74 (Sulfur Dioxide Opt-Ins), 40 CFR Part 75 (Continuous Emission Monitoring), and 40 CFR 76 (Acid Rain Nitrogen Oxides Emission Reduction Program) and all accompanying appendices currently enforced by the department are available electronically at: ~~eeff.gpoae-ees.gov~~ <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>; at the Maricopa County Air Quality Department, 1001 N. Central Ave., Suite 125, Phoenix, AZ, 85004; or by calling (602) 506-6010 for information. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org).
- 105 **FEDERAL DELEGATION AUTHORITY:** The department shall enforce the Federal Acid Rain Regulations which have been delegated to the County by the United States Environmental Protection Agency (EPA) for such enforcement. The department may, in addition, enforce such other Acid Rain Rules as delegated for such enforcement by the EPA to the County.

**SECTION 200 – DEFINITIONS:** See Rule 100 (General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

**SECTION 300 – STANDARDS**

- 301 **INCORPORATED SUBPARTS OF THE FEDERAL ACID RAIN REGULATIONS:** 40 CFR Parts 72, 74, 75 and 76 and all accompanying appendices, adopted as of ~~July 1, 2014~~ July 1, 2015, (and no future additions or amendments) are incorporated by reference as applicable requirements.
- 302 **FEDERAL REGULATORY REVISIONS:** The Maricopa County Board of Supervisors shall take action following promulgation by the Environmental Protection Agency (EPA) of regulations implementing Section 407 and Section 410 of the Clean Air Act (CAA), or revising either Part 72, 74, 75, and/or 76 of the regulations implementing Section 407 or Section 410 of the CAA, to either incorporate such new or revised provisions by reference or to submit, for the EPA approval, the Maricopa County Air Pollution Control Regulations implementing these provisions.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

~~Adopted 03/15/06; Revised 12/17/08; Revised 09/16/09; Revised 07/07/10; Revised 08/17/11; Revised 07/25/12; Revised 09/25/13; Revised March 26, 2014; and Revised 11/05/2014.~~

Adopted 03/15/2006; Revised 12/17/2008; Revised 09/16/2009; Revised 07/07/2010; Revised 08/17/2011; Revised 07/25/2012; Revised 09/25/2013; Revised 03/26/2014; Revised 11/05/2014; and REVISIED MM/DD/YYYY.

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS**

**APPENDIX G  
Incorporated Materials**

- 1. The following test methods, protocols, federal interpretations, guidelines, and appendices located in Title 40, Code of Federal Regulations (CFR) are approved for use as directed by the department under the Maricopa County Air Pollution Control Regulations. These standards are incorporated by reference as of ~~July 1, 2014~~ July 1, 2015, and no future editions or amendments.
  - a. 40 CFR 50;
  - b. 40 CFR 50, Appendices A-1, A-2, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, and T;
  - c. 40 CFR 51; Appendix M; Appendix S, Section IV; and Appendix W; and subsections:
    - 1) 40 CFR 51.100
    - 2) 40 CFR 51.165(a)(1)
    - 3) 40 CFR 51.165(a)(2)(ii)(A) through (F)



- 4) 40 CFR 51.165(a)(3)(i)(A) through (B)
  - 5) 40 CFR 51.165(a)(3)(ii)(A) through (D)
  - 6) 40 CFR 51.165(a)(3)(ii)(G)
  - 7) 40 CFR 51.165(a)(6)(i) through (vi)
  - 8) 40 CFR 51.165(a)(11)(b)(2)
  - 9) 40 CFR 51.165(f)(1) through (15)
  - 10) 40 CFR 51.166(o)
  - 11) 40 CFR 51.166(p)
  - 13) 40 CFR 51.301
  - 14) 40 CFR 51.307
  - d. 40 CFR 52, Appendices D and E; and subsection 52.21
  - e. 40 CFR 53;
  - f. 40 CFR 58;
  - g. 40 CFR 58, Appendices A, C, D, E, and G;
  - h. 40 CFR 60, Appendices A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, B, C, D, F, G, and I;
  - i. 40 CFR 61, Appendices A, B, C, D, and E;
  - j. 40 CFR 63, all appendices; ~~and~~
  - k. 40 CFR 70.4(b)(3)(viii);
  - l. 40 CFR 75; and
  - m. 40 CFR 75, Appendices A, B, C, D, E, F, and G.
2. The following are federally listed non-precursor organic compounds, organic compounds which have been determined to have negligible photochemical reactivity as listed in 40 CFR 51.100(s).
- a. This list is incorporated by reference as of ~~July 1, 2014~~ July 1, 2015, and no future editions or amendments:

CAS NUMBER	COMPOUND NAME
1615-75-4	1 chloro-1-fluoroethane (HCFC-151a);
163702-07-6	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C <sub>4</sub> F <sub>9</sub> OCH <sub>3</sub> or HFE-7100);
375-03-1	1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C <sub>3</sub> F <sub>7</sub> OCH <sub>3</sub> , HFE-7000);
132182-92-4	1,1,1,2,2,3,3,4,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);
431-89-0	1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);
43176370	1,1,1,2,3,3,3-hexafluoropropane (HFC-236ea);
138495-42-8	1,1,1,2,3,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
43173172	1,1,1,2,3-pentafluoropropane (HFC-245eb);
811-97-2	1,1,1,2-tetrafluoroethane (HFC-134a);
69073971	1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
40675876	1,1,1,3,3-pentafluorobutane (HFC-365mfc);
46077371	1,1,1,3,3-pentafluoropropane (HFC-245fa);
71-55-6	1,1,1-trichloroethane (methyl chloroform);
306-83-2	1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
420-46-2	1,1,1-trifluoroethane (HFC-143a);
67978677	1,1,2,2,3-pentafluoropropane (HFC-245ca);
359-35-3	1,1,2,2-tetrafluoroethane (HFC-134);
2427076674	1,1,2,3,3-pentafluoropropane (HFC-245ea);
7671371	1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
1717-00-6	1,1-dichloro 1-fluoroethane (HCFC-141b);
75-34-3	1,1-difluoroethane (HFC-152a);
7671472	1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
35472374	1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
507-55-1	1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
75-68-3	1-chloro 1,1-difluoroethane (HCFC-142b);
163702-05-4	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C <sub>4</sub> F <sub>9</sub> OC <sub>2</sub> H <sub>5</sub> or HFE-7200);
754-12-1	2,3,3,3-tetrafluoropropene (HFO-1234yf)



124-68-5	2-amino-2- methyl-1-propanol (AMP)
163702-08-7	2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF <sub>3</sub> ) <sub>2</sub> CF <sub>2</sub> OCH <sub>3</sub> );
163702-06-5	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF <sub>3</sub> ) <sub>2</sub> CF <sub>2</sub> OC <sub>2</sub> H <sub>5</sub> );
754-12-1	2,3,3,3-tetrafluoropropene;
2837-89-0	2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
422-56-0	3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
297730-93-9	3-ethoxy- 1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);
67-64-1	acetone;
75-45-6	chlorodifluoromethane (HCFC-22);
59377074	chlorofluoromethane (HCFC-31);
7671573	chloropentafluoroethane (CFC-115);
0	cyclic, branched, or linear completely methylated siloxanes;
7577178	dichlorodifluoromethane (CFC-12);
9550871670	difluoromethane (HFC-32);
616-38-6	dimethyl carbonate;
74-84-0	ethane;
95508-16-0	ethylfluoride (HFC-161);
188690-78-0	HCF <sub>2</sub> OCF <sub>2</sub> CF <sub>2</sub> OCF <sub>2</sub> H (HFE-338pcc13);
1691-17-4	HCF <sub>2</sub> OCF <sub>2</sub> H (HFE-134);
188690-77-9	HCF <sub>2</sub> OCF <sub>2</sub> OCF <sub>2</sub> CF <sub>2</sub> OCF <sub>2</sub> H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
78522-47-1	HCF <sub>2</sub> OCF <sub>2</sub> OCF <sub>2</sub> H (HFE-236cal2);
72-84-8	methane;
79-20-9	methyl acetate;
107-33-3	methyl formate (HCOOCH <sub>3</sub> );
75-09-2	methylene chloride (dichloromethane);
98-56-6	parachlorobenzotrifluoride (PCBTF);
354-33-6	pentafluoroethane (HFC-125);
127-18-4	perchloroethylene (tetrachloroethylene);
108-32-7	propylene carbonate;
102687-65-0	<i>trans</i> 1-chloro-3,3,3-trifluoroprop-1-ene (Solstice™ 1233zd(E))
29118-24-9	<i>trans</i> -1,3,3,3-tetrafluoropropene;
7576974	trichlorofluoromethane (CFC-11);
75-46-7	trifluoromethane (HFC-23);
0	and perfluorocarbon compounds which fall into these classes:
	(i) Cyclic, branched, or linear, completely fluorinated alkanes;
	(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
	(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
	(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

b. The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements, which apply to VOC and shall be uniquely identified in emission reports but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate (540-88-5).

3. The following documents are incorporated by reference and are approved for use as directed by the department under the Maricopa County Air Pollution Control Regulations. These documents are incorporated by reference as of the year specified below, and no future editions or amendments.

- a. Section 1 and Section 7 of the The Arizona Department of Environmental Quality's (ADEQ) "Arizona Testing Manual for Air Pollutant Emissions," amended as of March 1992, and no future editions or amendments.
- b. All ASTM International (ASTM) standards referenced in the Maricopa County Air Pollution Control Regulations as of the year specified in the reference, and no future editions or amendments.
- c. The U.S. Government Printing Office's "Standard Industrial Classification Manual, 1987", published by the Executive Office of the President, Office of Management and Budget, and no future editions or amendments.
- d. EPA Publication No. AP-42, 1995, "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, including Supplements A, B, C, D, E, F, Updates 2001, 2002, 2003, and 2004 and all updates as of ~~July 1, 2014~~ July 1, 2015, and no future editions or amendments.
- e. EPA guidance document "Guidelines for Determining Capture Efficiency", January 9, 1995, and no future editions or



amendments.

- f. 2002 US NAICS Manual, “North American Industry Classification System United States”, National Technical Information Service, US Census Bureau, 2002, and no future editions or amendments.
- 4. The following federal regulations located in Title 40, Code of Federal Regulations (CFR) are approved for use as directed by the department under the Maricopa County Air Pollution Control Regulations. These standards are incorporated by reference as of ~~July 1, 2014~~ July 1, 2015, and no future editions or amendments.
  - a. ~~The Consolidated Emissions Reporting Rule~~ Air Emissions Reporting Requirements in 40 CFR 51, Subpart A, Appendix A, Table 2A.
  - b. ~~40-CFR-75- Attainment and Nonattainment Area Designations: 40 CFR 81.303 as amended as of July 1, 2010 (and no future amendments or editions) is incorporated by reference as an applicable requirements and on file with the Maricopa County Air Quality Department, as described below and is available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.~~

**Availability of Information:** Copies of these incorporated materials are available electronically at: ~~ecfr.gpoaccess.gov~~ <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>; at the Maricopa County Air Quality Department, 1001 N. Central Ave, Suite 125, Phoenix, AZ, 85004. ASTM standards are available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428, or from its website at [www.astm.org](http://www.astm.org).

**NOTICE OF PROPOSED RULEMAKING**

**MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS**

[M15-174]

**PREAMBLE**

**AQ-2013-005-NEW SOURCE REVIEW**

<b><u>1. Rules affected</u></b>	<b><u>Rulemaking action</u></b>
Rule 100: General Provisions and Definitions	Amend
Rule 200: Permit Requirements	Amend
Rule 210: Title V Permit Provisions	Amend
Rule 220: Non-Title V Permit Provisions	Amend
Rule 230: General Permits	Amend
Rule 240: Permit Requirements For New Major Sources and Major Modifications to Existing Sources	Amend
Rule 241: Permits for New Sources and Modifications to Existing Sources	Amend
Rule 500: Attainment Area Classification	Amend
Rule 510: Air Quality Standards	Amend
Rule 600: Emergency Episodes	Amend
Appendix D: List of Insignificant Activities	Repeal
Appendix E: List of Trivial Activities	Repeal

- 2. Statutory authority for the rulemaking:**  
 Authorizing statutes: C.F.R. 4825-1, January 2, 1994 (F.R Doc. 94-802 Filed 01-11-94)  
 A.R.S. §§ 49-474, 49-479, and 49-480  
 Implementing statute: A.R.S. § 49-112

- 3. List of all previous notices appearing in the register addressing the proposed rule:**  
 Not applicable

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

Name: Kathleen Sommer  
 Maricopa County Air Quality Department  
 Planning and Analysis Division  
 Address: 1001 N. Central Ave., Suite 125  
 Phoenix, AZ 85004  
 Telephone: (602) 506-6010  
 Fax: (602) 506-6179  
 E-Mail: [aqplanning@mail.maricopa.gov](mailto:aqplanning@mail.maricopa.gov)

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

Summary:



The purpose of this rulemaking is to update the Maricopa County Air Quality Department’s (department’s) New Source Review (NSR) rules in order to secure their approval as part of the state implementation plan (SIP) under the federal Clean Air Act. The update will be consistent with revisions the Arizona Department of Environmental Quality (ADEQ) and the U.S. Environmental Protection Agency (EPA) made to the NSR Program required by the federal Clean Air Act (CAA).

The proposed amendments included in the rulemaking consist of extensive revisions to the county’s major NSR program as well as new NSR requirements for minor sources and minor modifications designed to protect the national ambient air quality standards (NAAQS). (Whether a source or modification is major or minor depends on the level of emissions, as described in greater detail below.)

There is currently a significant discrepancy, known as the “SIP gap,” between the NSR rules as set forth in the Maricopa County Air Pollution Control Regulations and the rules that have been approved by the EPA into the Maricopa County portion of the Arizona SIP. Once approved, the amended rules will eliminate the SIP gap.

This rulemaking also includes proposed conforming and technical changes to rules related to NSR, such as requirements for the general permit program.

Background:

Clean Air Act NSR Requirements

Section 110(a)(2)(C) of the federal Clean Air Act (the “Act” or “CAA”), 42 U.S.C. 7410(a)(2)(C), requires SIPs to:

include a program to provide for the ... regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter ... .

Because regulations adopted under this section apply to newly constructed and modified, as opposed to existing, sources they are commonly referred to as “new source review” programs.

Part C of title I of the Act, 42 U.S.C. 7470-7492, establishes the NSR requirements for major sources that are constructed or modified in areas that have attained the NAAQS for one or more criteria pollutants (ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, PM10, PM2.5 and lead). Sources that belong to the list of categories set forth in section 169(1) of the Act, 42 U.S.C. 7479(1), are major if they emit or have the potential to emit 100 or more tons per year of a regulated air pollutant. Other sources are subject to a 250 tons per year threshold.

The program required by Part C is known as “Prevention of Significant Deterioration” (PSD) because its purpose is to prevent air quality in attainment areas from deteriorating to the level of the NAAQS. See CAA § 160. PSD, therefore, establishes or requires EPA to establish maximum allowable increases, known as “increments,” over existing concentrations of criteria pollutants and requires permit applicants subject to PSD to demonstrate that a new source or modification’s emissions will not result in a violation of the increments or the NAAQS. PSD also requires the installation of the Best Available Control Technology (BACT), defined as “the maximum degree of reduction of each pollutant subject to regulation under this chapter emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility.” 42 U.S.C. 7479(3).

Part D of Title I establishes NSR requirements for major sources and modifications in nonattainment areas. Under Subpart 1 of Part D, 42 U.S.C. 7501-7509a, a major source is defined as any source that emits or has the potential to emit 100 tons per year or more of a pollutant for which an area has been designated nonattainment. Subpart 2 of Part D, 42 U.S.C. 7511-7511f, establishes lower major source thresholds for certain ozone, carbon monoxide and PM10 nonattainment areas.

Permit applicants subject to Part D must demonstrate that a major source or modification will comply with the lowest achievable emission rate (LAER) and that reductions in emissions from the same source or other sources will offset any emissions increases from the source or modification.

In addition to requiring compliance with the specific major NSR requirements of Parts C and D, section 110(a)(2)(C), 7410(a)(2)(C), requires “regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved.” (Emphasis added.) EPA refers to 110(a)(2)(C) programs that apply to non-major sources and to minor modifications to major sources as “minor NSR.” 76 Fed. Reg. 38748, 38752 (July 1, 2011).

EPA NSR Regulations

EPA has promulgated regulations establishing the elements a state program must contain to satisfy section 110(a)(2)(C) at 40 CFR 51, Subpart I (§§ 51.160-51.166) and federal implementation plans at 40 CFR 52 § 52.21 and 40 CFR 51, Appendix S.

Sections 51.165 and 51.166 establish the requirements for nonattainment NSR and PSD programs, respectively. These rules are



highly detailed and restrictive. States seeking approval of major NSR programs must either strictly conform to these rules or demonstrate that any deviations are at least as stringent as EPA's program.

Both § 51.165 and 51.166 limit the applicability of major NSR to the construction of a new major source or a "major modification" to a major source. A major modification is defined as a physical or operational change that will result in both a significant increase and a significant net increase in the emissions of a regulated NSR pollutant.

For criteria pollutants and their precursors, "significant" is defined as:

Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Volatile organic compounds	40 tpy
Lead	0.6 tpy
PM10	15 tpy
PM2.5	10 tpy

As EPA has noted, the "Federal regulations for minor source programs [at 40 CFR 51.160-164] are considerably less detailed than the requirements for major sources." 71 Fed. Reg. 48696, 48700 (Aug. 21, 2006). Under the minor NSR regulations, a state program must contain "legally enforceable procedures" to prevent the construction or modification of a minor source if it will "result in a violation of applicable portions of the control strategy" for compliance with the NAAQS or "interfere with the attainment or maintenance of a" NAAQS. 40 CFR 51.160.

A minor NSR program need not apply to all new and modified sources, but it must "identify types and sizes of facilities, buildings, structures, or installations which will be subject to" minor NSR and "discuss the basis for determining which facilities will be subject to review." 40 CFR 51.161(e). As EPA has noted:

Applicability thresholds are proper in [a minor NSR program] provided that the sources and modifications with emissions below the thresholds are inconsequential to attainment and maintenance of the NAAQS. 71 Fed. Reg. 48701.

The appropriate threshold levels for NSR applicability are often referred to as "de minimis" levels. The program must allow a minimum 30-day period to comment on the applicant's minor NSR application and the agency's proposed decision. 40 CFR 51.161.

#### Maricopa County's NSR SIP and Current NSR Rules

Before the department's creation in 2004, Maricopa County's Bureau of Air Pollution Control was responsible for administering Maricopa County's air quality program and the Board of Supervisors adopted its original major and minor NSR rules. Maricopa County implemented NSR through an installation permit program, which required owners and operators to obtain an installation permit before beginning construction of a new source or a modification to an existing source. See former Maricopa County Bureau of Air Pollution Control Regulation Rule 21, which, along with other rules cited in this discussion, can be found at EPA Region 9's web site at: <http://www2.epa.gov/aboutepa/epa-region-9-pacific-southwest>. A separate operating permit was required before the owner or operator was allowed to begin operation of the source or modification. See former Rule 220 Permits to Operate.

In 1988, EPA approved the Maricopa County nonattainment NSR provisions into the SIP. 53 Fed. Reg. 30220 (Aug. 10, 1988). Effective November 22, 1993, EPA delegated PSD authority to Maricopa County via a PSD Delegation Agreement. 59 FR 1730 (January 12, 1994).

#### The SIP Gap

EPA last approved revisions to the Maricopa County NSR SIP in 1988. See 53 Fed. Reg. 30220 (Aug. 10, 1988). Since the amendments last approved by EPA were adopted, the county has re-organized forming the Maricopa County Air Quality Department and has made substantial revisions to the program.

Most significantly, in 1992 through 1993, the Arizona State adopted legislation, followed by conforming rule amendments, to move from the old installation and operating permit program to a "unitary" program that authorizes both construction and operation in a single permit. NSR requirements for new sources are now enforced as part of the issuance of a single permit that also ensures compliance with all other applicable requirements of state and federal air quality laws. For major sources, these permits are designed to comply with title V of the Act, as well as Parts C and D of title I. Major modifications subject to major NSR now require a significant revision to the permit for an existing source, rather than a new installation permit. Other modifications that formerly required an installation permit may now proceed under either a significant or minor permit revision.



In addition to adopting the unitary permit program, Maricopa County also has updated its NSR rules to incorporate:

- the PM<sub>10</sub> and PM<sub>2.5</sub> NAAQS,
- the PM<sub>10</sub> increments,
- the nitrogen dioxide increments,
- the 1997 eight-hour ozone NAAQS,
- the “WEPCO” rule redefining the method for determining whether a modification to an electric generating unit is major, and
- various technical amendments.

None of these changes is included in the approved NSR SIP for Maricopa County.

Under federal law, Maricopa County remains obligated to continue enforcing the old NSR program until EPA approves the new one. Fortunately, the new program is in most cases more stringent than the old, so that compliance with current rules is largely sufficient to assure compliance with the approved NSR SIP. There are a few instances, however, in which the old rules require review procedures that go beyond the current program. Maricopa County has had to issue guidance explaining that in these cases the department will apply the approved SIP, rather than the current rules.

It would obviously be preferable for the requirements of the SIP and the current rules to match. Maricopa County is, therefore, seeking through these proposed rule amendments to eliminate the SIP gap for the permit program.

EPA Amendments to Major NSR

Maricopa County has attempted to secure EPA approval of prior versions of its NSR rules, but so far without success. Since Maricopa County last updated its NSR rules, EPA has adopted substantial revisions to the major NSR program, making additional amendments necessary before approval by EPA can be secured.

Most significantly, on December 31, 2002, EPA promulgated comprehensive amendments, known as “NSR reform,” to the regulatory methods for determining whether a major modification has occurred. 67 Fed. Reg. 80186. On June 24, 2005, the United States Court of Appeals for the D.C. Circuit vacated some of the rule changes, including exemptions for modifications to certain “clean units” and modifications that qualify as “pollution control projects.” *New York v. EPA*, 413 F.3d 3 (D.C. Cir 2005). The remaining rules, which remain in effect, consist of changes to the method for calculating the emissions increase from a modification to an existing emissions unit and provisions for “Plantwide Applicability Limits” (PALs).

The determination of whether a modification to an existing unit will result in a significant emissions increase entails a comparison between “baseline” (i.e. existing) emissions and future emissions after the modification is complete. (The installation of a new unit is generally deemed to result in an increase equal to the unit’s potential to emit.) NSR reform established a new method for determining baseline emissions and a new option for determining future emissions for modifications to existing units.

Under pre-NSR Reform rules, baseline emissions were generally calculated using the actual emissions for the two-year period immediately preceding the proposed change. 67 Fed. Reg. 80188. As EPA has noted, regulated industries complained that this method provided only “limited ability to consider the operational fluctuations associated with normal business cycles.” 67 Fed. Reg. 80191. The NSR Reform amendments therefore allow the use of any consecutive 24-month period during the ten-year period prior to the change to establish baseline actual emissions. (A five- year period is used for EGUs.)

Before NSR Reform, an existing unit’s future, post-modification emissions were normally deemed to equal the unit’s potential to emit (PTE). The definition of PTE assumes that a unit “will operate at its full capacity year round,” unless the source’s permit includes “enforceable restrictions on the unit’s operation.” This was problematic, because “using PTE as a measure of post-change emissions automatically attributes all possible emissions increases to the change.” In many cases, however, the unit might “function essentially as it did before the change” and produce no increase or a less-than-significant increase in actual emissions. 67 Fed. Reg. 80193-94.

After NSR Reform, a source’s owner or operator may now elect to use an existing unit’s “projected actual emissions,” rather than its PTE, to determine future emissions. Unlike PTE, a unit’s projected actual emissions take into account historical operational data and exclude emissions that could have been accommodated before the modification.

According to EPA, this new test for calculating the emissions increase from a modification to an existing unit, known as the “actual-to-projected-actual” test, will produce benefits for regulated industries, the environment and state and local agencies:

By allowing you [i.e., regulated entities] to use today’s new version of the actual-to-projected-actual applicability test to evaluate modified existing emissions units, we expect that fewer projects will trigger the major NSR permitting requirements. None-



theless, we believe that the environment will not be adversely affected by these changes and in some respects will benefit from these changes. The new test will remove disincentives that discourage sources from making the types of changes that improve operating efficiency, implement pollution prevention projects, and result in other environmentally beneficial changes. Moreover, the end result is that State and local reviewing authorities can appropriately focus their limited resources on those activities that could cause real and significant increases in pollution. 67 Fed. Reg. 80192.

The NSR Reform rule also provides that if there is a “reasonable possibility” that modifications to existing emissions units will produce a significant emissions increase of a regulated NSR pollutant, and the owner or operator elects to use the actual-to-projected-actual test, the modifications will be subject to monitoring, recordkeeping and reporting obligations.

The initial NSR Reform rule did not define “reasonable possibility.” The court in *New York v. EPA* held that without a definition or other clarification, the rule failed to provide regulated entities or agencies adequate notice of when these obligations are triggered. In response, EPA issued amendments to its major NSR rules defining the term. 72 Fed. Reg. 72607 (Dec. 12, 2007). Although EPA subsequently granted a petition to reconsider the definition, it did not stay the provision, which therefore remains in effect.

The other major element of NSR Reform is the PAL, which allows major sources to avoid major NSR by accepting and complying with a source-wide cap on emissions. PALs are set for each regulated NSR pollutant at a level equal to baseline actual emissions plus the significant level for the pollutant. Baseline actual emissions are calculated in the same way as described above for calculating emission increases from modifications to existing emission units. A source may generally make any changes it wants without triggering major NSR, so long as plantwide emissions after the change remain below the PAL. PALs last for ten years and are renewable.

EPA believes that regulated entities “will benefit from the PAL option because [they] will have increased operational flexibility and regulatory certainty, a simpler NSR applicability approach, and fewer administrative burdens.” 67 Fed. Reg. 80206. Based on a review of six flexible permit pilot projects, EPA concluded that the environment would also benefit. According to the agency, “PALs will over time tend to shift growth in emissions to cleaner units, because the growth will have to be accommodated under the PAL cap.” 67 Fed. Reg. 80207.

Since the last Maricopa County update, EPA also has made numerous revisions to the NAAQS. The NAAQS are not technically part of EPA’s NSR regulations, but in order to be approvable, a state NSR program must allow for enforcement of the current version of these standards. See, e.g., 40 CFR 51.166(k)(1). Maricopa County must also update Rule 510 to reflect the revised NAAQS.

Finally, EPA has made numerous other revisions that must be included in the Maricopa County program, such as the adoption of PM<sub>2.5</sub> increments and significant impact levels and significant monitoring concentrations for PM<sub>2.5</sub>.

#### Discussion About This Rulemaking:

Consistent with the Maricopa County obligation under A.R.S. § 49-480(B), the department is proposing to adopt NSR amendments that are substantially identical to the ADEQ and EPA NSR programs for major sources and amendments that generally impose no greater procedural burden than ADEQ’s procedures for minor sources. However, due to long-standing nonattainment area federal requirements, Maricopa County’s permitting thresholds are lower than ADEQ’s permitting thresholds. Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by ADEQ for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112. Under § 49-112(A), the county may adopt a rule that is more stringent than or in addition to a provision of A.R.S. Title 49 or an ADEQ rule under specific conditions including peculiar local conditions, necessary to prevent a significant threat to public health or environment, or required under a federal statute or regulation. A further discussion of compliance with A.R.S. §49-112 can be found in Item 6 of this Notice of Proposed Rulemaking.

#### Revisions to Maricopa County Major NSR Program

EPA’s major NSR regulations are quite detailed and restrictive. They establish a specific body of “corresponding federal law that addresses the same subject matter” as the major NSR amendments. The amendments included in the ADEQ-NSR rulemaking consisted of those required under HB 2617<sup>1</sup> and ensured that the major NSR program amendments were consistent with and no more

1. HB 2617 which became law on July 29, 2010, required that ADEQ as set forth in A.R.S. § 49-104(A):

17. Unless specifically authorized by the legislature, [the department shall] ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This provision shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.

Laws 2010, Ch. 309, § 14.



stringent than the corresponding EPA regulations. Consistent with that obligation, Maricopa County is proposing to adopt major NSR amendments that incorporate by reference most of the federal rules. Incorporation by reference will result in rules substantially identical to the ADEQ rulemaking described above. Specifically, these proposed provisions will eliminate a provision from the existing definition of major source because it was more stringent than the corresponding federal definition. In addition, the incorporation by reference of the federal definitions would be substantially identical to the sense, meaning, and effect of ADEQ's definitions as required by A.R.S. § 49-471.08(B).

Maricopa County Minor NSR Requirements

The proposed rule amendments relating to minor NSR included in this rulemaking are designed to address a lack of explicit procedures designed "to assure that national ambient air quality standards are achieved," as required by CAA § 110(a)(2)(C). Maricopa County's current minor source permitting rules require the inclusion of "[e]nforceable emission limitations and standards, including operational requirements and limitations that ensure compliance with all applicable requirements." Rule 220, Section 302.2. They therefore satisfy the requirement in EPA's minor NSR rules to assure that minor sources do not violate "applicable portions of the control strategy." Another proposed revision adds procedures related to stack heights, including good engineering practice (GEP) stack height provisions as required by 40 CFR 51.164 in Rule 200. MCAQD does not believe that many, if any, minor sources will trigger the stack height requirements.

Maricopa County's permit rules for minor NSR impose no greater procedural burden than procedures for the review, issuance, revision and administration of permits issued by the State. However, Maricopa County's rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source's proximity to the PM<sub>10</sub> and ozone nonattainment areas, specific atmospheric and geographical conditions found at the source's location, control technology provisions required by the CAA for nonattainment areas, and other control measures adopted into various nonattainment SIPs for Maricopa County. Specifically, various SIPs for Maricopa County have required the adoption of reasonably available control technology (RACT), best available control technology (BACT), and most stringent measures (MSM) as required by CAA §§ 172, 182, 188, and 189.

As a result of long-standing nonattainment classifications for ozone and particulates, Maricopa County has existing permit thresholds that are lower than ADEQ's in order to address the emissions sources specific to the county that contribute to nonattainment and are subject to the county's numerous source-specific emission control rules. In this action, the county proposes to maintain the current permit threshold but convert all thresholds from pounds per day to tons per year. The permit thresholds are proposed to be:

Pollutant	Uncontrolled Emission Rate In Tons Per Year (TPY)
PM <sub>2.5</sub> (primary emissions only; levels for precursors are set below)	0.5
PM <sub>10</sub>	0.5
SO <sub>2</sub>	1.0
NO <sub>x</sub>	1.0
VOC	0.5
CO	1.0
Pb	0.3
Single HAP (other than Pb)	0.5
Total HAPs	1.0
Any other regulated air pollutant	1.0

Given the lower permit thresholds and the number of source-specific emission control rules in place to address county nonattainment areas, Maricopa County also proposes to define permit thresholds that would trigger minor NSR modifications as follows:



Pollutant	Uncontrolled Emission Rate In Tons Per Year (TPY)
PM <sub>2.5</sub> (primary emissions only; levels for precursors are set below)	5.0
PM <sub>10</sub>	5.0
SO <sub>2</sub>	5.0
NO <sub>x</sub>	5.0
VOC	5.0
CO	5.0
Pb	0.3

The county also has different existing public review procedures than ADEQ due to these circumstances. The county procedures were adopted in March 2000 following a Stakeholder process with input from both regulated sources and non-governmental organizations. The county procedures require the following:

- Posting the receipt of all applications on the department’s website once a week as they are received,
- Allowing the public to request a public hearing on any application posted to the website at any time after the initial post,
- Providing a formal 30-day public notice published in the newspaper and posted online for larger, more environmentally significant sources, and
- Once a month, publishing in a newspaper and posting online a list of permits issued that month.

In this rulemaking, the department also proposes to convert the public participation thresholds to the following tons per year bases from the current triggers that rely on Rule 280 fee tables:

Pollutant	Public Notice Threshold TPY (New Or Permit Renewals)	Public Notice Threshold TPY (PTE To PTE Emission Increase)
VOC	25	25
NO <sub>x</sub>	25	25
SO <sub>2</sub>	25	25
PM <sub>10</sub>	7.5	7.5
PM <sub>2.5</sub> (primary emissions only; levels for precursors are set above)	5.0	5.0
CO	50	50
Pb	0.3	0.3
Any Single HAP	5.0	5.0
Total HAPs	12.5	12.5

Proposed Amendments to Match Rule Language Found In ADEQ’s NSR Rules:

The department is proposing amendments in the following rules to match rule language found in ADEQ’s NSR rules: Rule 210 (Title V Permit Provisions), Rule 220 (Non-Title V Permit Provisions), Rule 241 (proposed new title: Minor New Source Review (NSR)), Rule 500 (Attainment Area Classification), and Rule 510 (Air Quality Standards).

The following sections in Rule 210 are proposed to be revised:

- Section 200 (Definitions-Introductory Statement): To clarify the applicability of definitions specific to Rule 210 and to Rule 100 (General Provisions And Definitions).
- Section 301.2 (Standard Application Form and Required Information): To add text re: a timely application for a source that becomes subject to the permit program as a result of a change in regulation in response to Stakeholder and EPA concerns. To delete text re: a timely application for the initial Phase II acid rain requirement in response to Stakeholder and EPA concerns.
- Sections 301.8(b)(3) and (5) (Action on Application): To add timeframe for EPA (the Administrator) to act on a permit application that is required to be submitted to the EPA (the Administrator) in response to Stakeholder and EPA concerns.
- Sections 301.8(f) and (h) (Action on Application): To delete text re: the acid rain program in response to Stakeholder and EPA concerns. To delete text re: the publishing of a proposed permit decision within nine months of receipt of a complete application in response to Stakeholder and EPA concerns.
- Section 301.9 (Requirement for a Permit): To add text re: the source’s obligation to obtain a permit revision before making a modification to the source in response to Stakeholder and EPA concerns.
- Section 403.1 (Source Changes Allowed Without Permit Revisions): To add additional gatekeeper for changes eligible for minor



permit revision.

- Section 403.8 (Source Changes Allowed Without Permit Revisions): To delete text re: the Control Officer requiring a permit to be revised (outdated provision); is addressed in Section 405.8.
- Section 406.6 (Significant Permit Revisions): To delete text re: the Control Officer processing the majority of significant permit revision applications within nine months of receipt (outdated provision).
- Sections 408.2 and 408.7 (Public Participation): To add text re: the Control Officer providing public notice of receipt of complete applications for major modifications to major sources. To add text re: the Control Officer providing at least 30 days from the date of the first notice for public comment to receive comments and requests for a hearing. To add text re: the Control Officer making available responses at the time a final proposed permit is submitted to the EPA.

The following sections in Rule 220 are proposed to be revised:

- Sections 301.3(a) and (b) (A Timely Permit Application): To clarify what a timely permit application is for a source that becomes subject to the permit program as a result of a change in the regulation in response to Stakeholder and EPA concerns.
- Section 301.6(b)(4) (Action on Application): To add timeframe for EPA (the Administrator) to act on a permit application that is required to be submitted to the EPA (the Administrator) in response to Stakeholder and EPA concerns.
- Section 301.7 (Permit Application Processing Procedures): To add text re: the source's obligation to obtain a permit revision before making a modification to the source in response to Stakeholder and EPA concerns.
- Sections 407.1, 407.2, and 407.3 (Public Participation): To clarify when the Control Officer must provide public notice and an opportunity for public comment and what permit applications must be published on the Internet and what permit applications must be published in a newspaper.
- Section 407.7 (Public Participation): The department already satisfies this requirement of providing notice for changes requiring non-minor permit revisions to make a change in fuel, to make a change that relaxes monitoring, and to make a change that will require case-by-case determinations for a monitoring requirement by publishing a notice in the newspaper and on the department's website.

The following sections in Rule 241 are proposed to be revised:

- Section 301.1 (Best Available Control Technology (BACT) Required): To delete lbs/day threshold limits.
- Section 301.2 (Best Available Control Technology (BACT) Required): To delete lbs/day threshold limits.
- Section 302 (Reasonably Available Control Technology (RACT)): To delete lbs/day threshold limits.

The following section in Rule 500 is proposed to be revised:

- Section 302 (Limitation of Pollutants in Classified Attainment Areas): To add PM<sub>2.5</sub> increments adopted by ADEQ and the EPA.

The following sections in Rule 510 are proposed to be revised:

- Section 200 (Definitions-Introductory Statement): To clarify the applicability of definitions specific to Rule 510 and to Rule 100 (General Provisions And Definitions).
- Section 301 (Standards-Particulate Matter-2.5 Microns of Less (PM<sub>2.5</sub>)): To update particulate matter ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 302 (Standards-Particulate Matter-10 Microns of Less (PM<sub>10</sub>)): To update particulate matter ambient air quality standards to reflect latest ADEQ and EPA revisions. To delete annual PM<sub>10</sub> standard to reflect latest ADEQ revisions, which were made as required by House Bill 2617.
- Sections 303.1(c) and (d) (Primary Ambient Air Quality Standards for Sulfur Oxides (Measured as Sulfur Dioxide)): To update sulfur dioxide ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 304 (Ozone): To update ozone ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 306 (Nitrogen Oxides (Nitrogen Dioxide)): To update nitrogen dioxide ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 307 (Lead): To update lead ambient air quality standards to reflect latest ADEQ and EPA revisions.
- Section 308 (Pollutant Concentration Determinations): To update pollutant concentration measurement methods.

Major NSR:

The department is proposing to incorporate portions of the federal nonattainment NSR rule requirements into Maricopa County Air Pollution Control Regulations Rule 240 by incorporating the federal requirements by reference. The proposed amendments to the department's major NSR program include:

- The determination of whether a modification to an existing unit will result in a significant emissions increase, which entails a comparison between "baseline", i.e., existing, emissions and future emissions after the modification is complete.
- The allowance of the use of any consecutive 24-month period during the ten-year period prior to the change to establish baseline actual emissions (a five-year period for electric generating units).
- The allowance to use an existing unit's "projected actual emissions," rather than its potential to emit (PTE), to determine future emissions. Unlike PTE, a unit's projected actual emissions take into account historical operational data and exclude emissions that could have been accommodated before the modification. This new test for calculating the emissions increase from a modification to an existing unit, known as the "actual-to-projected" test, will produce benefits for regulated industries, the environment and state and local agencies. If there is a "reasonable possibility" that modifications to existing emissions units will produce a significant emissions increase of a regulated NSR pollutant and the owner or operator elects to use the actual-to-projected-actual test, the modifications will be subject to monitoring, recordkeeping and reporting obligations.
- Plantwide applicability limitations (PALs). PALs allow major sources to avoid major NSR by accepting and complying with a source-wide cap on emissions. PALs are set for each regulated NSR pollutant at a level equal to baseline actual emissions plus the significant level for the pollutant. A source may generally make any change it wants without triggering major NSR, so long as plantwide emissions after the change remain below the PAL. PALs last for ten years and are renewable.
- The allowance of limited interpollutant emission offsets for precursor pollutants on a case by case basis, except for PM<sub>10</sub> and PM<sub>2.5</sub>. Any interpollutant emission offsets used at a major stationary source must receive written approval by EPA. As EPA has approved a demonstration that PM<sub>10</sub> precursors do not contribute significantly to PM<sub>10</sub> violations in Maricopa County (67 FR 48734, July 25, 2002), interpollutant offsets are not allowed between PM<sub>10</sub> and PM<sub>10</sub> precursors. In addition, interpollutant offsets between PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors are not allowed unless modeling has been used to demonstrate appropriate PM<sub>2.5</sub> interpollutant offset ratios as approved in a PM<sub>2.5</sub> Attainment Plan.

Minor NSR:

The department is proposing amendments in the following rules to address Minor NSR: Rule 200 (Permit Requirements), Rule 220 (Non-Title V Permit Provisions), Rule 230 (General Permits), Rule 241 (proposed new title: Minor New Source Review (NSR)), Appendix D (List Of Insignificant Activities), and Appendix E (List Of Trivial Activities). The amendments include the following:

- Retention of existing permitting exemption thresholds but conversion of default emission-based provision from lbs/day to an annual quantity.
- Use the emission-based thresholds for minor NSR modification threshold:
  - Current permitting thresholds are proposed to be retained. Current permitting thresholds are for any regulated air pollutant: CO, NO<sub>x</sub>, SO<sub>x</sub> (measured as SO<sub>2</sub>), ozone, VOC, particulates, air contaminant subject to New Source Performance Standard (NSPS), and HAPs. Current permitting thresholds are: VOC-0.5 tons per year (tpy); CO-1.0 tpy; NO<sub>2</sub> or NO<sub>x</sub>-1.0 tpy; SO<sub>2</sub>-1.0 tpy; lead (Pb)-0.3tpy; PM<sub>10</sub>-0.5 tpy.
  - Definitions are proposed to be added to Rule 100. "Minor NSR modification" is a new term and is similar to ADEQ's definition of "permitting exemption threshold". "Permitting threshold" is a new term but includes the current permitting thresholds. "Public notice threshold" is a new term; thresholds are lower than significance levels. "Regulated minor NSR pollutant" and "Regulated NSR pollutant" are new terms and are similar to ADEQ's terms/definitions.
- Retention of Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) control technology requirements in Rule 241.
- Requirement of an air quality impact assessment if there is reason to believe emissions resulting from a new or modified source undergoing Minor NSR might cause or contribute to an exceedance of the NAAQS.
- Retention of the current alternative forms of public participation for smaller minor sources and small modifications that will not require formal publication of a notice in a newspaper.

The amendments proposed by this rulemaking update the department's New Source Review (NSR) rules, clarify requirements, and



provide compliance with the Federal NSR program Section 110(a) (2) (C) of the federal Clean Air Act (CAA).

**6. Demonstration of compliance with A.R.S. § 49-112:**

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or other regulation is either;
  - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
  - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or other regulation will not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or other regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or other regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

Maricopa County fails to meet the National Ambient Air Quality Standards for both ozone and particulates. While currently classified as a “marginal” ozone nonattainment area, the county recently failed to meet 2008 8-hour ozone standard by the marginal area attainment date and anticipates EPA will issue a notice proposing to re-classify the area to “moderate”. Further, a portion of the county was classified as a serious ozone nonattainment area under the previous 1-hour ozone standard requiring the county to continue to maintain the measures and requirements that allowed the county to attain that standard. Currently, a portion of Maricopa County and Apache Junction in Pinal County is designated serious nonattainment for the PM<sub>10</sub> 24-hour standard. This is the only serious PM<sub>10</sub> nonattainment area in Arizona. Maricopa County's permit rules for these programs are substantially identical to or impose no greater procedural burden than procedures for the review, issuance, revision and administration of permits issued by the State. However, Maricopa County's rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source's proximity to the PM<sub>10</sub> and ozone nonattainment areas and specific atmospheric, geographical conditions found at the source's location, and control technology provisions required by the CAA for nonattainment areas, and other control measures adopted into various nonattainment SIPs for Maricopa County. Specifically, various SIPs for Maricopa County have required the adoption of reasonably available control technology (RACT), best available control technology (BACT), and most stringent measures (MSM) as required by CAA §§ 172, 182, 188, and 189.

The department complies with A.R.S. § 49-112 in that the proposed amendments to 1) the department’s major source NSR rules are not more stringent than or in addition to a provision of Title 49 or rule adopted by the director or any board or commission authorized to adopt rules pursuant to Title 49, 2) the department’s minor source rules address the peculiar local conditions in Maricopa County and address long-standing federal requirements for nonattainments areas, and 3) the proposed amendments to the department’s NSR rules are authorized under A.R.S. Title 49, Chapter 3, Article 3 and consequently are not in lieu of a state program.

**7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule, 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 rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision:**  
Not applicable

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

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement (ESBCIS) as required by A.R.S. § 49-471.05 and prescribed in A.R.S. § 41-1055, subsections A, B and C.

The department welcomes interested parties to provide additional relevant information and documentation on the anticipated costs and benefits resulting from the proposed rule revisions.

**An identification of the rulemaking.**

The rulemaking addressed by this ESBCIS is the adoption of amendments designed to bring the department's New Source Review (NSR) rules into conformance with federal requirements for minor NSR and incorporate recent changes to EPA's major NSR regulations. In particular, this ESBCIS covers amendments to the following existing rules and appendices: Rules 100, 200, 210, 220, 230, 240, 241, 500, 510, 600, and Appendix D, E, and G. These rule changes are described in detail in Item 5 of this Notice of Proposed Rulemaking.

Two specific elements of the NSR amendments are addressed in the ESBCIS:

1. New and amended ambient standards that EPA has adopted since the department last amended Rule 510 and that may need to be addressed in New Source Review (NSR) and Prevention of Significant (PSD) applications and permitting decisions. Specifically: the more stringent annual and 24-hour National Ambient Air Quality Standards (NAAQS) for PM<sub>2.5</sub>, PM<sub>2.5</sub> increments, the more stringent eight-hour NAAQS for ozone, the new one-hour NAAQS for sulfur dioxide and nitrogen dioxide. These changes may result in increased compliance costs for sources and minor increased administrative costs for the department.
2. NSR reform amendments. These changes will reduce compliance costs and will have a mixed effect on the department's administrative costs.

The remaining changes to major NSR are technical in nature and should have little, if any, economic impact on the agency, businesses or consumers.

**An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.**

In general terms, the persons who will be directly affected by and bear the costs of the proposed rulemaking will be businesses that construct or modify stationary sources that are subject to major or minor NSR. The emissions thresholds for sources and modifications subject to major and minor NSR are described in detail in Item 5 of this Notice of Proposed Rulemaking.

The types of business operations subject to the department's major NSR program typically include natural gas-fueled power plants, petroleum products terminals, landfills, metal processing, and manufacturers of reinforced plastics, expandable foam, wood furniture, steel products, and aircraft engine and parts. Major sources tend to be large facilities operated by publicly owned corporations and employing hundreds or thousands of employees.

As discussed in Item 5 of this Notice of Proposed Rulemaking, major sources are potentially subject to minor as well as major NSR. Minor NSR may also apply to smaller business operations or operations that, although substantial in scale, tend to have emissions below the major source thresholds. These include rock quarrying and crushing operations, concrete batch plants, asphalt plants, semiconductor manufacturers, chemical manufacturers, crematories, dry cleaners, landfills, wood product manufacturers, commercial printers and publicly owned waste water treatment facilities.

The above list is not exhaustive. Any business that engages in pollutant emitting activities is potentially subject to NSR. Typical pollutant-emitting activities include fuel combustion to produce energy or as part of a process, the use of solvents, the application of surface coatings (such as paints and varnishes), the storage of fuels and other organic liquids and the handling of materials likely to give rise to airborne dust. Tailpipe emissions from mobile sources are not considered in determining NSR applicability.

**A cost benefit analysis of the following:**

**(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.**

As required by A.R.S. § 49-480(D), the hourly rate for billable permit actions under Rule 280 (Fees) Sections 301.1 and 302.1 has been set to reflect the department's cost of processing permit applications (14 A.A.R. 1767, May 9, 2008). Therefore, in assessing the costs to the department of conducting the permitting and administrative activities required by this rule, the department has assumed that the cost per additional hour of employee time is equal to the current hourly rate of \$150.00.

**Major NSR**

The department's costs of implementing the additional major NSR requirements will likely be minimal. In fact implementation of NSR reform may result in a net cost savings for the department.



One element of the major NSR amendments that will increase the department’s costs of administering the air quality permit program is the incorporation of the new ambient standards: the PM<sub>2.5</sub> NAAQS and PM<sub>2.5</sub> increments, the one-hour sulfur dioxide NAAQS and the one-hour nitrogen dioxide NAAQS. The air quality impact analysis for major NSR permit applications addressing these pollutants will be somewhat longer and more complex than under current rules and will therefore require additional review time by the department’s permit engineers. The ozone and lead NAAQS amendments, on the other hand, constitute an increase in the stringency of existing standards and should not result in any modeling or review time beyond that already required. The department has received and processed three major NSR applications in the past eight years. Most major NSR permit applications will require an air quality analysis for the new ambient standards. The department’s Permit Engineering Division estimates that the additional review time will range from five to ten hours. The total annual cost to the agency per year for the additional major NSR requirements will therefore range from \$750.00 to \$1,500.00 (\$150.00 X 5 hours; \$150.00 × 10 hours). Under Rule 280 (Fees), Section 301.1, the permit applicant will ultimately be required to reimburse the department for this cost as part of its permit fee.

The impact of NSR reform on the department’s air quality permitting costs is difficult to gauge. NSR reform includes elements that could either increase or reduce the costs of administering the major NSR program. The department believes that on balance, the cost savings of NSR reform will outweigh whatever additional costs will be imposed. This is consistent with EPA’s conclusion that NSR reform would allow state permitting authorities to “focus their limited resources on those activities that could cause real and significant increases in pollution.” 67 Fed. Reg. 80186, 80192 (2002).

Minor NSR

The department’s Minor NSR as proposed would apply to all new sources with the potential to emit any regulated minor NSR pollutant in an amount equal to or greater than the permitting threshold defined in Rule 100 and not subject to major source requirements under Rule 240 and any existing permitted source that increases its potential to emit any regulated minor NSR pollutant in an amount equal to or greater than the minor NSR modification threshold (defined in Rule 100).

As discussed in Item 5 of this Notice of Proposed Rulemaking, the proposed amendments to change from daily to annual permitting threshold limits will enable less burdensome and streamlined record keeping requirements. The change to annual threshold limits from per day limits reduces the record keeping burden, particularly for small sources, who would be more likely than larger sources to have emissions that fall near the thresholds limits and would be required to maintain documentation of emissions levels.

Based on experience in administering the existing permit program, the department’s Permit Engineering Division estimates that it will process approximately 100 applications for permits or permit revisions subject to minor NSR per year. The Permit Engineering Division also estimates that on average the additional time for processing the minor NSR components (applicability and air quality impact analyses) of a permit or permit revision application will be 2 hours per application for SCREEN modeling for ambient air quality assessment and 5 hours per application for reviewing refined modeling performed by the source. The Permit Engineering Division further estimates that the department will perform SCREEN modeling for the air quality impact assessment on approximately 95% of the permit applications and will review the refined modeling performed by the source on approximately 5% of the permit applications. Therefore, the department estimates the additional annual cost to the department for the minor NSR components of a permit or permit revision will be approximately \$33,750.00 (95 applications × 2 hours × \$150.00 per hour = \$28,500.00) + (5 applications × 7 hours × \$150.00 per hour = \$5,250.00).

**Additional Cost to the Department for NSR Amendments:**

The estimated additional annual cost to the department for the NSR amendments is approximately \$35,000.00:

\$750.00 to \$1,500.00 for additional major NSR costs + \$33,750.00 for minor NSR costs = \$34,500.00 to \$35,250.00

Under Rule 280 (Fees), Sections 301.1 and 302.1, the permit applicant will ultimately be required to reimburse the department for this cost as part of its permit fee.

Other Agencies

Eighty-seven sources operated by state agencies require permits under the current program. They represent approximately 2% of all department-permitted sources. All of these state-operated sources will bear the same costs of compliance described in section (c) below for privately owned businesses.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking**

Four-hundred forty sources operated by political subdivisions require permits under the current program. They represent approximately 10% of all department-permitted sources. All of these sources will bear the same costs of compliance described in sec-



tion (c) below for privately owned businesses.

**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

**Major NSR**

As discussed in Item 5 of this Notice of Proposed Rulemaking, the amendments to the department's major NSR rules are the minimum necessary to comply with federal requirements for the program. Even if the department failed to adopt these amendments, they would ultimately apply to major sources in Maricopa County either through the adoption of a federal implementation plan (FIP) by EPA under section 110(c) of the Clean Air Act (in the case of PSD) or the application of 40 CFR 51, Appendix S (in the case of nonattainment NSR). At best, a decision by the department not to adopt the major NSR amendments would result in a temporary delay in their application to sources in Maricopa County, Arizona. A discussion of the additional costs and benefits of the amended requirements at the county-level nevertheless follows.

The new and amended ambient standards incorporated by this rule may result in the imposition of three types of additional costs on applicants for major NSR permits.

First, a new major source or major modification with significant emissions of any of the pollutants subject to a new ambient standard (the PM<sub>2.5</sub> increments and PM<sub>2.5</sub> NAAQS or the one-hour sulfur dioxide or nitrogen dioxide NAAQS) will be required to conduct additional modeling to demonstrate compliance with these standards. The department estimates that one additional model run for each major NSR applications will be required. The Arizona Department of Environmental Quality (ADEQ) estimated in their NSR Notice of Final Rulemaking (18 A.A.R. 1542, July 6, 2012) based on information received from an environmental consultant, that the cost of adding one model run to a refined model would be approximately \$8,000.00.

Second, applicants will be responsible for paying permit fees equal to the additional permit processing costs noted above due to the major NSR amendments. As noted above, the estimated additional processing costs for major NSR will range from \$750.00 to \$1,500.00.

Third, when modeling demonstrates an ambient impact resulting in non-compliance with an ambient standard (NAAQS or increments), mitigation beyond the level of control technology already required by major NSR is necessary. The cost of mitigation can be substantial but is highly dependent on the nature of the particular project and cannot be reliably estimated for purposes of the ESBCIS. Moreover, because major NSR automatically requires a very stringent level of control (BACT or LAER), mitigation is rarely necessary. Mitigation necessary to address non-compliance with any of the new standards imposed in the major NSR amendments will be an even rarer occurrence. Thus, the major NSR amendments are unlikely to result in additional mitigation costs.

The total estimated annual costs to sources subject to major NSR as a result of the rule amendments will range from \$8,750.00 to \$9,500.00 (\$8,000.00 + \$750.00 to \$1,500.00) plus the costs of mitigation, in the unlikely event it is required.

NSR reform, on the other hand, is likely to generate substantial savings for existing major sources that are potentially subject to major NSR. The revised method for determining baseline emissions and the actual-to-projected-actual alternative for determining the level of future emissions will make it easier for sources to demonstrate the inapplicability of major NSR. Sources that obtain PALs will essentially be able to avoid subsequent major NSR for a 10-year period. The savings from these reforms are difficult to estimate, but the department believes they will at least offset the additional costs described above.

**Minor NSR**

As noted above, the department estimates that approximately 100 minor and major sources requiring permits or permit revisions each year will be subject to minor NSR.

The minor NSR amendments may result in the imposition of three types of additional costs on applicants for major NSR permits:

First, ADEQ estimated based on experience with contractors performing accelerated permitting services that the cost of preparing the minor NSR components of a permit or permit revision application would average \$4,000.00 (18 A.A.R. 1542, July 6, 2012). The department's Permit Engineering Division agrees with that estimate and therefore estimates annual application preparation costs attributable to minor NSR at: 100 applications × \$4,000.00 per application = \$400,000.00.

Second, applicants will be responsible for paying permit fees equal to the additional permit processing costs as noted above related to the minor NSR requirement for an air quality impact assessment. The department estimates above that SCREEN modeling may result in \$300.00 of additional costs (2 hours × \$150.00) and reviewing refined modeling performed by the source may result in \$1,050.00 of additional costs (7 hours × \$150). Therefore, the department estimates annual additional permit pro-



cessing costs attributable to minor NSR at: 95 applications × \$150 + 5 applications × \$150 = \$15,000.

Third, based on estimates provide by environmental consultants, ADEQ projected that the cost of running a refined model to comply with minor NSR will be approximately \$7,000 to \$12,000 000 (18 A.A.R. 1542, July 6, 2012). The department’s Permit Engineering Division agrees with that estimate and estimated above that 5% of minor NSR applicants will need to perform refined modeling for the ambient air quality assessment. Therefore, the department estimates the additional annual cost attributable to performing a refined model by the source ranges between \$35,000 and \$60,000 (5 applications × \$7,000 vs. 5 applications × \$12,000).

Lastly, the department anticipates no additional control costs will be incurred by sources as a result of minor NSR BACT or RACT requirements because BACT or RACT is required under the department’s current permitting program. The minor NSR amendments do have a new requirement for BACT or RACT for PM<sub>2.5</sub> and lead; however, most sources that emit PM<sub>2.5</sub> or lead also emit other pollutants such as NO<sub>x</sub>, CO or PM<sub>10</sub> and these pollutants (NO<sub>x</sub>, CO or PM<sub>10</sub>) will trigger the BACT or RACT analysis and generally the controls for these pollutants will also limit PM<sub>2.5</sub> and lead. Currently, the department does not have any lead sources that will trigger the requirement for a BACT or RACT determination for lead.

Permits issued by the department are valid for five years; therefore, the department estimates annual minor NSR permit related costs for a source by dividing the total estimated cost by five years.

The department estimates the annual minor NSR costs for a source electing to have the department perform a SCREEN model at: \$860.00. Whereas, the annual minor NSR costs for a source electing to perform a refined model is estimated to range between \$2,410.00 and \$3,410.00.

- Annual minor NSR costs for source electing to have MCAQD perform a SCREEN model:  
\$860 = ((\$4,000 permit application + \$300 permit processing costs)/5 yrs.)
- Annual minor NSR costs for source electing to perform a refined model:  
\$2,410 = ((\$4,000 permit application prep + \$1,050 permit processing + \$7,000 refined modeling cost)/5 yrs.)  
\$3,410 = ((\$4,000 permit application prep + \$1,050 permit processing + \$12,000 refined modeling)/5 yrs.)

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**

The department does not believe that the additional costs to businesses subject to the amended NSR requirements, as described above, will be substantial enough to deter the construction or expansion of business operations. Accordingly, there should be no impact on private employment or on the employment of any political subdivisions subject to NSR.

The department estimates that approximately one new full-time employee will be needed to implement the additional workload that will result from implementing minor NSR. A more precise estimate of the employment impact of minor NSR will be included in the ESBCIS for the upcoming permit fee rule.

The amendments to major NSR include elements that will both reduce (NSR reform) and increase (new ambient standards) agency workload. The department estimates that the net effect of the major NSR amendments on the agency’s employment needs will be zero.

**A statement of the probable impact of the rulemaking on small businesses.**

**(a) An identification of the small businesses subject to the rulemaking.**

Under A.R.S. § 49-101(20):

“Small business” means a concern, including its affiliates, which is [1] *independently owned and operated*, which is [2] *not dominant in its field and which* [3] *employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.* (Emphasis added.)

The department does not anticipate that this rulemaking will increase the number of sources subject to the department’s NSR program.

**(b) The administrative and other costs required for compliance with the rulemaking.**

Small businesses will primarily incur the business costs described above for the minor NSR program.

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

**Establishing less costly compliance requirements in the rulemaking for small businesses.**



The department’s existing general permit program which falls under its minor NSR program is a less costly alternative currently available to many small businesses (e.g. dry cleaners, gas stations, surface coating operations, auto body shops, etc.). The general permits are designed specifically with small businesses in mind. General permitted sources will not incur the cost of an ambient air quality assessment as this would be done up front when the general permit is established rather than when an authorization to operate is issued. Many small businesses currently required to obtain permits are eligible for a general permit and are not required to get a non-title V permit. Thus, for some small businesses, the general permit program is an existing and less costly alternative to the non-title V permit.

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

Some businesses may pass some of the additional costs estimated above on to consumers. Because the amendments will not substantially increase existing air quality compliance costs, the department anticipates that the impact will be negligible.

**A statement of the probable effect on state revenues.**

Since the costs of the amendments will be recoverable through air quality permit fees, there will be no net effect on state revenues.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

As discussed above in Item 5 of this Notice of Proposed Rulemaking, the department has adopted amendments that the department believes to be the minimum necessary to comply with federal NSR requirements. No less intrusive or costly alternatives are available.

**10. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Dena Konopka  
 Maricopa County Air Quality Department  
 Planning and Analysis Division  
 Address: 1001 N. Central Ave., Suite 125  
 Phoenix, AZ 85004  
 Telephone: (602) 506-6010  
 Fax: (602) 506-6179  
 E-Mail: aqplanning@mail.maricopa.gov

**11. The time, place and nature of the proceedings for the amendment of the rule:**

Written oral proceeding requests or written comments or both will be accepted until the comment period is closed on August 31, 2015, 5:00 p.m. Written oral proceeding requests or written comments or both may be mailed, e-mailed, or hand delivered to the department (see Item 4 of this Notice of Proposed Rulemaking). An oral proceeding will be scheduled only upon receipt of a written request before the comment period is closed on August 31, 2015, 5:00 p.m. Written comments received during the comment period will be considered formal comments to the Notice of Proposed Rulemaking and will be responded to in the Notice of Final Rulemaking.

**12. Any other matters prescribed by the statute that are applicable to the specific agency or to any specific rule or class of rules:**  
 Not applicable

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

Rule 240, Section 305.1: Subparts of 40 CFR 51.100; 40 CFR 51.165; 40 CFR Part 51, Appendix S; 40 CFR 51.164  
 Rule 240, Section 307.1: Subparts of 40 CFR 51.100 and 40 CFR 52.21  
 Rule 510, Section 310: CFR references incorporated by reference in Appendix G

**14. The full text of these rules follow:**

**REGULATION I - GENERAL PROVISIONS**

**RULE 100**

**GENERAL PROVISIONS AND DEFINITIONS**

**INDEX**

**SECTION 100 - GENERAL**

- 101 DECLARATION OF INTENT
- 102 LEGAL AUTHORITY
- 103 VALIDITY



- 104 CIRCUMVENTION
- 105 RIGHT OF INSPECTION OF PREMISES
- 106 RIGHT OF INSPECTION OF RECORDS
- 107 ADVISORY COUNCIL
- 108 HEARING BOARD
- 109 ANTI-DEGRADATION
- 110 AVAILABILITY OF POLLUTION INFORMATION
- 111 ANNUAL REASONABLE FURTHER PROGRESS (RFP) REPORT
- 112 AVAILABILITY OF INFORMATION

**SECTION 200 - DEFINITIONS**

- 200.1 AAC
- 200.2 ACT
- 200.3 ACTUAL EMISSIONS
- 200.4 ADMINISTRATOR
- 200.5 ADVISORY COUNCIL
- 200.6 AFFECTED FACILITY
- 200.7 AFFECTED SOURCE
- 200.8 AFFECTED STATE
- 200.9 AIR CONTAMINANT
- 200.10 AIR POLLUTION
- 200.11 AIR POLLUTION CONTROL EQUIPMENT
- 200.12 ALLOWABLE EMISSIONS
- 200.13 AMBIENT AIR
- 200.14 AP-42
- 200.15 APPLICABLE IMPLEMENTATION PLAN
- 200.16 APPLICABLE REQUIREMENT
- 200.17 “ARIZONA TESTING MANUAL”
- ~~200.17~~ 200.18 APPROVED
- ~~200.18~~ 200.19 AREA SOURCE
- ~~200.19~~ 200.20 ARS
- ~~200.20~~ 200.21 ASME
- ~~200.21~~ 200.22 ASTM



<del>200.22</del>	<u>200.23</u>	ATTAINMENT AREA
<del>200.23</del>	<u>200.24</u>	BEGIN ACTUAL CONSTRUCTION
<del>200.24</del>	<u>200.25</u>	BEST AVAILABLE CONTROL TECHNOLOGY (BACT)
<del>200.25</del>	<u>200.26</u>	BRITISH THERMAL UNIT (BTU)
<del>200.26</del>	<u>200.27</u>	BUILDING, STRUCTURE, FACILITY, OR INSTALLATION
<u>200.28</u>	<u>CATEGORICAL SOURCES</u>	
<del>200.27</del>	<u>200.29</u>	CFR
<del>200.28</del>	<u>200.30</u>	CIRCUMSTANCES OUTSIDE THE CONTROL OF THE SOURCE
<del>200.29</del>	<u>200.31</u>	CLEAN COAL TECHNOLOGY
<del>200.30</del>	<u>200.32</u>	CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT
<del>200.31</del>	<u>200.33</u>	COMMENCE
<del>200.32</del>	<u>200.34</u>	COMPLETE
<del>200.33</del>	<u>200.35</u>	CONSTRUCTION
<u>200.36</u>	<u>CONVENTIONAL AIR POLLUTANT</u>	
<del>200.34</del>	<u>200.37</u>	CONTROL OFFICER
<del>200.35</del>	<u>200.38</u>	DEPARTMENT
<del>200.36</del>	<u>200.39</u>	DIRECTOR
<del>200.37</del>	<u>200.40</u>	DISCHARGE
<del>200.38</del>	<u>200.41</u>	DIVISION
<del>200.39</del>	<u>200.42</u>	DUST GENERATING OPERATION
<del>200.40</del>	<u>200.43</u>	EFFLUENT
<del>200.41</del>	<u>200.44</u>	ELECTRIC UTILITY STEAM GENERATING UNIT
<del>200.42</del>	<u>200.45</u>	EMISSION STANDARD
<del>200.43</del>	<u>200.46</u>	EMISSIONS UNIT
<del>200.44</del>	<u>200.47</u>	EPA
<del>200.45</del>	<u>200.48</u>	EQUIVALENT METHOD
<del>200.46</del>	<u>200.49</u>	EXCESS EMISSIONS
<del>200.47</del>	<u>200.50</u>	EXISTING SOURCE
<del>200.48</del>	<u>200.51</u>	FACILITY
<del>200.49</del>	<u>200.52</u>	FEDERAL APPLICABLE REQUIREMENT
<del>200.50</del>	<u>200.53</u>	FEDERAL LAND MANAGER
<del>200.51</del>	<u>200.54</u>	FEDERALLY ENFORCEABLE



- ~~200.55~~     FEDERALLY LISTED HAZARDOUS AIR POLLUTANT
- ~~200.52~~     200.56    FINAL PERMIT
- ~~200.53~~     200.57    FUEL OIL
- ~~200.54~~     200.58    FUGITIVE EMISSION
- ~~200.59~~     HAZARDOUS AIR POLLUTANT (HAP)
- ~~200.55~~ ~~200.60~~   HAZARDOUS AIR POLLUTANT REASONABLY AVAILABLE CONTROL TECHNOLOGY (HAPRACT)
- ~~200.56~~     200.61    INDIAN GOVERNING BODY
- ~~200.57~~     200.62    INDIAN RESERVATION
- ~~200.58~~     200.63    INSIGNIFICANT ACTIVITY
- ~~200.59~~     200.64    MAJOR MODIFICATION
- ~~200.60~~     200.65    MAJOR SOURCE
- ~~200.61~~     200.66    MAJOR SOURCE THRESHOLD
- ~~200.62~~     200.67    MALFUNCTION
- ~~200.63~~     200.68    MATERIAL PERMIT CONDITION
- 200.64     200.69    METHOD OF OPERATION
- ~~200.70~~     MINOR NSR MODIFICATION
- ~~200.71~~     MOBILE SOURCE
- ~~200.65~~ ~~200.72~~   MODIFICATION
- ~~200.73~~     NATIONAL AMBIENT AIR QUALITY STANDARD (NAAQS)
- ~~200.66~~ ~~200.74~~   NET EMISSIONS INCREASE
- ~~200.67~~ ~~200.75~~   NEW SOURCE
- ~~200.68~~ ~~200.76~~   NITROGEN OXIDES (NO<sub>x</sub>)
- ~~200.69~~ ~~200.77~~   NONATTAINMENT AREA
- ~~200.70~~ ~~200.78~~   NON-PRECURSOR ORGANIC COMPOUND
- ~~200.71~~ ~~200.79~~   OPEN OUTDOOR FIRE
- ~~200.72~~ ~~200.80~~   OPERATION
- ~~200.73~~ ~~200.81~~   ORGANIC COMPOUND
- ~~200.74~~ ~~200.82~~   ORGANIC LIQUID
- ~~200.75~~ ~~200.83~~   OWNER AND/OR OPERATOR
- ~~200.76~~ ~~200.84~~   PARTICULATE MATTER
- ~~200.77~~ ~~200.85~~   PERMITTING AUTHORITY
- 200.86     PERMITTING THRESHOLD



~~200.78~~ 200.87 PERSON

~~200.79~~ 200.88 PHYSICAL CHANGE

200.89 PLANNING AGENCY

~~200.80~~ 200.90 PM<sub>2.5</sub>

~~200.81~~ 200.91 PM<sub>10</sub>

~~200.82~~ 200.92 POLLUTANT

200.83 ~~POLLUTION CONTROL PROJECT~~

~~200.84~~ 200.93 PORTABLE SOURCE

~~200.85~~ 200.94 POTENTIAL TO EMIT

~~200.86~~ 200.95 PROPOSED PERMIT

~~200.87~~ 200.96 PROPOSED FINAL PERMIT/PROPOSED FINAL PERMIT REVISION

200.97 PUBLIC NOTICE THRESHOLD

~~200.88~~ 200.98 QUANTIFIABLE

~~200.89~~ 200.99 REACTIVATION OF A VERY CLEAN COAL-FIRED ELECTRIC UTILITY STEAM GENERATING UNIT

200.100 REASONABLE FURTHER PROGRESS

~~200.90~~ 200.101 REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)

~~200.91~~ 200.102 REFERENCE METHOD

~~200.92~~ 200.103 REGULATED AIR POLLUTANT

200.104 REGULATED MINOR NSR POLLUTANT

200.105 REGULATED NSR POLLUTANT

~~200.93~~ 200.106 REGULATORY REQUIREMENTS

~~200.94~~ 200.107 REPLICABLE

~~200.95~~ 200.108 REPOWERING

~~200.96~~ ~~REPRESENTATIVE ACTUAL ANNUAL EMISSIONS~~

~~200.97~~ 200.109 RESPONSIBLE OFFICIAL

~~200.98~~ 200.110 SCHEDULED MAINTENANCE

200.111 SCREEN MODEL

200.112 SECTION 302(J) CATEGORY

~~200.99~~ 200.113 SIGNIFICANT

~~200.100~~-200.114 SOLVENT-BORNE COATING MATERIAL

~~200.101~~ 200.115 SOURCE

~~200.102~~ 200.116 SPECIAL INSPECTION WARRANT



- ~~200.103~~ 200.117 STANDARD CONDITIONS
- ~~200.104~~ 200.118 STATE IMPLEMENTATION PLAN (SIP)
- ~~200.105~~ 200.119 STATIONARY SOURCE
- 200.120 SUBCONTRACTOR
- ~~200.106~~ 200.121 SYNTHETIC MINOR
- ~~200.107~~ 200.122 TEMPORARY CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT
- ~~200.108~~ 200.123 TITLE V
- ~~200.109~~ 200.124 TOTAL REDUCED SULFUR (TRS)
- ~~200.110~~ 200.125 TRADE SECRETS
- ~~200.111~~ 200.126 TRIVIAL ACTIVITY
- ~~200.112~~ 200.127 UNCLASSIFIED AREA
- ~~200.113~~ 200.128 VOLATILE ORGANIC COMPOUND (VOC)

**SECTION 300 - STANDARDS**

- 301 AIR POLLUTION PROHIBITED
- 302 APPLICABILITY OF MULTIPLE RULES

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

- 401 CERTIFICATION OF TRUTH, ACCURACY, AND COMPLETENESS
- 402 CONFIDENTIALITY OF INFORMATION

**SECTION 500 - MONITORING AND RECORDS**

- 501 REPORTING REQUIREMENTS
- 502 DATA REPORTING
- 503 EMISSION STATEMENTS REQUIRED AS STATED IN THE ACT
- 504 RETENTION OF RECORDS
- 505 ANNUAL EMISSIONS INVENTORY REPORT

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**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION I - GENERAL PROVISIONS**  
**RULE 100**  
**GENERAL PROVISIONS AND DEFINITIONS**

**SECTION 100 - GENERAL**

- 101 DECLARATION OF INTENT:** The Maricopa County Air Pollution Control Regulations prevent, reduce, control, correct, or remove regulated air pollutants originating within the territorial limits of Maricopa County and carry out the mandates of Arizona Revised Statutes (ARS), Title 49-The Environment.
- 102 LEGAL AUTHORITY:** These rules are adopted under the authority granted by ARS §49-479.
- 103 VALIDITY:** If any section, subsection, clause, phrase, or provision of these rules is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion.
- 104 CIRCUMVENTION:** A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of regulated air pollutants to the atmosphere, conceals or dilutes an emission which would otherwise constitute a violation of these rules. No person shall circumvent these rules to dilute regulated air pollutants by using more emission openings than is considered normal practice by the industry or activity in question.
- 105 RIGHT OF INSPECTION OF PREMISES:** The Control Officer, during reasonable hours, for the purpose of enforcing and administering these rules or any provision of ARS relating to the emission or control prescribed pursuant thereto, may enter every building, premises, or other place, except the interior of structures used as private residences. In the event that consent to enter for inspection purposes has been refused or circumstances justify the failure to seek such consent, special inspection warrants may be issued by a magistrate. Every person is guilty of a petty offense under ARS §49-488 who in any way denies, obstructs, or hampers such entrance or inspection that is lawfully authorized by warrant.
- 106 RIGHT OF INSPECTION OF RECORDS:** When the Control Officer has reasonable cause to believe that any person has violated or is in violation of any provision of this rule, any rule adopted under this rule, or any requirement of a permit issued under this rule, the Control Officer may request, in writing, that such person produce all existing books, records, and other documents evidencing tests, inspections, or studies which may reasonably relate to compliance or non-compliance with rules adopted under this rule. No person shall fail nor refuse to produce all existing documents required in such written request by the Control Officer.
- 107 ADVISORY COUNCIL:** An Advisory Council appointed by the Board of Supervisors may advise and consult with the Board of Supervisors, the Maricopa County Air Quality Department, and the Control Officer in effecting the mandates of ARS Title 49.
- 108 HEARING BOARD:** The Board of Supervisors shall appoint a 5-member hearing board knowledgeable in the field of air pollution. At least three members shall not have a substantial interest, as defined in ARS §38-502(11), in any person required to obtain an air pollution permit or subject to enforcement orders issued under these rules. Each member shall serve a term of three years.
- 109 ANTI-DEGRADATION:** The standards in these rules shall not be construed as permitting the preventable degradation of air quality in any area of Maricopa County.
- 110 AVAILABILITY OF POLLUTION INFORMATION:** The public shall be informed on a daily basis of average daily concentration of three pollutants: particulates, carbon monoxide, and ozone. This information shall be disseminated through the use of electronic media, newspapers, radio, and television. The levels of each pollutant shall be expressed through the use of the Air Quality Index (AQI) and a written copy of such information shall be made available at the office of the Maricopa County Air Quality Department, 1001 North Central Avenue, Suite ~~400-125~~, Phoenix, Arizona, 85004, ~~602-506-6010~~.
- 111 ANNUAL REASONABLE FURTHER PROGRESS (RFP) REPORT:** Each year, the department shall prepare or assist in the preparation of a report on the progress in implementation of nonattainment area plans. ~~shall be produced by the department each~~



~~year-~~ The primary function of the report is to review the implementation schedules for control measures and emission reduction forecasts in the nonattainment area plans. ~~The annual report will be made available to the public at the offices of Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, Arizona, 85004, 602-506-6010.~~

**112 AVAILABILITY OF INFORMATION:** Copies of 40 CFR 51, Subpart A, Appendix A, Table 2A are available at 1001 North Central Avenue, Suite ~~695~~ 125, Phoenix, Arizona, 85004, ~~or call 602-506-6010 for information.~~

**SECTION 200 - DEFINITIONS:** To aid in the understanding of these rules, the following general definitions are provided. Additional definitions, as necessary, can be found in each rule of the Maricopa County Air Pollution Control Regulations.

- 200.1 AAC:** Arizona Administrative Code.
- 200.2 ACT:** The Clean Air Act of 1963 (P.L. 88-206; 42 United States Code sections 7401 through 7671g), as amended ~~by the Clean Air Act Amendments of 1990 (P.L. 101-549), through December 31, 2011 (and no future editions).~~
- 200.3 ACTUAL EMISSIONS:** The actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in Section 200.3(a) through Section 200.3(e) of this rule:
  - a.** In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the ~~emissions~~ unit actually emitted the pollutant during a ~~2-year~~ consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Control Officer may allow the use of a different time period upon a ~~demonstration~~ determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
  - b.** ~~If there is inadequate information to determine actual historical emissions, then the~~ The Control Officer may presume that source-specific allowable emissions for the ~~emissions~~ unit are equivalent to the actual emissions of the ~~emissions~~ unit.
  - c.** For any emissions unit at a Title V source, ~~other than an electric utility steam generating unit described in Section 200.3(e) of this rule~~ that has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.
  - d.** For any emissions unit at a Non-Title V source that has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.
  - e.** ~~For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit), actual emissions of the unit, following the physical or operational change, shall equal the representative actual annual emissions of the unit, if the source owner and/or operator maintains and submits to the Control Officer on an annual basis, for a period of five years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the Control Officer, if the Control Officer determines the longer period to be more representative of normal source post change operations. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, projected actual emissions and baseline actual emissions in Rule 240 of these rules shall apply for those purposes.~~
- 200.4 ADMINISTRATOR:** The Administrator of the United States Environmental Protection Agency.
- 200.5 ADVISORY COUNCIL:** The Maricopa County Air Pollution Control Advisory Council appointed by the Maricopa County Board of Supervisors.
- 200.6 AFFECTED FACILITY:** With reference to a stationary source, any apparatus to which a standard is applicable.
- 200.7 AFFECTED SOURCE:** A source that includes one or more emissions units which are subject to emission reduction requirements or limitations under Title IV-Acid Deposition Control of the Act.
- 200.8 AFFECTED STATE:** Any State whose air quality may be affected and that is contiguous to Arizona or that is within 50 miles of the permitted source.
- 200.9 AIR CONTAMINANT:** Includes smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, windborne matter, radioactive materials, noxious chemicals, or any other material in the outdoor atmosphere.
- 200.10 AIR POLLUTION:** The presence in the outdoor atmosphere of one or more air contaminants, or combinations thereof,



in sufficient quantities, which either alone or in connection with other substances, by reason of their concentration and duration, are or tend to be injurious to human, plant, or animal life, or causes damage to property, or unreasonably interferes with the comfortable enjoyment of life or property of a substantial part of a community, or obscures visibility, or which in any way degrades the quality of the ambient air below the standards established by the Board of Supervisors.

- 200.11 AIR POLLUTION CONTROL EQUIPMENT:** Equipment used to eliminate, reduce, or control the emission of air pollutants into the ambient air.
- 200.12 ALLOWABLE EMISSIONS:** The emission rate of a stationary source calculated using both the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation ~~or both~~) and the most stringent of the following:
  - a. The applicable ~~New Source Performance Standards as described in Rule 360 of these rules or the Federal Hazardous Air Pollutant Program as described in Rule 370 of these rules;~~ standards as set forth in 40 CFR 60 , 61 or 63; or
  - b. The applicable existing source performance standard as approved for the State Implementation Plan (SIP); or
  - c. The emissions rate specified in any federally promulgated rule or federally enforceable permit ~~condition~~ conditions applicable to the stationary source.
- 200.13 AMBIENT AIR:** That portion of the atmosphere, external to buildings, to which the general public has access.
- 200.14 AP-42:** The EPA document "Compilation of Air Pollutant Emission Factors," as incorporated by reference in Appendix G of these rules.
- 200.15 APPLICABLE IMPLEMENTATION PLAN:** Those provisions of the State Implementation Plan (SIP) approved by the Administrator or a Federal Implementation Plan (FIP) promulgated ~~under~~ for Arizona or any portion of Arizona in accordance with Title I-Air Pollution Prevention And Control of the Act.
- 200.16 APPLICABLE REQUIREMENT:** Applicable requirement means any of the following:
  - a. Any federal applicable requirement as defined in Section 200.49 of this rule.
  - b. Any other requirement established under the Maricopa County Air Pollution Control Regulations or ARS Title 49, Chapter 3, Articles 1, 3, 7, and 8.
- 200.17 "ARIZONA TESTING MANUAL":** Sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).
- ~~200.17~~ **200.18 APPROVED:** Approved in writing by the Maricopa County Air Pollution Control Officer.
- ~~200.18~~ **200.19 AREA SOURCE:** Any stationary source that is not a major source. For purposes of these rules, the term "area source" shall not include motor vehicles or nonroad vehicles subject to regulation under Title II-Emission Standards For Moving Sources of the Act.
- ~~200.19~~ **200.20 ARS:** The Arizona Revised Statutes. The titles of the most frequently used ARS references in these rules are listed below:
 

ARS §38-502(11)	Public Officers And Employees, Conduct Of Office, Conflict Of Interest Of Officers And Employees, Definitions, Substantial Interest
ARS Title 49	The Environment
ARS Title 49, Chapter 3	The Environment, Air Quality
ARS Title 49, Chapter 4	The Environment, Solid Waste Management
ARS §49-109	The Environment, General Provisions, Department Of Environmental Quality, Certificate Of Disclosure Of Violations; Definition; Remedies
ARS §49-401	The Environment, Air Quality, General Provisions, Declaration Of Policy
ARS §49-426	The Environment, Air Quality, State Air Pollution Control, Permits; Duties Of Director; Exceptions; Applications; Objections; Fees
ARS §49-426.04	The Environment, Air Quality, State Air Pollution Control, State List Of Hazardous Air Pollutants
ARS §49-426.05	The Environment, Air Quality, State Air Pollution Control, Designation Of Sources Of Hazardous Air Pollutants
ARS §49-429	The Environment, Air Quality, State Air Pollution Control, Permit Transfers; Notice;



	Appeal
ARS §49-464	The Environment, Air Quality, State Air Pollution Control, Violation; Classification; Penalties; Definition
ARS §49-473	The Environment, Air Quality, County Air Pollution Control, Board Of Supervisors
ARS §49-476.01	The Environment, Air Quality, County Air Pollution Control, Monitoring
ARS §49-478	The Environment, Air Quality, County Air Pollution Control, Hearing Board
ARS §49-480	The Environment, Air Quality, County Air Pollution Control, Permits; Fees
ARS §49-480.03	The Environment, Air Quality, County Air Pollution Control, Federal Hazardous Air Pollutant Program; Date Specified By Administrator; Prohibition
ARS §49-480.04	The Environment, Air Quality, County Air Pollution Control, County Program For Control Of Hazardous Air Pollutants
ARS §49-482	The Environment, Air Quality, County Air Pollution Control, Appeals To Hearing Board
ARS §49-483	The Environment, Air Quality, County Air Pollution Control, Permit Transfers; Notice; Appeal
ARS §49-487	The Environment, Air Quality, County Air Pollution Control, Classification And Reporting; Confidentiality Of Records
ARS §49-488	The Environment, Air Quality, County Air Pollution Control, Special Inspection Warrant
ARS §49-490	The Environment, Air Quality, County Air Pollution Control, Hearings On Orders Of Abatement
ARS §49-498	The Environment, Air Quality, County Air Pollution Control, Notice Of Hearing; Publication; Service
ARS §49-501	The Environment, Air Quality, County Air Pollution Control, Unlawful Open Burning; Definition; Exceptions; Fine
ARS §49-511	The Environment, Air Quality, County Air Pollution Control, Violations, Order Of Abatement
ARS §49-514	The Environment, Air Quality, County Air Pollution Control, Violation; Classification; Definition

~~200.20~~ **200.21 ASME:** The American Society of Mechanical Engineers.

~~200.21~~ **200.22 ASTM:** The American Society for Testing and Materials.

~~200.22~~ **200.23 ATTAINMENT AREA:** An area so designated by the Administrator, acting under Section 107 Air Quality Control Regions of the Act, as having ambient air pollutant concentrations equal to or less than national primary or secondary ambient air quality standards for a particular pollutant or pollutants. Any area in the state that has been identified in regulations promulgated by the Administrator as being in compliance with national ambient air quality standards.

~~200.23~~ **200.24 BEGIN ACTUAL CONSTRUCTION:** In general, initiation ~~Initiation~~ of physical on-site construction activities on an emissions unit, which are of a permanent nature. ~~Such activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.~~ With respect to a change in method of operation, “begin actual construction” refers to those on-site activities, other than preparatory activities, which mark the initiation of change.

**a.** For purposes of title I, parts C and D and section 112 of the Act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the Act, these activities include installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures but do not include any of the following, subject to Section 200.24(c) of this rule:

- (1) Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil.
- (2) Installation of access roads, driveways and parking lots.
- (3) Installation of ancillary structures, including fences, office buildings and temporary storage structures that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.



- (4) Ordering and on-site storage of materials and equipment.
- b.** For purposes other than those identified in Section 200.24(a) of this rule, these activities do not include any of the following, subject to Section 200.24(c) of this rule:
- (1) Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil and earthwork cut and fill for foundations.
- (2) Installation of access roads, parking lots, driveways and storage areas.
- (3) Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment.
- (4) Ordering and on-site storage of materials and equipment.
- (5) Installation of underground pipework, including water, sewer, electric and telecommunications utilities.
- (6) Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and platforms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.
- c.** An applicant's performance of any activities that are excluded from the definition of "begin actual construction" under Sections 200.24 (a) or (b) of this rule shall be at the applicant's risk and shall not reduce the applicant's obligations under these rules. The Control Officer shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activities allowed under Sections 200.24 (a) or (b) of this rule had not occurred.

**200.24 200.25 BEST AVAILABLE CONTROL TECHNOLOGY (BACT):** An emissions limitation, based on the maximum degree of reduction for each pollutant, subject to regulation under the Act, which would be emitted from any proposed stationary source or modification, which the Control Officer, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. Under no circumstances shall BACT be determined to be less stringent than the emission control required by an applicable provision of these rules or of any State or Federal laws ("Federal laws" include the EPA approved State Implementation Plan (SIP)). If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

**200.25 200.26 BRITISH THERMAL UNIT (BTU):** The quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit (°F) at 39.1°F.

**200.26 200.27 BUILDING, STRUCTURE, FACILITY, OR INSTALLATION:** All the pollutant-emitting equipment and activities that belong to the same industrial grouping, that are located on one or more contiguous or adjacent properties, and that are under the control of the same person or persons under common control, except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987".

**200.28 CATEGORICAL SOURCES:** The following classes of sources:

- a.** Coal cleaning plants with thermal dryers;
- b.** Kraft pulp mills;
- c.** Portland cement plants;
- d.** Primary zinc smelters;
- e.** Iron and steel mills;
- f.** Primary aluminum ore reduction plants (with thermal dryers);
- g.** Primary copper smelters;



- h. Municipal incinerators capable of charging more than 50 tons of refuse per day;
- i. Hydrofluoric, sulfuric, or nitric acid plants;
- j. Petroleum refineries;
- k. Lime plants;
- l. Phosphate rock processing plants;
- m. Coke oven batteries;
- n. Sulfur recovery plants;
- o. Carbon black plants using the furnace process;
- p. Primary lead smelters;
- q. Fuel conversion plants;
- r. Sintering plants;
- s. Secondary metal production plants;
- t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;
- u. Fossil-fuel boilers, or combinations thereof, totaling more than 250 million British thermal units (BTU) per hour heat input;
- v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
- w. Taconite preprocessing plants;
- x. Glass fiber processing plants;
- y. Charcoal production plants;
- z. Fossil fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million BTU per hour rated heat input;
- aa. Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111- Standards Of Performance For New Stationary Sources of the Act or under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act.

~~200.27~~ **200.29 CFR:** The United States Code of Federal Regulations, amended as of July 1, 2011, (and no future editions), with standard references in these rules by Title and Part, so that "40 CFR 51" means "Title 40 of the Code of Federal Regulations, Part 51."

~~200.28~~ **200.30 CIRCUMSTANCES OUTSIDE THE CONTROL OF THE SOURCE:** Shall include, but not be limited to, circumstances where a violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a startup or shutdown, or resulted from upset of operations.

~~200.29~~ **200.31 CLEAN COAL TECHNOLOGY:** Any technology, including technologies applied at the pre-combustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity or process steam that was not in widespread use as of November 15, 1990.

~~200.30~~ **200.32 CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT:** A project using funds appropriated under the heading "Department Of Energy-Clean Coal Technology", up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology or similar projects, funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

~~200.31~~ **200.33 COMMENCE:** As applied to construction of a major source or a major modification, that the owner and/or operator has all necessary preconstruction approvals or permits and has either:

- a. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or



- b. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner and/or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

~~200.32~~ **200.34 COMPLETE:** In reference to an application for a permit or permit revision, “complete” means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit or permit revision, processing does not preclude the Control Officer from requesting nor from accepting any additional information.

~~200.33~~ **200.35 CONSTRUCTION:** Any physical change or change in the method of operation, including fabrication, erection, or installation, demolition, or modification of an emissions unit, which would result in a change in actual emissions.

**200.36 CONVENTIONAL AIR POLLUTANT:** Any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard.

~~200.34~~ **200.37 CONTROL OFFICER:** The executive head of the department authorized or designated to enforce air pollution regulations, the executive head of an air pollution control district established under ARS §49-473, or the designated agent.

~~200.35~~ **200.38 DEPARTMENT:** The Maricopa County Air Quality Department.

~~200.36~~ **200.39 DIRECTOR:** The director of the Arizona Department Of Environmental Quality (ADEQ).

~~200.37~~ **200.40 DISCHARGE:** The release or escape of an effluent into the atmosphere from a source.

~~200.38~~ **200.41 DIVISION:** The Division no longer exists; consequently, all references in these rules to Division refer to Department.

~~200.39~~ **200.42 DUST GENERATING OPERATION:** Any activity capable of generating fugitive dust, including but not limited to, land clearing, maintenance, and land clean-up using mechanized equipment, earthmoving, weed abatement by discing or blading, excavating, construction, demolition, bulk material handling (e.g., bulk material hauling and/or transporting, bulk material stacking, loading, and unloading operations), storage and/or transporting operations (e.g., open storage piles), vehicle use and movement, the operation of any outdoor equipment, or unpaved parking lots, the operation of motorized machinery, establishing and/or using staging areas, parking areas, material storage areas, or access routes to and from a site, establishing and/or using unpaved haul/access roads to, from, and within a site, disturbed surface areas associated with a site, and installing initial landscapes using mechanized equipment. For the purpose of this ~~rule~~ definition, landscape maintenance and playing on or maintaining a field used for non-motorized sports shall not be considered a dust generating operation. However, landscape maintenance shall not include grading, trenching, or any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.

~~200.40~~ **200.43 EFFLUENT:** Any air contaminant which is emitted and subsequently escapes into the atmosphere.

~~200.41~~ **200.44 ELECTRIC UTILITY STEAM GENERATING UNIT:** Any steam electric generating unit that is constructed for the purpose of supplying more than 1/3 of its potential electric output capacity and more than 25 MW electric output to any utility power distribution system for sale. Any steam supplied to a steam distribution system, for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale, is also considered in determining the electrical energy output capacity of the affected facility.

~~200.42~~ **200.45 EMISSION STANDARD:** The definition of emission standard, as summarized from ARS §49-514(T) and ARS §49-464(V), is: A numeric limitation on the volume or concentration of air pollutants in emissions from a source or a specific design, equipment, or work practice standard, the purpose of which is to eliminate or reduce the volume or concentration of pollutants emitted by a source. The term emission standard does not include opacity standards. Violations of emission standards shall be determined in the manner prescribed by the applicable regulations issued by the Administrator or the Director or the Control Officer.

~~200.43~~ **200.46 EMISSIONS UNIT:** Any part of a stationary source which emits or would have the potential to emit any regulated air pollutant and includes an electric steam generating unit.

~~200.44~~ **200.47 EPA:** The United States Environmental Protection Agency.

~~200.45~~ **200.48 EQUIVALENT METHOD:** Any method of sampling and analyzing for an air pollutant, which has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

~~200.46~~ **200.49 EXCESS EMISSIONS:** Emissions of an air pollutant in excess of an emission standard, as measured by the



compliance test method applicable to such emission standard.

~~200.47~~ **200.50** EXISTING SOURCE:

- ~~a.~~ A source in operation prior to the effective date of this rule, or a source on which the construction or modification has commenced and for which the Control Officer has granted a permit prior to the effective date of this rule, ~~or~~
- ~~b.~~ ~~When used in conjunction with a source subject to new source performance standards (NSPS), any source which does not have an applicable NSPS under Rule 360 New Source Performance Standards of these rules.~~

~~200.48~~ **200.51** **FACILITY:** The definition of facility is included in ~~Section 200.6 Definition Of Affected Facility of this rule and in Section 200.26 Definition Of Building, Structure, Facility Or Installation of this rule.~~ the definitions of “affected facility” and “building, structure, facility or installation” of this rule.

~~200.49~~ **200.52** **FEDERAL APPLICABLE REQUIREMENT:** Any of the following ~~as they apply to emissions units covered by a Title V permit or a Non-Title V permit~~ (including requirements that have been promulgated or approved by the EPA through rulemaking at the time of issuance but have future effective compliance dates):

- a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I-Air Pollution Prevention And Control of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
- b. Any term or condition of any unitary permits issued under regulations approved or promulgated through rulemaking under Title I-Air Pollution Prevention And Control, including Parts C or D, of the Act.
- c. Any standard or other requirement under Section 111-Standards Of Performance For New Stationary Sources of the Act, includes Section 111(d).
- d. Any standard or other requirement under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act, including any requirement concerning accident prevention under Section 112(r)(7) of the Act.
- e. Any standard or other requirement of the acid rain program under Title IV-Acid Deposition Control of the Act or the regulations promulgated thereunder and incorporated under Rule 371-Acid Rain of these rules.
- f. Any requirements established under Section 504(b)-Permit Requirements And Conditions or Section 114(a)(3)-Inspections, Monitoring, And Entry of the Act.
- g. Any standard or other requirement governing solid waste incineration under Section 129-Solid Waste Combustion of the Act.
- h. Any standard or other requirement for consumer and commercial products pursuant to Section 183(e)-Federal Ozone Measures of the Act.
- i. Any standard or other requirement for tank vessels pursuant to Section 183(f)-Federal Ozone Measures of the Act.
- j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources under Section 328-Air Pollution From Outer Continental Shelf Activities of the Act.
- k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI-Stratospheric Ozone Protection of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and
- l. Any national ambient air quality standard or increment or visibility requirement under Part C-Prevention Of Significant Deterioration Of Air Quality of Title I-Air Pollution Prevention And Control of the Act, but only as it would apply to temporary sources permitted under Section 504(e)-Permit Requirements And Conditions of the Act.

~~200.50~~ **200.53** **FEDERAL LAND MANAGER:** With respect to any lands in the United States, the Secretary of the Department with authority over such lands.

~~200.51~~ **200.54** **FEDERALLY ENFORCEABLE:** All limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:

- a. All terms and conditions contained in a Title V permit, except those terms and conditions which have been specifically designated as not federally enforceable;
- b. The requirements of operating permit programs and permits issued under such permit programs which have been



approved by the Administrator, including the requirements of State and County operating permit programs approved under Title V-Permits of the Act or under any new source review permit program;

- c. All limitations and conditions which are enforceable by the Administrator, including the requirements of the New Source Performance Standards (NSPS) and the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) contained in these rules;
- d. The requirements of such other State or County rules or regulations approved by the Administrator for inclusion in the State Implementation Plan (SIP);
- e. The requirements of any federal regulation promulgated by the Administrator as part of the State Implementation Plan (SIP); and
- f. The requirements of State and County operating permit programs, other than Title V programs, which have been approved by the Administrator and incorporated into the applicable State Implementation Plan (SIP) under the criteria for federally enforceable State Operating Permit Programs set forth in 54, Federal Register 27274, dated June 28, 1989. Such requirements include permit terms and conditions which have been entered into voluntarily by a source under this rule and/or under Rule 220-Non-Title V Permit Provisions of these rules.
- g. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements, other than those designated as enforceable only by the department, that are included in a permit pursuant to Rule 201 (Emissions Caps) of these rules or Rule 220, Section 304 (Permits Containing Voluntarily Accepted Emissions Limitations, Controls, Or Other Requirements (Synthetic Minor)) of these rules.

**200.55** **FEDERALLY LISTED HAZARDOUS AIR POLLUTANT:** A pollutant listed pursuant to Rule 372, Section 309 of these rules.

~~200.52~~**200.56****FINAL PERMIT:** The version of a permit issued by the Control Officer after completion of all review required by Maricopa County Air Pollution Control Regulations.

~~200.53~~**200.57****FUEL OIL:** Number 2 through Number 6 fuel oils as specified in ASTM D396-90a-Specification For Fuel Oils, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D2880-90a-Specification For Gas Turbine Fuel Oils, or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D975-90a-Specification For Diesel Fuel Oils.

~~200.54~~**200.58****FUGITIVE EMISSION:** Any emission which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

**200.59** **HAZARDOUS AIR POLLUTANT (HAP):** Any federally listed hazardous air pollutant.

~~200.55~~**200.60****HAZARDOUS AIR POLLUTANT REASONABLY AVAILABLE CONTROL TECHNOLOGY (HAPRACT):** An emissions standard for hazardous air pollutants which the Control Officer, acting pursuant to §49-480.04(C), determines is reasonably available for a source. In making the foregoing determination, the Control Officer shall take into consideration the estimated actual air quality impact of the standard, the cost of complying with the standard, the demonstrated reliability and widespread use of the technology required to meet the standard, and any non-air quality health and environmental impacts and energy requirements. For purposes of this definition, an emissions standard may be expressed as a numeric emissions limitation or as a design, equipment, work practice, or operational standard.

~~200.56~~**200.61****INDIAN GOVERNING BODY:** The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

~~200.57~~**200.62****INDIAN RESERVATION:** Any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

~~200.58~~**200.63****INSIGNIFICANT ACTIVITY:** ~~For the purpose of this rule, an insignificant activity shall be any activity, process, or emissions unit that is not subject to a source specific applicable requirement, that emits no more than 0.5 ton per year of hazardous air pollutants (HAPs) and no more than two tons per year of a regulated air pollutant, and that is either included in Appendix D-List of Insignificant Activities of these rules or is approved as an insignificant activity under Rule 200-Permit Requirements of these rules. Source specific applicable requirements include requirements for which emissions unit specific information is needed to determine applicability.~~ Any of the following activities:

- a. Any activity, process, or emissions unit that is not subject to a source specific applicable requirement that emits no more than two tons per year of a regulated air pollutant and that is either included in this definition of this rule or is approved as an insignificant activity under Rule 200 (Permit Requirements) of these rules.
- b. **Food Processing Equipment:**



- (1) Any confection cooker and associated venting or control equipment cooking edible products intended for human consumption.
- (2) Any oven in a food processing operation where less than 1,000 pounds of product are produced per day of operation.
- c. General Combustion Activities:**

  - (1) All natural gas and/or liquefied petroleum gas-fired pieces of equipment over 300,000 BTU per hour, only if the input capacities added together are less than 2,000,000 BTU per hour, the emissions come from fuel burning, and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.
  - (2) Any oil-fueled heating piece of equipment (except off-spec. oil) with a maximum rate input capacity or an aggregate input capacity of less than:

    - (a) 500,000 BTU/hour if only emissions came from fuel burning, or
    - (b) 1,000,000 BTU/hour if only emissions came from fuel burning and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.
- d. Surface Coating And Printing Equipment:** Any equipment or activity using no more than one gallon per day of surface coating or any combination of surface coating and solvent, which contains either VOC or hazardous air pollutants (HAPs) or both.
- e. Solvent Cleaning Equipment:** Any non-vapor cleaning machine (degreaser) or dip-tank having a liquid surface area of 1 square foot (0.09 square meters) or less, or having a maximum capacity of 1 gallon (3.79 liters) or less.
- f. Internal Combustion (IC) Equipment:**

  - (1) IC engine-driven compressors, IC engine-driven electrical generator sets, and IC engine-driven water pumps used only for emergency replacement or standby service (including testing of same), not to exceed 4,000 pounds of NO<sub>x</sub> and CO at 500 hours of operation per year.
  - (2) Any piston-type IC engine with a manufacturer's maximum continuous rating of no more than 50 brake horsepower (bhp).
- g. Laboratories And Pilot Plants:** Lab equipment used exclusively for chemical and physical analyses.
- h. Storage And Distribution:**

  - (1) Chemical or petroleum storage tanks or containers that hold 250 gallons or less and would have emissions of a regulated air pollutant.
  - (2) Any emissions unit, operation, or activity that handles or stores no more than 12,000 gallons of a liquid with a vapor pressure less than 1.5 psia.
  - (3) Any equipment used exclusively for the storage of unheated organic material with: (1) an initial boiling point of 150° Centigrade (C) (302° Fahrenheit (F)) or greater, as determined by ASTM D1078-11; or (2) a vapor pressure of no more than 5 millimeters mercury (mmHg) (0.1 pound per square inch (psi) absolute), as determined by ASTM D2879-11.
  - (4) Any equipment with a capacity of no more than 4,200 gallons (100 barrels) used exclusively to store oil with specific gravity 0.8762 or higher (30° API or lower), as measured by API test method 2547 or ASTM D1298-12b.
  - (5) Any equipment used exclusively for the storage of liquefied gases in unvented pressure vessels, except for emergency pressure-relief valves.
  - (6) Any equipment used exclusively to compress or hold dry natural gas. Any ICE or other equipment associated with the dry natural gas should not be considered an insignificant activity, unless such ICE or other equipment independently qualifies as an insignificant activity.
  - (7) Any equipment used exclusively for the storage of fresh, commercial, or purer grade of: (1) sulfuric or phosphoric acid with acid content of no more than 99% by weight; or (2) nitric acid with acid content of no more than 70% by weight.



**i. Miscellaneous Activities:**

- (1) Any blast cleaning equipment using a suspension of abrasive material in water and the control equipment venting such blast cleaning equipment.
- (2) Cooling towers: Any water cooling tower which: (1) has a circulation rate of less than 10,000 gallons per minute; and (2) is not used to cool process water, water from barometric jets, or water from barometric condensers.
- (3) Batch mixers with rated capacity of 5 cubic feet or less.
- (4) Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons per hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units, which are used to crush or grind any non-metallic minerals.
- (5) Any other activity which meets all of the following requirements:
  - (a) Is not otherwise subject to a source-specific applicable requirement.
  - (b) Is not needed to determine all applicable requirements, compliance status, or fee amounts.
  - (c) Is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA).
  - (d) Any brazing, soldering, welding, or cutting torch equipment used in manufacturing and construction activities and with the potential to emit hazardous air pollutant (HAP) metals, provided the total emissions of HAPs do not exceed 0.5 ton per year.
  - (e) Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood.
  - (f) Any aerosol can puncturing or crushing operation that processes less than 500 cans per day provided such operation uses a closed loop recovery system.
  - (g) Any laboratory fume hood or vent provided such equipment is used exclusively for the purpose of teaching, research, or quality control.

~~200.59200.64~~ **MAJOR MODIFICATION:** Any physical change or change in the method of operation of a major source that would result in a significant net emissions increase of any regulated air pollutant.

- a. Any net emissions increase that is significant for VOCs shall be considered significant for ozone. Any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source.
- b. Any emissions increase or net emissions increase that is significant for oxides of nitrogen shall be considered significant for ozone nonattainment areas classified as marginal, moderate, serious, or severe nitrogen oxides or volatile organic compounds is significant for ozone.
- c. For the purposes of this definition, none of the following shall not be considered is a physical change or a change in the method of operation:
  - (1) Routine maintenance, repair, and replacement;
  - (2) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. §792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. §792 825r;
  - (3) Use of an alternative fuel by reason of an order or rule under Section 125-Measures To Prevent Economic Disruption Or Unemployment of the Act;
  - (4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
  - (5) Use of an alternative fuel or raw material by a stationary source that either:
    - (a) The source was capable of accommodating before December 12, 1976, unless the change would be



prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules; or

(b) The source is approved to use under any permit issued under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules;

(6) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources Federal Major New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules;

(7) Any change in ownership at a stationary source;

~~(8)~~ The addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the Control Officer determines that the addition, replacement, or use renders the unit less environmentally beneficial, or except:

~~(a)~~ When the Control Officer has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent Title I air quality impact analysis in the area, if any, and

~~(b)~~ The Control Officer determines that the increase will cause or contribute to a violation of any national ambient air quality standard, prevention of significant deterioration (PSD) increment, or visibility limitation;

~~(9)~~ **(8)**The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:

(a) The State Implementation Plan (SIP); and

(b) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;

~~(10)~~ **(9)**For electric utility steam generating units located in attainment and unclassified areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis; and

~~(11)~~ **(10)**For electric utility steam generating units located in attainment and unclassified areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.

**d.** This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of Plantwide Applicability Limitations (PALs) as described in Rule 240 of these rules.

~~200.60200.65~~**MAJOR SOURCE:** A source that meets any of the following criteria:

a. A major source as defined in Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources Federal Major New Source Review (NSR) of these rules.

b. A major source under Section 112-National Emission Standards For Hazardous Air Pollutants of the Act:

(1) For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emissions, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed under Section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Title 18-Environmental Quality, Chapter 2-Department Of Environmental Quality Air Pollution Control, Article 11-Federal Hazardous Air Pollutants of the Arizona Administrative Code. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station



shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(2) For radionuclides, major source shall have the meaning specified by the Administrator by rule.

- c. A major stationary source, as defined in Section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to ~~one of the following categories of stationary source:~~ a section 302(j) category of the Act.

~~Coal cleaning plants (with thermal dryers):~~

~~Kraft pulp mills:~~

~~Portland cement plants:~~

~~Primary zinc smelters:~~

~~Iron and steel mills:~~

~~Primary aluminum ore reduction plants:~~

~~Primary copper smelters:~~

~~Municipal incinerators capable of charging more than 50 tons of refuse per day:~~

~~Hydrofluoric, sulfuric, or nitric acid plants:~~

~~Petroleum refineries:~~

~~Lime plants:~~

~~Phosphate rock processing plants:~~

~~Coke oven batteries:~~

~~Sulfur recovery plants:~~

~~Carbon black plants (furnace process):~~

~~Primary lead smelters:~~

~~Fuel conversion plants:~~

~~Sintering plants:~~

~~Secondary metal production plants:~~

~~Chemical process plants:~~

~~Fossil fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input:~~

~~Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels:~~

~~Taconite ore processing plants:~~

~~Glass fiber processing plants:~~

~~Charcoal production plants:~~

~~Fossil fuel-fired steam electric plants of more than 250 million BTU per hour rated heat input:~~

~~Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 Standards Of Performance For New Stationary Sources of the Act or under Section 112 National Emission Standards For Hazardous Air Pollutants of the Act.~~

~~200.64~~**200.66 MAJOR SOURCE THRESHOLD:** The lowest applicable emissions rate for a pollutant that would cause the source to be a major source, at the particular time and location, under Section 200.60-Definition Of Major Source the definition of "major source" of this rule.

~~200.62~~**200.67 MALFUNCTION:** Any sudden and unavoidable failure of air pollution control equipment, process, or process equipment to operate in a normal and usual manner. Failures that are caused by poor maintenance, careless operation, or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care shall not be considered malfunctions.

~~200.63~~**200.68 MATERIAL PERMIT CONDITION:**

- a. For the purposes of ARS §49-464(G) and ARS §49-514(G), a material permit condition shall mean a condition which satisfies all of the following:

(1) The condition is in a permit or permit revision issued by the Control Officer or by the Director after the



effective date of this rule.

- (2) The condition is identified within the permit as a material permit condition.
- (3) The condition is one of the following:
  - (a) An enforceable emission standard imposed to avoid classification as a major modification or major source or to avoid triggering any other applicable requirement.
  - (b) A requirement to install, operate, or maintain a maximum achievable control technology or hazardous air pollutant reasonably available control technology required under Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.
  - (c) A requirement for the installation or certification of a monitoring device.
  - (d) A requirement for the installation of air pollution control equipment.
  - (e) A requirement for the operation of air pollution control equipment.
  - (f) An opacity standard required by Section 111-Standards Of Performance For New Stationary Sources of the Act or Title I-Air Pollution Prevention And Control, Part C or D, of the Act.
- (4) Violation of the condition is not covered by Subsections (A) through (F) or (H) through (J) of ARS §49-464 or Subsections (A) through (F) or (H) through (J) of ARS §49-514.
- b. For the purposes of ~~Sections 200.63~~ Section 200.72(a)(3)(c), (d), and (e) of this rule, a permit condition shall not be material where the failure to comply resulted from circumstances which were outside the control of the source.

~~200.64~~**200.69****METHOD OF OPERATION:** The definition of method of operation is included in ~~Section 200.72-Definition Of Operation~~ the definition of “operation” of this rule.

**200.70** **MINOR NSR MODIFICATION:** Any of the following changes that do not qualify as a major source or major modification:

- a. Any physical change in or change in the method of operation of an emission unit or a stationary source that either:
  - (1) Increases the potential to emit of a regulated minor NSR pollutant by an amount greater than the minor NSR modification threshold, or
  - (2) Results in emissions of a regulated minor NSR pollutant not previously emitted by such emission unit or stationary source in an amount greater than the minor NSR modification threshold.
- b. Construction of one or more new emissions units that have the potential to emit regulated minor NSR pollutants at an amount greater than the minor NSR modification threshold.
- c. A change covered by Sections 200.70 (a) or (b) of this rule constitutes a minor NSR modification regardless of whether there will be a net decrease in total source emissions or a net increase in total source emissions that is less than the minor NSR threshold as a result of decreases in the potential to emit of other emission units at the same stationary source.
- d. For the purposes of this definition, the following do not constitute a physical change or change in the method of operation:
  - (1) A change consisting solely of the construction of, or changes to, a combination of emissions units qualifying as an insignificant activity.
  - (2) For a stationary source that is required to obtain a Non-Title V permit under Rule 200 of these rules and that is subject to source-wide emissions caps under Rule 201 of these rules, a change that will not result in the violation of the existing emissions cap for that regulated minor NSR pollutant.
  - (3) Replacement of an emission unit by a unit with a potential to emit regulated minor NSR pollutants that is less than or equal to the potential to emit of the existing unit, provided the replacement does not cause an increase in emissions at other emission units at the stationary source. A unit installed under this provision is subject to any limits applicable to the unit it replaced.
  - (4) Routine maintenance, repair, and replacement.
  - (5) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy



Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 to 825r.

- (6) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.
- (7) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
- (8) Use of an alternative fuel or raw material by a stationary source that either:
  - (a) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rules 210, 220, 240, or 241 of these rules; or
  - (b) The source is approved to use under any permit issued under 40 CFR 52.21, or under Rules 210, 220, or 240 these rules.
- (9) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Rules 210, 220, 240, or 241 of these rules.
- (10) Any change in ownership at a stationary source.
- e. For purposes of this definition:**
  - (1) “Potential to emit” means the lower of a source’s or emission unit’s potential to emit or its allowable emissions.
  - (2) In determining potential to emit, the fugitive emissions of a stationary source shall not be considered unless the source belongs to a section 302(j) category.
  - (3) All of the roadways located at a stationary source constitute a single emissions unit.
- f. Minor NSR Modification Threshold:** For the purposes of this definition, “minor NSR modification threshold” is defined as: For a regulated minor NSR pollutant, the following applies:

<u>Pollutant</u>	<u>Uncontrolled Emission Rate In Tons Per Year (TPY)</u>
<u>PM<sub>2.5</sub></u>	<u>5.0</u>
	<u>(primary emissions only; levels for precursors are set below)</u>
<u>PM<sub>10</sub></u>	<u>5.0</u>
<u>SO<sub>2</sub></u>	<u>5.0</u>
<u>NO<sub>x</sub></u>	<u>5.0</u>
<u>VOC</u>	<u>5.0</u>
<u>CO</u>	<u>5.0</u>
<u>Pb</u>	<u>0.3</u>

**200.71 MOBILE SOURCE:** Any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest.

~~200.65~~**200.72 MODIFICATION:** A physical change in or a change in the method of operation of a source which increases the actual emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount, or which results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source’s potential to emit before and after the modification. The following exemptions apply:

- a.** A physical or operational change does not include routine maintenance, repair or replacement.
- b.** An increase in the hours of operation or if the production rate is not considered an operational change unless such increase is prohibited under any permit condition that is legally and practically enforceable by the department.
- c.** A change in ownership at a source is not considered a modification.

~~200.68~~**200.73 NATIONAL AMBIENT AIR QUALITY STANDARD (NAAQS):** The ambient air pollutant concentration limits established by the administrator pursuant to Section 109 of the Clean Air Act.

~~200.66~~**200.74 NET EMISSIONS INCREASE:** For the purposes of Rule 240, Sections 305 and 306 of these rules, a net emissions increase shall be defined by the federal regulations incorporated by reference. For the purposes of Rule 220, a



net emissions increase shall be an emissions increase for a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification where:

- a. The amount by which the sum of Section 200.66(a)(1) and Section 200.66(a)(2) below exceed zero: A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
  - (1) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and
  - (2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
- b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between: A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits in Rule 204 of these rules and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences.
  - (1) The date five years before construction on the particular change commences; and
  - (2) The date that the increase from the particular change occurs.
- e. An increase or decrease in actual emissions is creditable only if the Control Officer has not relied on it in issuing a permit, which is in effect when the increase in actual emissions from the particular change occurs. In addition, in nonattainment areas, a decrease in actual emissions shall be considered in determining net emissions increase due to modifications only if the State has not relied on it in demonstrating attainment or reasonable further progress.
- d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, or particulate matter which occurs before the applicable baseline date, as described in Rule 500 Attainment Area Classification of these rules, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
- e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- f. A decrease in actual emissions is creditable only to the extent that:
  - (1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
  - (2) The emissions unit was actually operated and emitted the specific pollutant;
  - (3) It is federally enforceable at and after the time that actual construction on the particular change begins; and
  - (4) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
- g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

~~200.67~~**200.75**NEW SOURCE: Any source that is not an existing source.

~~200.68~~**200.76**NITROGEN OXIDES (NO<sub>x</sub>): All oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.

~~200.69~~**200.77**NONATTAINMENT AREA: An area so designated by the Administrator, acting under Section 107-Air Quality Control Regions of the Act, as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.

~~200.70~~**200.78**NON-PRECURSOR ORGANIC COMPOUND: Any of the organic compounds that have been designated by the EPA as having negligible photochemical reactivity as listed in Appendix G of these rules.



~~200.71~~**200.79****OPEN OUTDOOR FIRE:** Any combustion of material of any type outdoors, where the products of combustion are not directed through a flue.

~~200.72~~**200.80****OPERATION:** Any physical action resulting in a change in the location, form, or physical properties of a material, or any chemical action resulting in a change in the chemical composition or properties of a material.

~~200.73~~**200.81****ORGANIC COMPOUND:** Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

~~200.74~~**200.82****ORGANIC LIQUID:** Any organic compound which exists as a liquid under any actual conditions of use, transport, or storage.

~~200.75~~**200.83****OWNER AND/OR OPERATOR:** Any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source, ~~of which an affected facility is a part.~~

~~200.76~~**200.84****PARTICULATE MATTER:** Any material, except condensed water containing no more than analytical trace amounts of other chemical elements or compounds, which has a nominal aerodynamic diameter smaller than 100 microns (micrometers) and which exists in a finely divided form as a liquid or solid at actual conditions.

~~200.77~~**200.85****PERMITTING AUTHORITY:** The department or a County department, ~~or agency, or air pollution control district~~ that is charged with enforcing a permit program adopted under ARS §49-480, Subsection A.

**200.86** **PERMITTING THRESHOLD:** For a regulated air pollutant, the following applies:

<b>Pollutant</b>	<b>Uncontrolled Emission Rate In Tons Per Year (TPY)</b>
PM <sub>2.5</sub>	0.5
<i>(primary emissions only; levels for precursors are set below)</i>	
PM <sub>10</sub>	0.5
SO <sub>2</sub>	1.0
NO <sub>x</sub>	1.0
VOC	0.5
CO	1.0
Pb	0.3
Single HAP (other than Pb)	0.5
Total HAPs	1.0
Any other regulated air pollutant	1.0

~~200.78~~ **200.87****PERSON:** Any individual, public or private corporation, company, partnership, firm, association or society of persons, the Federal Government and any of its departments or agencies, or the State and any of its agencies, departments or political subdivisions, as well as a natural person.

~~200.79~~ **200.88****PHYSICAL CHANGE:** Any replacement, addition, or alteration of equipment that is not already allowed under the terms of the source's permit.

**200.89** **PLANNING AGENCY:** An organization designated by the governor pursuant to 42 U.S.C. 7504.

~~200.80~~**200.90****PM<sub>2.5</sub>:** Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns (micrometers), as measured by the applicable State and Federal Reference Test Methods.

~~200.81~~**200.91****PM<sub>10</sub>:** Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (micrometers), as measured by the applicable State and Federal Reference Test Methods.

~~200.82~~**200.92****POLLUTANT:** An air contaminant the emissions or ambient concentration of which is regulated under these rules.

**200.83** **POLLUTION CONTROL PROJECT:** Any activity or project undertaken at an existing electric utility steam generating unit to reduce emissions from the unit. The activities or projects are limited to:

- a. The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls, and electrostatic precipitators;
- b. An activity or project to accommodate switching to a fuel less polluting than the fuel used before the activity or project, including but not limited to natural gas or coal reburning, or the co-firing of natural gas and other fuels for the purpose of controlling emissions;



e. A permanent clean coal technology demonstration project, conducted under Title II, Section 101(d) of the Further Continuing Appropriation Act of 1985 (42 U.S.C. 5903(d)) or subsequent appropriations up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA; or

d. A permanent clean coal technology demonstration project that constitutes a repowering project.

~~200.84~~**200.93****PORTABLE SOURCE:** Any stationary source that is capable of being transported and operated in more than one county of this state.

~~200.85~~**200.94****POTENTIAL TO EMIT (PTE):** The maximum capacity of a stationary source to emit pollutants, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design, if the limitation or the effect it would have on emissions is federally legally and practically enforceable by the Department or a county under A.R.S. Title 49, Chapter 3; any rule, ordinance, order or permit adopted or issued under A.R.S. Title 49, Chapter 3 or the state implementation plan.

~~200.86~~**200.95****PROPOSED PERMIT:** The version of a permit for which the Control Officer offers public participation under Rule 210-Title V Permit Provisions or Rule 220-Non-Title V Permit Provisions of these rules or offers affected State review under Rule 210-Title V Permit Provisions of these rules.

~~200.87~~**200.96****PROPOSED FINAL PERMIT / PROPOSED FINAL PERMIT REVISION:** The version of a Non-Title V permit or permit revision that the Control Officer proposes to issue in compliance with Rule 220-Non-Title V Permit Provisions of these rules or a Title V permit or permit revision that the Control Officer proposes to issue and forwards to the Administrator for review, in compliance with Rule 210-Title V Permit Provisions of these rules. A proposed final permit/proposed final permit revision constitutes a final authorization to begin actual construction of, but not to operate, a new Title V source or a modification to a Title V source.

**200.97 PUBLIC NOTICE THRESHOLD:** For a regulated air pollutant, the following applies:

<b><u>Pollutant</u></b>	<b><u>Public Notice Threshold TPY (New Or Permit Renewals)</u></b>	<b><u>Public Notice Threshold TPY (PTE To PTE Emission Increase)</u></b>
VOC	25	25
NO <sub>x</sub>	25	25
SO <sub>2</sub>	25	25
PM <sub>10</sub>	7.5	7.5
PM <sub>2.5</sub>	5.0	5.0
<i>(primary emissions only; levels for precursors are set above)</i>		
CO	50	50
Pb	0.3	0.3
Any Single HAP	5.0	5.0
Total HAPs	12.5	12.5

~~200.88~~ **200.98****QUANTIFIABLE:** With respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.

~~200.89~~ **200.99****REACTIVATION OF A VERY CLEAN COAL-FIRED ELECTRIC UTILITY STEAM GENERATING UNIT:** Any physical change or change in the method of operation, associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation, if the unit:

- a. Has not been in operation for the 2-year period before enactment of the Clean Air Act Amendments of 1990 and the emissions from the unit continue to be carried in the Maricopa County emissions inventory at the time of enactment;
- b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
- c. Is equipped with low nitrogen oxides (NO<sub>x</sub>) burners before commencement of operations following reactivation; and
- d. Is otherwise in compliance with the Act.



**200.100** **REASONABLE FURTHER PROGRESS:** The schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.

~~200.90~~**200.101****REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT):** For facilities subject to Regulation III-Control Of Air Contaminants of these rules, the emissions limitation of the existing source performance standard. For facilities not subject to Regulation III-Control Of Air Contaminants of these rules, the lowest emission limitation that a particular source is capable of achieving by the application of control technology that is reasonably available considering technological and economic feasibility. Such technology may previously have been applied to a similar, but not necessarily identical, source category. RACT for a particular facility, other than a facility subject to Regulation III-Control Of Air Contaminants of these rules, is determined on a case-by-case basis, considering the technological feasibility and cost-effectiveness of the application of the control technology to the source category.

~~200.94~~**200.102****REFERENCE METHOD:** Any of the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual for Air Pollutant Emissions; 40 CFR 50, Appendices A through L; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in Appendix G of these rules.

~~200.92~~**200.103****REGULATED AIR POLLUTANT:** Any of the following:

- a. ~~Any conventional air pollutant, as defined in ARS §49-401.01, which means any pollutant for which the Administrator has promulgated a primary or a secondary national ambient air quality standard (NAAQS) (i.e., for carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), lead, sulfur oxides (SO<sub>x</sub>) measured as sulfur dioxides (SO<sub>2</sub>), ozone, and particulates).~~
- b. Nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs).
- c. Any air contaminant that is subject to a standard ~~contained in Rule 360-New Source Performance Standards of these rules or~~ promulgated under Section 111-Standards Of Performance For New Stationary Sources of the Act.
- d. Any hazardous air pollutant (HAP) as defined in Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.
- e. Any Class I or II substance listed in Section 602-Stratospheric Ozone Protection; Listing Of Class I And Class II Substances of the Act.

**200.104** **REGULATED MINOR NSR POLLUTANT:** Any pollutant for which a national ambient air quality standard has been promulgated and the following precursors for such pollutants:

- a. VOC and nitrogen oxides as precursors to ozone.
- b. Nitrogen oxides and sulfur dioxide are precursors to PM<sub>2.5</sub>.

**200.105** **REGULATED NSR POLLUTANT:**

- a. Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this definition as a constituent or precursor to such pollutant. Precursors for purposes of NSR are the following:
  - (1) VOCs and nitrogen oxides are precursors to ozone in all areas.
  - (2) Sulfur dioxide is a precursor to PM<sub>2.5</sub> in all areas.
  - (3) Nitrogen oxides are precursors to PM<sub>2.5</sub> in all areas.
- b. Any pollutant that is subject to any standard promulgated under Section 111-Standards Of Performance For New Stationary Sources of the Act.
- c. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act as of July 1, 2011.
- d. Notwithstanding Sections 200.105(a)-(c) of this rule, the term regulated NSR pollutant shall not include any or all hazardous air pollutants listed in CAA Section 111, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Act as of July 1, 2010.
- e. Particulate matter emissions, PM<sub>2.5</sub> emissions, and PM<sub>10</sub> emissions shall include gaseous emissions from a



source or activity which condense to form particulate matter at ambient temperatures. On and after January 1, 2011, condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for particulate matter, PM<sub>2.5</sub> and PM<sub>10</sub> in permits issued under Rule 240-Federal Major New Source Review (NSR) of these rules.

~~200.93~~**200.106REGULATORY REQUIREMENTS:** All applicable requirements, department rules, and all State requirements pertaining to the regulation of air contaminants.

~~200.94~~**200.107REPLICABLE:** With respect to methods or procedures sufficiently unambiguous such that the same or equivalent results would be obtained by the application of the method or procedure by different users.

~~200.95~~**200.108REPOWERING:** The Control Officer shall give expedited consideration to permit applications for any source that satisfies the following criteria and that is granted an extension under Section 409-Repowered Sources of the Act:

- a. Repowering means replacing an existing coal-fired boiler with one of the following clean coal technologies:
  - (1) Atmospheric or pressurized fluidized bed combustion;
  - (2) Integrated gasification combined cycle;
  - (3) Magnetohydrodynamics;
  - (4) Direct and indirect coal-fired turbines;
  - (5) Integrated gasification fuel cells; or
  - (6) As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above listed technologies; and
  - (7) Any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
- b. Repowering also includes any oil, gas, or oil and gas-fired units which have been awarded clean coal technology demonstration funding as of January 1, 1991 by the United States Department of Energy.

~~200.96~~ **REPRESENTATIVE ACTUAL ANNUAL EMISSIONS:** The average rate, in tons per year, at which the source is projected to emit a pollutant for the 2-year period after a physical change or change in the method of operation of a unit (or a different consecutive 2-year within 10 years after that change, if the Control Officer determines that the different period is more representative of source operations), considering the effect the change will have on increasing or decreasing the hourly emission rate and on projected capacity utilization. In projecting future emissions, the Control Officer shall:

- ~~a.~~ Consider all relevant information, including but not limited to historical operational data, the company's representations, filings with the Maricopa County, State or Federal regulatory authorities, and compliance plans under Title IV Acid Deposition Control of the Act; and
- ~~b.~~ Exclude, in calculating any increase in emissions that result from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions, following the change, that could have been accommodated during the representative baseline period and that is attributable to an increase in projected capacity utilization at the unit unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

~~200.97~~**200.109RESPONSIBLE OFFICIAL:** One of the following:

- a. For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
  - (1) The sources employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
  - (2) The delegation of authority to such representatives is approved in advance by the permitting authority;



- b. For a partnership or sole proprietorship: A general partner or the proprietor, respectively;
- c. For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this rule, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator); or
- d. For affected sources:
  - (1) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV-Acid Deposition Control of the Act or the regulations promulgated thereunder are concerned; and
  - (2) The designated representative for any other purposes under 40 CFR, Part 70.

~~200.98~~**200.110** **SCHEDULED MAINTENANCE:** Preventive maintenance undertaken in order to avoid a potential breakdown or upset of air pollution control equipment.

**200.111** **SCREEN MODEL:** The AERSCREEN air dispersion model published by the Administrator in April 2011 and available on the Support Center for Regulatory Atmospheric Modeling web site: <http://www.epa.gov/ttn/scram>.

**200.112** **SECTION 302(J) CATEGORY:**

- a. Any of the classes of sources listed in the definition of “categorical sources” of this rule; or
- b. Any category of affected facility which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

~~200.99~~**200.113** **SIGNIFICANT:**

- a. ~~In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a  $\Delta$  rate of emissions that would equal or exceed any one of the following rates:~~

Pollutant	Emissions Rate (TPY)
Carbon Monoxide	100
Nitrogen Oxides	40
Sulfur Dioxide	40
Particulate Matter	25
PM <sub>10</sub>	15
PM <sub>2.5</sub>	10
	<u>10 tpy of direct PM<sub>2.5</sub> emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions.</u>
VOC	40
Lead	0.6
Fluorides	3
Sulfuric Acid Mist	7
Hydrogen Sulfide (H <sub>2</sub> S)	10
Total Reduced Sulfur (including hydrogen sulfide)	10
Reduced Sulfur Compounds (including hydrogen sulfide)	10
Municipal waste combustor organics (measured as total tetra-through- octa-chlorinated: dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 <sup>-6</sup>
Municipal waste combustor metals (measured as particulate matter)	15
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50

- b. In ozone nonattainment areas classified as serious or severe, significant emissions of nitrogen oxides and VOC shall be determined under Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ Federal Major New Source Review (NSR) of these rules.
- c. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
- ~~d. In reference to~~ For a regulated air NSR pollutant that is not listed in Section 200.99(a) Section 200.113(a) of this rule, any emission rate, is not a Class I nor a Class II substance listed in Section 602- Listing Of Class I And Class II Substances of the Act and is not a hazardous air pollutant according to Rule 372- Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules, any emissions rate.



~~d. e.~~ Notwithstanding the emission amount rates listed in ~~Section 200.99(a)~~ Section 200.113(a) of this rule, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers (6.2 miles) of a Class I area and which would have an impact on the ambient air quality of such area equal to or greater than 1 microgram/cubic meter (~~mg/m<sup>3</sup>~~) (µg/m<sup>3</sup>) (24-hour average).

~~200.100~~ **200.114 SOLVENT-BORNE COATING MATERIAL:** Any liquid coating-material in which the solvent is primarily or solely a VOC. For the purposes of this definition, “primarily” means that of the total solvent mass that evaporates from the coating, the VOC portion weighs more than the non-VOC portion.

~~200.101~~ **200.115 SOURCE:** Any building, structure, facility, or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution.

~~200.102~~ **200.116 SPECIAL INSPECTION WARRANT:** An order, in writing, issued in the name of the State of Arizona, signed by a magistrate, directed to the Control Officer or his deputies authorizing him to enter into or upon public or private property for the purpose of making an inspection authorized by law.

~~200.103~~ **200.117 STANDARD CONDITIONS:** A temperature of 293K (68 degrees Fahrenheit or 20 degrees Celsius) and a pressure of 101.3 kilopascals (29.92 in.Hg or 1013.25 mb). When applicable, all analyses and tests shall be calculated and reported at standard gas temperatures and pressure values.

~~200.104~~ **200.118 STATE IMPLEMENTATION PLAN (SIP):** The plan adopted by the State Of Arizona which provides for implementation, maintenance, and enforcement of such primary and secondary ambient air quality standards as are adopted by the Administrator under the Act. The accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.

~~200.105~~ **200.119 STATIONARY SOURCE:** Any source that operates at a fixed location and that emits or generates regulated air pollutants. Any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49-426(A) which emits or may emit any air pollutant. “Building,” “structure,” “facility,” or “installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” as described in the “Standard Industrial Classification Manual, 1987.

**200.120 SUBCONTRACTOR:** Any person, firm, partnership, corporation, association, or other organization that conducts work at a site under contract with or under the control or supervision of the owner and/or operator or another subcontractor.

~~200.106~~ **200.121 SYNTHETIC MINOR:** Any source whose maximum capacity to emit a pollutant under its physical and operational design would exceed the major source threshold levels but is restricted by an enforceable emissions limitation that prevents such source from exceeding major source threshold levels.

~~200.107~~ **200.122 TEMPORARY CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT:** A clean coal technology demonstration project operated for five years or less and that complies with the SIP applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

~~200.108~~ **200.123 TITLE V:** Title V of the Federal Clean Air Act as amended in 1990 and the 40 CFR Part 70 EPA regulations adopted to implement the Act.

~~200.109~~ **200.124 TOTAL REDUCED SULFUR (TRS):** The sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.

~~200.110~~ **200.125 TRADE SECRETS:** Information to which all of the following apply:

- a. A person has taken reasonable measures to protect from disclosure and the person intends to continue to take such measures.
- b. The information is not, and has not been, reasonably obtainable without the person’s consent by other persons, other than governmental bodies, by use of legitimate means, other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding.
- c. No statute, including ARS §49-487, specifically requires disclosure of the information to the public.
- d. The person has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the busi-



ness's competitive position.

~~200.111~~**200.126** **TRIVIAL ACTIVITY:** For the purpose of this rule, a trivial activity shall be any activity, process, or emissions unit that, in addition to meeting the criteria for insignificant activity, has extremely low emissions. No activity, process, or emissions unit that is conducted as part of a manufacturing process or is related to the source's primary business activity shall be considered trivial. Trivial activities are listed in Appendix E of these rules and may be omitted from Title V permit applications and from Non-Title V permit applications. Any of the following activities:

- a. **General Combustion Activities:** Combustion emissions from propulsion of mobile sources, except for vessel emissions from outer continental shelf sources.
- b. **Surface Coating And Printing Equipment:** Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compounds (VOC) or hazardous air pollutants (HAPs).
- c. **Cleaning Equipment:** Laundry activities, except for dry-cleaning and steam boilers.
- d. **Internal Combustion Equipment:**
  - (1) Internal combustion (IC) engines used for landscaping purposes.
  - (2) Emergency (backup) electrical generators at residential locations.
- e. **Testing And Monitoring Equipment:**
  - (1) Routine calibration and maintenance of laboratory equipment or other analytical instruments.
  - (2) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.
  - (3) Hydraulic and hydrostatic testing equipment.
  - (4) Environmental chambers not using HAP gases.
  - (5) Shock chambers.
  - (6) Humidity chambers.
  - (7) Solar simulators.
  - (8) Vents from continuous emissions monitors and other analyzers.
- f. **Office Equipment:**
  - (1) Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act.
  - (2) Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.
  - (3) Consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproduction.
  - (4) Bathroom/toilet vent emissions.
  - (5) Tobacco smoking rooms and areas.
  - (6) Consumer use of paper trimmers/binders.
- g. **Repair And Maintenance:**
  - (1) Janitorial services and consumer use of janitorial products.
  - (2) Plant maintenance and upkeep activities (e.g., groundskeeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. Cleaning and painting activities qualify, if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners and/or operators must still get a permit, if otherwise required.
  - (3) Repair or maintenance shop activities not related to the source's primary business activity (excluding emissions from surface coating or degreasing (solvent metal cleaning) activities) and not otherwise triggering a per-



mit modification.

**h. Storage And Distribution:**

- (1) Storage tanks, vessels, containers holding or storing liquid substances that will not emit any VOC or HAPs. Exemptions for storage tanks containing petroleum liquids or other VOCs should be based on size limits and vapor pressure of liquids stored and are not appropriate for this list.
- (2) Demineralized water tanks and demineralizer vents.
- (3) Boiler water treatment operations, not including cooling towers.

**i. Hand Operated Equipment:**

- (1) Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic.
- (2) Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation.
- (3) Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device.
- (4) Air compressors and pneumatically operated equipment, including hand tools.

**j. Food Equipment: Non-commercial food preparation.**

**k. Water And Waste Water Treatment:**

- (1) Process water filtration systems and demineralizers.
- (2) Oxygen scavenging (de-aeration) of water.

**l. Emergency Equipment:**

- (1) Fire suppression systems.
- (2) Emergency road flares.

~~200.112~~**200.127 UNCLASSIFIED AREA:** An area which the Administrator, because of lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant. For purposes of these rules, unclassified areas are to be treated as attainment areas.

~~200.113~~**200.128 VOLATILE ORGANIC COMPOUND (VOC):** Any organic compound which participates in atmospheric photochemical reactions, except the non-precursor organic compounds.

**SECTION 300 - STANDARDS**

**301 AIR POLLUTION PROHIBITED:** No person shall discharge from any source whatever into the atmosphere regulated air pollutants which exceed in quantity or concentration that specified and allowed in these rules, the ~~Arizona Administrative Code AAC~~ or ARS, or which cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the Board Of Supervisors or the Director.

**302 APPLICABILITY OF MULTIPLE RULES:** Whenever more than one standard in this rule applies to any source or whenever a standard in this rule and a standard in the Maricopa County Air Pollution Control Regulations Regulation III-Control Of Air Contaminants applies to any source, the rule or combination of rules resulting in the lowest rate or lowest concentration of regulated air pollutants released to the atmosphere shall apply, unless otherwise specifically exempted or designated.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

**401 CERTIFICATION OF TRUTH, ACCURACY, AND COMPLETENESS:** Any application form or report submitted under these rules shall contain certification by a responsible official of truth, accuracy, and completeness of the application form or report as of the time of submittal. This certification and any other certification required under these rules shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

**402 CONFIDENTIALITY OF INFORMATION:**

- 402.1** The Control Officer shall make all permits, including all elements required to be in the permit under Rule 210-Title V Permit Provisions of these rules and Rule 220-Non-Title V Permit Provisions of these rules, available to the public.
- 402.2** Any records, reports, or information obtained from any person under these rules shall be available to the public, unless the Control Officer has notified the person in writing as specified in Section 402.3 of this rule and unless a person:
- a.** Precisely identifies the information in the permit(s), records, or reports, which is considered confidential.
  - b.** Provides sufficient supporting information to allow the Control Officer to evaluate whether such information satisfies the requirements related to trade secrets as defined in Section 200.110 of this rule.
- 402.3** Within 30 days of receipt of a notice of confidentiality that complies with Section 402.2 of this rule, the Control Officer shall make a determination as to whether the information satisfies the requirements for trade secrets as described in Section 200.110 of this rule and so notify the applicant in writing. If the Control Officer agrees with the applicant that the information covered by the notice of confidentiality satisfies the statutory requirements, the Control Officer shall include a notice in the administrative record of the permit application that certain information has been considered confidential.
- 402.4** A claim of confidentiality shall not excuse a person from providing any and all information required or requested by the Control Officer.
- 402.5** A claim of confidentiality shall not be a defense for failure to provide such information.

**SECTION 500 - MONITORING AND RECORDS**

- 501 REPORTING REQUIREMENTS:** The owner and/or operator of any air pollution source shall maintain records of all emissions testing and monitoring, records detailing all malfunctions which may cause any applicable emission limitation to be exceeded, records detailing the implementation of approved control plans and compliance schedules, records required as a condition of any permit, records of materials used or produced, and any other records relating to the emission of air contaminants which may be requested by the Control Officer.
- 502 DATA REPORTING:** When requested by the Control Officer, a person shall furnish to the Department information to locate and classify air contaminant sources according to type, level, duration, frequency, and other characteristics of emissions and such other information as may be necessary. This information shall be sufficient to evaluate the effect on air quality and compliance with these rules. The owner and/or operator of a source requested to submit information under Section 501 of this rule may subsequently be required to submit annually, or at such intervals specified by the Control Officer, reports detailing any changes in the nature of the source since the previous report and the total annual quantities of materials used or air contaminants emitted.
- 503 EMISSION STATEMENTS REQUIRED AS STATED IN THE ACT:** Upon request of the Control Officer and as directed by the Control Officer, the owner and/or operator of any source which emits or may emit oxides of nitrogen (NO<sub>x</sub>) or volatile organic compounds (VOC) shall provide the Control Officer with an emission statement, in such form as the Control Officer prescribes, showing measured actual emissions or estimated actual emissions of NO<sub>x</sub> and VOC from that source. At a minimum, the emission statement shall contain all information required by the ~~Consolidated Emissions Reporting Rule~~ Air Emissions Reporting Requirements in 40 CFR 51, Subpart A, Appendix A, Table 2A, which is incorporated by reference in Appendix G of these rules. The statement shall contain emissions for the time period specified by the Control Officer. The statement shall also contain a certification by a responsible official of the company that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. Statements shall be submitted annually to the Department. The Control Officer may waive this requirement for the owner and/or operator of any source which emits less than 25 tons per year of oxides of nitrogen or volatile organic compounds with an approved emission inventory for sources based on AP-42 or other methodologies approved by the Administrator.
- 504 RETENTION OF RECORDS:** Information and records required by applicable requirements and copies of summarizing reports recorded by the owner and/or operator and submitted to the Control Officer shall be retained by the owner and/or operator for five years after the date on which the information is recorded or the report is submitted. Non-Title V sources may retain such information, records, and reports for less than five years, if otherwise allowed by these rules.
- 505 ANNUAL EMISSIONS INVENTORY REPORT:**
- 505.1** Upon request of the Control Officer and as directed by the Control Officer, the owner and/or operator of a business shall



complete and shall submit to the Control Officer an annual emissions inventory report. The report is due by April 30, or 90 days after the Control Officer makes the inventory form(s) available, whichever occurs later. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.

- 505.2 The annual emissions inventory report shall be in the format provided by the Control Officer.
- 505.3 The Control Officer may require submittal of supplemental emissions inventory information forms for air contaminants under ARS §49-476.01, ARS §49-480.03, and Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules

**REGULATION II – PERMITS AND FEES**

**RULE 200**

**PERMIT REQUIREMENTS**

**INDEX**

**SECTION 100 – GENERAL**

101

PURPOSE

102 APPLICABILITY

**SECTION 200 – DEFINITIONS (NOT APPLICABLE)**

201 GOOD ENGINEERING PRACTICE (GEP) STACK HEIGHT

**SECTION 300 – STANDARDS**

301 PERMITS REQUIRED

302 TITLE V PERMIT

303 NON-TITLE V PERMIT

~~304~~ 304 GENERAL PERMIT

305 EXEMPTIONS

~~305~~ 306 DUST CONTROL PERMIT

~~306~~ 307 SUBCONTRACTOR REGISTRATION

~~307~~ 308 PERMIT TO BURN

308 EXEMPTIONS

309 STANDARDS FOR APPLICATIONS

310 PERMIT CONDITIONS

311 PROHIBITION-PERMIT MODIFICATION

312 PERMIT POSTING REQUIRED

313 TRANSITION FROM INSTALLATION AND OPERATING PERMIT PROGRAM TO UNITARY PERMIT PROGRAM

314 ACCELERATED PERMITTING

315 STACK HEIGHT PROVISIONS

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

401 APPROVAL OR DENIAL OF PERMIT OR PERMIT REVISION

402 PERMIT REOPENINGS; REVOCATION AND REISSUANCE; TERMINATION

403 PERMIT RENEWAL AND EXPIRATION

404 PERMIT TRANSFERS

405 PERMITS CONTAINING THE TERMS AND CONDITIONS OF FEDERAL DELAYED COMPLIANCE



- ORDERS (DCO) OR CONSENT DECREES
- 406 APPEAL
- 407 AIR QUALITY IMPACT MODELS
- 408 TESTING PROCEDURES
- 409 PERMIT FEES
- 410 PORTABLE SOURCES
- 411 PUBLIC RECORDS; CONFIDENTIALITY

Revised 07/13/88  
 Repealed and Adopted 11/15/93  
 Revised 02/15/95  
 Revised 06/19/96  
 Revised 05/20/98  
 Revised 08/22/01  
 Revised 03/26/08

Revised 07/13/1988; Repealed and Adopted 11/15/1993; Revised 02/15/1995; Revised 06/19/1996; Revised 05/20/1998; Revised 08/22/2001; Revised 03/26/2008; Revised xx/xx/xxxx

**MARICOPA COUNTY**  
**AIR POLLUTION CONTROL REGULATIONS**  
**REGULATION II – PERMITS AND FEES**

**RULE 200**

**PERMIT REQUIREMENTS**

**SECTION 100 – GENERAL**

**101 PURPOSE:** To provide an orderly procedure for the review of new sources of air pollution and for the modification and operation of existing sources through the issuance of permits.

**102 APPLICABILITY:** Unless otherwise noted, this rule applies to each source requiring a permit or permit revision.

**SECTION 200 – DEFINITIONS:** (NOT APPLICABLE) See Rule 100 (General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definition in this rule takes precedence.

**201 GOOD ENGINEERING PRACTICE (GEP) STACK HEIGHT:** A stack height meeting the requirements described in Rule 240 (Federal Major New Source Review (NSR)) of these rules.

**SECTION 300 – STANDARDS**

**301 PERMITS REQUIRED:** Except as otherwise provided in these rules, ~~no person shall commence an owner and/or operator shall not begin actual~~ construction of, operate, or make a modification to any stationary source subject to regulation under these rules, without first obtaining a permit or permit revision from the Control Officer. The Maricopa County Air Quality Department issues the following permits: Title V permits, Non-Title V permits, General permits, Dust Control permits, and Permits to Burn. The standards and/or requirements for these permits are described in ~~Section 302 through Section 305 and Section 307 of this rule Sections 302 through 305, 306, and 308 of this rule.~~ Additional standards, administrative requirements, and monitoring and records requirements for some of these permits are described in individual rules of these rules, ~~as applicable/as specified in Section 302 through Section 305 and Section 307 of this rule Sections 302 through 305, 306, and 308 of this rule.~~

**302 TITLE V PERMIT:**



**302.1** A Title V permit or, in the case of an existing permitted source, a permit revision shall be required for ~~a person an owner and/or operator to commence~~ begin actual construction of, to operate, or to modify any of the following:

- ~~302.1~~ **a.** Any major source as defined in Rule 100 of these rules.
- ~~302.2~~ **b.** Any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act.
- ~~302.3~~ **c.** Any affected source as defined in Rule 100 of these rules.
- ~~302.4~~ **d.** Any stationary source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the Board of Supervisors by rule.

**302.2** Notwithstanding Sections 301 and 302 of this rule, an owner and/or operator may begin actual construction, but not operation, of a source requiring a Title V permit or Title V permit revision upon the Control Officer's issuance of the proposed final permit or proposed final permit revision.

**303** **NON-TITLE V PERMIT:** Unless a Title V permit or Title V permit revision is required, a Non-Title V permit or permit revision shall be required for:

**303.1** ~~A person to make a modification to a source which would cause it to emit or to have the potential to emit quantities of regulated air pollutants greater than those specified in subsections 303.2 and 303.3(e) of this rule. An owner and/or operator to begin actual construction of, modify, or operate any stationary source that emits, or has the uncontrolled potential to emit, or cause the source to emit regulated NSR pollutants in an amount greater than or equal to the following permitting thresholds:~~

<u>Pollutant</u>	<u>Uncontrolled Emission Rate In Tons Per Year (TPY)</u>
<u>PM<sub>2.5</sub> (primary emissions only; levels for precursors are set below)</u>	<u>0.5</u>
<u>PM<sub>10</sub></u>	<u>0.5</u>
<u>SO<sub>2</sub></u>	<u>1.0</u>
<u>NO<sub>x</sub></u>	<u>1.0</u>
<u>VOC</u>	<u>0.5</u>
<u>CO</u>	<u>1.0</u>
<u>Pb</u>	<u>0.3</u>
<u>Single HAP (other than Pb)</u>	<u>0.5</u>
<u>Total HAPs</u>	<u>1.0</u>
<u>Any other regulated air pollutant</u>	<u>1.0</u>

**303.2** ~~A person to commence construction of or to modify either of the following after rules adopted pursuant to A.R.S. § 49-480.04 are effective: An owner and/or operator to begin actual construction of, operate or modify either of the following after rules are adopted pursuant to A.R.S. §§ 49-480.04 and 49-426:~~

- a.** A source that emits or has the potential to emit with controls ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants designated by the Director pursuant to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules and not listed in Section 112(b) of the Act.
- b.** A source that is within a category designated by the Director pursuant to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules and that emits or has the potential to emit with controls at least one ton, but less than ten tons per year of a hazardous air pollutant or at least 2.5 tons, but less than 25 tons per year of any combination of hazardous air pollutants.

**303.3** ~~A person to commence construction of, to operate, or to modify any of the following: An owner and/or operator to begin actual construction of, operate, or modify any of the following:~~

- a.** Any source other than a major source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act.
- b.** Any source other than a major source, including an area source, subject to a standard or other requirement pursuant to Section 112 of the Act. However, a source is not required to obtain a permit solely because it is subject to regulation or requirements pursuant to Section 112(r) of the Act.
- e.** ~~Any source that emits or has the potential to emit, without control, regulated air pollutants, except the following sources to the extent which the described limits are not exceeded. However, any source that is exempt from~~



obtaining a Non-Title V permit according to this section shall still comply with all other applicable requirements of these rules:

(1) General Combustion Equipment:

- (a) Any source with an aggregated input capacity of less than 2,000,000 BTU per hour calculated by adding only those pieces of equipment over 300,000 BTU per hour with respect to fuel burning equipment fired with natural gas or liquefied petroleum gas.
- (b) Any oil fueled heating equipment with a maximum rated input capacity or an aggregated input capacity of less than 500,000 BTU (527,200 kilojoules) per hour.

(2) Liquid Storage Tanks:

- (a) Stationary storage tanks with a capacity of 250 gallons (946 liters) or less used for storing organic liquids.
- (b) Stationary storage tanks used for storing organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or less.
- (c) Pressure tanks and pressurized vessels used exclusively for the storage of liquefied gases.

(3) Surface Coating and Printing Equipment:

- (a) The aggregate of all surface coating operations of a source in which no coated product is heat cured and a combined total of one gallon per day or less of all coating materials and solvents are used.
- (b) Application equipment for architectural surface coatings is used for commercial and residential applications.
- (c) Any coating operation, which employs only hand-held aerosol cans, where VOC emissions do not exceed three pounds on any single day.
- (d) Any printing operation which employs a combination of printing presses with a maximum of 500 square inches (3226 cm<sup>2</sup>) of impression area and a maximum of two units per printing press. For the purposes of this rule, "units" means the number of printing surfaces.

(4) Solvent Cleaning Equipment: Unheated, non-conveyorized, cleaning or coating equipment that does not include control enclosures:

- (a) With an open surface area of one square meter (10.8 square feet) or less and an internal volume of 350 liters (92.5 gallons) or less, having an organic solvent loss of three gallons per day or less, or
- (b) Using only organic solvents with an initial boiling point of 302°F (150°C) or greater and having an organic solvent loss of three gallons per day or less, or
- (c) Using materials with a VOC content of two percent or less by volume (20 cubic centimeters per liter).

(5) Internal Combustion Equipment:

- (a) Internal combustion engines with a manufacturer's maximum continuous rating of 50 horsepower or less or a maximum accumulative rating of 250 horsepower or less for engines used in the same process at one source.
- (b) Internal combustion engines used solely as a source of unlimited standby power or emergency purposes and operated at or below 500 hours per year for routine testing and emergency standby operation for each internal combustion engine and provided such source demonstrates that the potential emissions at 500 hours of operation each of all internal combustion engines do not exceed 4,000 pounds of nitrogen oxides or carbon monoxide per year as evidenced by an installed hour meter or written usage records maintained by the operator; and
  - (i) Are only used for power when normal power line service fails; or
  - (ii) Are only used for the emergency pumping of water.
  - (iii) This exemption does not apply to internal combustion engines used as standby power due to a voluntary reduction in power by the power company.
- (c) Engines used to propel motorized vehicles.



- (d) Gas turbines with a maximum heat input at ISO Standard Day Conditions of less than 3,000,000 BTU (3,162,000 kilojoules) per hour fired exclusively with natural gas and/or liquefied petroleum gas.
- (e) Portable internal combustion engines used on a temporary basis of no more than 30 days per calendar year at any one facility.
- (6) Food Equipment:
  - (a) Equipment, excluding boilers, used in eating establishments or other retail establishments for the purpose of preparing food for human consumption.
  - (b) Bakeries:
    - (i) Mixers and blenders used in bakeries where the products are edible and intended for human consumption.
    - (ii) Ovens at bakeries whose total production is less than 10,000 pounds (4,535 kg) per operating day.
- (7) Miscellaneous:
  - (a) Diesel-contaminated soil remediation projects, where no heat is applied.
  - (b) Self-contained, enclosed blast and shot peen equipment where the total internal volume of the blast section is 50 cubic feet or less and where any venting is done via pollution control equipment.
  - (c) Those laboratory acids which have both a pH above 1.5 and an aggregate daily emission to ambient air of vapor/mists from all such acids not exceeding three pounds on any single day.
  - (d) Brazing or welding equipment.
  - (e) Hand soldering equipment.
  - (f) A source whose aggregate of all wood working equipment totals 50 horsepower or less.
  - (g) Equipment used for buffing, carving, cutting, drilling, surface grinding, machining, planing, routing, sanding, sawing, shredding, or turning of ceramic artwork, precision parts, leather, metals, plastics, rubber, fiberboard, masonry, carbon, graphite or glass.
  - (h) Refrigerant recovery equipment.
  - (i) Building maintenance or janitorial activities.
  - (j) A source whose aggregate of all miscellaneous equipment, processes or production lines not otherwise identified in this section has total uncontrolled emissions of less than three pounds (1.4 kg) VOC or PM<sub>10</sub> during any day and less than 5.5 pounds (2.5 kg) of any other regulated air pollutant during any day.
  - (k) A person to begin actual construction of a source subject to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules.
  - (l) A person to make a modification to a source subject to Rule 372 (Maricopa County Hazardous Air Pollutants (HAPs) Program) of these rules.

**304 GENERAL PERMIT:** A General permit shall be required for a person to commence construction of, to operate, or to modify a source that is a member of a facility class for which a General permit has been developed pursuant to Rule 230 of these rules. The provisions of Rule 230 of these rules shall apply to General permits, except as otherwise provided in Rule 230 of these rules.

**304.1** An owner and/or operator of a source may apply for a General permit to commence construction of, to operate, or to modify a source that is a member of a facility class for which a General permit has been developed pursuant to Rule 230 of these rules. The provisions of Rule 230 of these rules shall apply to General permits, except as otherwise provided in Rule 230 of these rules.

**304.2** An owner and/or operator of a source, which is a member of the class of facilities covered by a General permit, may apply for an authority to operate under the General permit in lieu of applying for a Non-Title V permit or a Title V permit.

**305 EXEMPTIONS:** The following sources shall be exempt from obtaining a permit. However, any source that is exempt from obtaining a permit according to this rule shall still comply with all other applicable requirements of these rules.



- 305.1** The following sources shall not require a permit, unless the source is a major source or unless operation without a permit would result in a violation of the Act:
- a.** Sources subject to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.
  - b.** Sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR 61.145.
  - c.** Agricultural equipment used in normal farm operations. Agricultural equipment used in normal farm operations, for the purposes of this rule, does not include equipment that would be classified as a source that would require a permit under Title V of the Act, or would be subject to a standard under 40 CFR parts 60 or 61.
- 305.2** If a source is subject to one of the standards under Section 111 of the Act listed below and meets the applicable criteria for an insignificant activity as defined in Rule 100 of these rules, then the owner and/or operator of such source shall not be required to obtain a permit:
- a.** 40 CFR 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines).
  - b.** 40 CFR 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines).
- 305.3** If a source is subject to one of the standards under Section 112 of the Act listed below and meets the applicable criteria for an insignificant activity as defined in Rule 100 of these rules, then the owner and/or operator of such source shall not be required to obtain a permit:
- a.** 40 CFR 61.145.
  - b.** 40 CFR 63, Subpart ZZZZ (Reciprocating Internal Combustion Engines).
  - c.** 40 CFR 63, Subpart WWWW (Ethylene Oxide Sterilizers).
  - d.** 40 CFR 63, Subpart CCCCCC (Gasoline Distribution).
  - e.** 40 CFR 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations).
  - f.** 40 CFR 63, Subpart JJJJJJ (Industrial, Commercial, and Institutional Boilers Area Sources), published at 76 FR 15554 (March 21, 2011).
  - g.** A regulation or requirement under Section 112(r) of the Act.
- 305.4** Insignificant activities, provided any single or combination of insignificant activities have total uncontrolled emissions less than the permitting thresholds as defined in Rule 100 of these rules.
- 305.5** Trivial activities.

~~305~~**306 DUST CONTROL PERMIT:** A Dust Control permit shall be required before a person, including but not limited to, the property owner, lessee, developer, responsible official, Dust Control permit applicant (who may also be the responsible party contracting to do the work), general contractor, prime contractor, supervisor, management company, or any person who owns, leases, operates, controls, or supervises a dust-generating operation subject to the requirements of Rule 310 of these rules, causes, commences, suffers, allows, or engages in any dust-generating operation that disturbs a total surface area of 0.10 acre (4,356 square feet) or more. The provisions of Rule 310 of these rules shall apply to Dust Control permits, except as otherwise provided in Rule 310 of these rules.

~~306~~**307 SUBCONTRACTOR REGISTRATION:**

- ~~306~~**307.1** A subcontractor who is engaged in dust-generating operations at a site that is subject to a Dust Control permit ~~that is~~ issued by a Control Officer and that requires control of PM<sub>10</sub> emissions from dust-generating operations shall register with the Control Officer by submitting information in the manner prescribed by the Control Officer. The Control Officer shall issue a registration number after payment of the fee. The Control Officer may establish and assess a fee for the registration based on the total cost of processing the registration and issuance of a registration number.
- ~~306~~**307.2** The subcontractor shall have its registration number readily accessible on-site while conducting any dust-generating operations. The subcontractor's registration number must be visible and readable by the public without having to be asked by the public (e.g., included/posted in a sign that is visible on the subcontractor's vehicle or equipment, included/posted on a sign that is visible in the window of the subcontractor's vehicle or equipment, or included/posted on a sign where the subcontractor is working on the site).



~~307308~~ **PERMIT TO BURN:** A permit is required for any open outdoor fire authorized under the exceptions in A.R.S. 49-501 or Rule 314 of these rules.

~~EXEMPTIONS:~~ Notwithstanding Sections 301, 302, and 303 of this rule, the following sources shall not require a permit, unless the source is a major source, or unless operation without a permit would result in a violation of the Act:

~~308.1~~ Sources subject to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.

~~308.2~~ Sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR 61.145.

~~308.3~~ Agricultural equipment used in normal farm operations. Agricultural equipment used in normal farm operations, for the purposes of this rule, does not include equipment that would be classified as a source that would require a permit under Title V of the Act, or would be subject to a standard under 40 CFR parts 60 or 61.

**309 STANDARDS FOR APPLICATIONS:** All permit applications shall be filed in the manner and form prescribed by the Control Officer. The application shall contain all the information necessary to enable the Control Officer to make the determination to grant or to deny a permit or permit revision, which shall contain such terms and conditions as the Control Officer deems necessary to assure a source's compliance with the requirements of these rules. The issuance of any permit or permit revision shall not relieve the owner and/or operator from compliance with any federal laws, Arizona laws, or these rules, nor does any other law, regulation or permit relieve the owner or operator from obtaining a permit or permit revision required under these rules.

**309.1 Insignificant Activities:**

a. ~~Rather than supplying detailed information, a Title V source may, in its permit application, list and generally group insignificant activities, which are defined in Rule 100—General Provisions and Definitions of these rules and which are listed in Appendix D List of Insignificant Activities of these rules. An insignificant activity shall be any activity, process, or emissions unit that meets all of the following:~~

- ~~(1) Is not subject to a source-specific applicable requirement. Source-specific applicable requirements include requirements for which emissions unit-specific information is needed to determine applicability.~~
- ~~(2) Emits uncontrolled emissions of any single or combination of insignificant activities less than the permitting thresholds as defined in Rule 100 of these rules.~~
- ~~(3) Is either included in the definition of “insignificant activity” in Rule 100 of these rules or is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA) as an insignificant activity under this rule.~~

b. ~~A Non-Title V source is not required to list nor to describe, in a permit application, insignificant activities, which are defined in Rule 100—General Provisions and Definitions of these rules and which are listed in Appendix D List of Insignificant Activities of these rules. If a Non-Title V source’s emissions are approaching an applicable requirement, including but not limited to best available control technology (BACT) requirements or major source status, then such Non-Title V source may be required by Maricopa County to include, in a permit application, a description of its insignificant activities and emissions calculations for such insignificant activities. **For Title V Permit Applications:**~~

- ~~(1) An owner and/or operator of a Title V source may, in its permit application, list and generally group insignificant activities. The permit application need not provide emissions data regarding insignificant activities, except as necessary to complete the assessment required by Rule 210, Sections 304.1(b) or (c) of these rules.~~
- ~~(2) An owner and/or operator of a Title V source may request approval for the classification of an activity as insignificant by including such request in its permit application, along with justification that such activity meets the definition of insignificant activity in Rule 100 of these rules.~~
- ~~(3) An owner and/or operator of a Title V source shall include information in its permit application regarding insignificant activities, if such information is needed to determine: (1) the applicability of or to impose any applicable requirement; (2) whether the source is in compliance with applicable requirements; or (3) the fee amount required under these rules. In such cases, emissions calculations or other necessary information shall be included in the application.~~

c. ~~An activity, process, or emissions unit that is not included in Appendix D List of Insignificant Activities of these rules may be considered an insignificant activity if it meets the definition of insignificant activity in Rule 100—General Provisions and Definitions of these rules and is approved by the Control Officer and the Administrator of~~



~~the Environmental Protection Agency (EPA). A source may request approval for the classification of an activity as insignificant by including such a request in its permit application, along with justification that such activity meets the definition of insignificant activity in Rule 100—General Provisions and Definitions of these rules.~~  
**For Non-Title V Permit Applications:**

- ~~(1) An owner and/or operator of a Non-Title V source is not required to list or describe, in its permit application, insignificant activities, which are defined in Rule 100 of these rules, except as necessary to complete the assessment required by Rule 210, Sections 304.1(b) or (c) of these rules.~~
  - ~~(2) If a Non-Title V source's emissions are approaching an applicable requirement, including but not limited to best available control technology (BACT) requirements or major source status, then the owner and/or operator of such Non-Title V source may be required to include, in its permit application, a description of its insignificant activities and emissions calculations for such insignificant activities.~~
  - ~~(3) An owner and/or operator of a Non-Title V source shall include information in its permit application regarding insignificant activities, if such information is needed to determine: (1) the applicability of or to impose any applicable requirement; (2) whether the source is in compliance with applicable requirements; or (3) the fee amount required under these rules. In such cases, emissions calculations or other necessary information shall be included in the application.~~
- ~~d. An application may not omit information regarding insignificant activities that is needed to determine: (1) the applicability of or to impose any applicable requirement; (2) whether the source is in compliance with applicable requirements; or (3) the fee amount required under these rules. In such cases, emissions calculations or other necessary information shall be included in the application.~~

#### 309.2 Trivial Activities:

- ~~a. A Title V source is not required, in a permit application, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities, which are defined in Rule 100—General Provisions and Definitions of these rules and which are listed in Appendix E List of Trivial Activities of these rules. A trivial activity shall be any activity, process, or emissions unit that, in addition to meeting the criteria for insignificant activity, has extremely low emissions.~~
- ~~b. A Non-Title V source is not required, in a permit application, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities, which are defined in Rule 100—General Provisions and Definitions of these rules and which are listed in Appendix E List of Trivial Activities of these rules. No activity, process, or emissions unit that is conducted as part of a manufacturing process or is related to the source's primary business activity shall be considered trivial.~~
- ~~c. An activity that is not included in Appendix E List of Trivial Activities of these rules may be considered a trivial activity, if such activity meets the definition of trivial activity in Rule 100—General Provisions and Definitions of these rules. Trivial activities as defined in Rule 100 of these rules may be omitted from Title V permit applications and from Non-Title V permit applications.~~

**310 PERMIT CONDITIONS:** The Control Officer may impose any permit conditions that are necessary to ensure compliance with federal laws, Arizona laws, or these rules.

**310.1** The Control Officer may require, as specified in Section 310.2 and Section 310.3 of this rule, any source of regulated air pollutants to monitor, sample, or perform other studies to quantify emissions of regulated air pollutants or levels of air pollution that may reasonably be attributable to that source, if the Control Officer:

- a. Determines that monitoring, sampling, or other studies are necessary to determine the effects of the source on levels of air pollution; or
- b. Has reasonable cause to believe a violation of this rule, rules adopted pursuant to this rule, or a permit issued pursuant to this rule has been committed; or
- c. Determines that those studies or data are necessary to accomplish the purposes of this rule and that the monitoring, sampling, or other studies by the source are necessary in order to assess the impact of the source on the emission of regulated air contaminants.

**310.2** The Control Officer may require a source of air contaminants, by permit or order, to perform monitoring, sampling, or other quantification of its emissions or air pollution that may reasonably be attributed to such a source. Before requir-



ing such monitoring, sampling, or other quantification by permit or order, the Control Officer shall consider the relative cost and accuracy of any alternatives which may be reasonable under the circumstances such as emission factors, modeling, mass balance analyses, or emissions projections. The Control Officer may require such monitoring, sampling, or other quantification by permit or order if the Control Officer determines in writing that all of the following conditions are met:

- a. The actual or potential emissions of air pollution may adversely affect public health or the environment.
- b. An adequate scientific basis for the monitoring, sampling, or quantification method exists.
- c. The monitoring, sampling, or quantification method is technically feasible for the subject contaminant and the source.
- d. The monitoring, sampling, or quantification method is reasonably accurate.
- e. The cost of the method is reasonable in light of the use to be made of the data.

**310.3** The permittee shall comply with all conditions of the permit, including all applicable requirements of Arizona air quality statutes and the air quality rules. Compliance with permit terms and conditions does not relieve, modify, or otherwise affect the permittee’s duty to comply with all applicable requirements of Arizona air quality statutes and the Maricopa County Air Pollution Control Regulations. Any permit non-compliance is grounds for enforcement action: for a permit termination, revocation, and reissuance or revision; or for denial or a permit renewal application. Non-compliance with any federally enforceable requirement in a permit constitutes a violation of the Act.

~~310.3~~ **310.4** Orders issued or permit conditions imposed pursuant to this rule shall be appealable to the hearing board in the same manner as that prescribed for orders of abatement in A.R.S. § 49-489 and A.R.S. § 49-490 and for permit conditions in A.R.S. § 49-482.

**311 PROHIBITION – PERMIT MODIFICATION:** A person shall not willfully deface, alter, forge, counterfeit, or falsify any permit issued under the provisions of these rules.

**312 PERMIT POSTING REQUIRED:** Any person who has been granted a permit shall keep a complete permit clearly visible and accessible on the site where the equipment is installed. All equipment covered by the permit shall be listed in the permit by a serial number or other equipment identification symbol and shall be identified on a plant diagram.

**313 TRANSITION FROM INSTALLATION AND OPERATING PERMIT PROGRAM TO UNITARY PERMIT PROGRAM:**

**313.1 Sources With a Valid Installation, Operating, or Conditional Permit:** A valid installation permit or operating permit issued by the Control Officer or a valid conditional permit issued by the hearing board before September 1, 1993, and the authority to operate as provided in Laws 1992, Chapter 299, Section 65, continue in effect until:

- a. The Control Officer revokes an installation permit.
- b. The Control Officer issues or denies a Title V permit or a Non-Title V permit to the source.
- c. The hearing board revokes or modifies a conditional permit or the conditional permit expires. A source operating under a valid conditional permit may continue to operate in accordance with the terms and conditions of such permit after the expiration of the conditional permit if, at least 30 days prior to the expiration of the conditional permit, the source submits an application to the Control Officer for a Title V permit as described in Section 313.2 of this rule or for a Non-Title V permit as described in Section 313.3 of this rule.

**313.2 Title V Sources With an Installation, Operating, or Conditional Permit:** Following November 29, 1996, the effective date of the Environmental Protection Agency’s (EPA’s) final interim approval of Maricopa County’s Title V permit program, a source becomes subject to the requirements of the Title V permit program, when the source meets the applicability requirements as provided in this rule. Sources which hold a valid installation, operating, or conditional permit and require a Title V permit shall comply with the following provisions:

- a. The owner or operator of the source shall submit a permit application within 180 days of receipt of written notice from the Control Officer that an application is required or 12 months after the source becomes subject to the requirements of Title V of the Act and the permit requirements of these rules, whichever is earlier.
- b. Any source, which has not yet submitted a Title V permit application, that wishes to make any source change not requiring a permit, an administrative permit revision, a minor permit revision, or a significant permit revision



shall comply with the applicable provisions of Rule 210 of these rules.

- 313.3 Non-Title V Sources With an Installation, Operating, or Conditional Permit:** Sources requiring a Non-Title V permit in existence on the date these rules become effective which hold a valid installation, operating, or conditional permit shall comply with the following provisions:
- a. All sources shall submit a permit application to the Control Officer within 90 days of receipt of written notice from the Control Officer that an application is required.
  - b. Any source that wishes to make any source change not requiring a permit, an administrative permit revision, a minor permit revision, or a non-minor permit revision shall comply with the applicable provisions of Rule 220 of these rules.
- 313.4 Written Notice:** For purposes of this subsection, written notice shall include, but not be limited to, a written warning, Notice of Violation, or order issued by the Control Officer for constructing or operating an emission source without a permit. Such a source shall be considered to be in violation of these rules on each day of operation or each day during which construction continues, until a permit is granted.
- 313.5 Sources Not Under Permit:**
- a. All sources not in existence prior to the effective date of these rules shall first submit to the Control Officer an air quality permit application for the entire source and shall have been issued an air quality permit before commencing construction of such source.
  - b. All sources in existence on the date these rules become effective and not holding a valid installation permit and/or a valid operating permit issued by the Control Officer, which have not applied for a Non-Title V permit pursuant to these rules, shall submit to the Control Officer a permit application for the entire source.
  - c. All sources in existence on the date these rules become effective and not holding a valid installation permit and/or a valid operating permit issued by the Control Officer, which have not applied for a Title V permit pursuant to these rules, shall submit to the Control Officer a Title V permit application no more than 12 months after becoming subject to Title V permit requirements.
- 313.6 Sources Which Currently Have an Installation or Operating Permit:**
- a. For sources in existence on the date these rules become effective holding a valid installation permit and/or a valid operating permit issued by the Control Officer, the Control Officer may establish a phased schedule for acting on permit applications received within the first full year after the source becomes subject to obtaining a Title V or a Non-Title V permit under these rules. The schedule shall assure that at least one-third of such applications will be acted on annually over a period not to exceed three years after such effective date. Based on this schedule, the Control Officer shall review a completed application in accordance with the provisions of these rules and shall issue or deny the applicable permit within 18 months after the receipt of the completed application.
  - b. Any application for an installation permit or an operating permit that is determined to be complete prior to the effective date of these rules but for which no permit has been issued shall be considered complete for the purposes of this section. In issuing a permit pursuant to such an application, the Control Officer shall include in the permit all elements addressed in the application and a schedule of compliance for submitting an application for a permit revision to address the elements required to be in the permit that were not included in the operating permit application or in the installation permit application. No later than six months after the effective date of these rules, the Control Officer shall take final action on an operating permit application or on an installation permit application determined to be complete prior to the effective date of these rules.

**314 ACCELERATED PERMITTING:**

- 314.1** Notwithstanding any other provisions of these rules, the following qualify a source for a request-submittal for accelerated processing: an application for a Title V permit or for a Non-Title V permit; any permit revision; and any coverage under a general permit. Such a request-submittal shall be submitted in writing to the Control Officer at least 30 days in advance of filing the application and shall be accompanied by fees as described in Rule 280 of these rules.
- 314.2** When an applicant has requested accelerated permit processing, the Control Officer may, to the extent practicable, undertake to process the permit or permit revision in accordance with the following schedule:
- a. For applications for initial Title V and Non-Title V permits under Rules 210 and 220 of these rules, for significant permit revisions under Rule 210 of these rules, or for non-minor permit revisions under Rule 220 of these rules,



final action on the permit or on the permit revision shall be taken within 90 days or after the Control Officer determines that the application is complete for a Non-Title V source and within 120 days after the Control Officer determines that the application is complete for a Title V source. Except for a new major source or a major modification subject to the requirements of Rule 240 of these rules, an application for a new permit, a significant permit-revision, or a permit renewal shall be deemed to be complete unless the Control Officer notifies the applicant by certified mail within 30 days of receipt of the application that the application is not complete.

- b. For applications for coverage under a general permit under Rule 230 of these rules, final action shall be taken within 30 days after receipt of the application.
- c. For minor permit revisions governed by Rule 210 of these rules and Rule 220 of these rules, the permit revision shall be issued within 60 days after receipt of the application.

**314.3** Before issuing a permit or permit revision pursuant to this section, the applicant shall pay to the Control Officer all fees due as described in Rule 280 of these rules. Nothing in this section shall affect the public participation requirements of Rules 210 or 220 of these rules, or EPA and affected state review as required under Rule 210 of these rules.

**315** **STACK HEIGHT PROVISIONS:** The degree of emission limitation required of any source of any pollutant shall not be affected by so much of any source’s stack height that exceeds good engineering practice or by any other dispersion technique as determined by the procedures of 40 CFR 51.118 and the EPA regulations cross-referenced therein as incorporated by reference in Appendix G of these rules.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

**401 APPROVAL OR DENIAL OF PERMIT OR PERMIT REVISION:**

- 401.1** The Control Officer shall deny a permit or revision if the applicant does not demonstrate that every such source for which a permit or permit revision is sought is so designed, controlled, or equipped with such air pollution control equipment that the source may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of these rules.
- 401.2** Prior to acting on an application for a permit, the Control Officer may require the applicant to provide and to maintain such devices and procedures as are necessary for sampling and for testing purposes in order to secure information that will disclose the nature, extent, quantity, or degree of air contaminants discharged into the atmosphere from the source described in the application. In the event of such a requirement, the Control Officer shall notify the applicant in writing of the type and characteristics of such devices and procedures.
- 401.3** In acting upon an application for a permit renewal, if the Control Officer finds that such source has not been constructed in accordance with any prior permit or revision issued pursuant to A.R.S. § 49-480.01, the Control Officer shall require the permittee to obtain a permit revision or shall deny the permit renewal. The Control Officer shall not accept any further application for a permit for such source so constructed until the Control Officer finds that such source has been reconstructed in accordance with a prior permit or a revision, or until a revision to the permit has been obtained. The Control Officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.
- 401.4** After a decision on a permit or on a permit revision, the Control Officer shall notify the applicant and any person who filed a comment on the permit pursuant to A.R.S. § 49-480 or on the permit revision pursuant to A.R.S. § 49-480.01 in writing of the decision, and if the permit is denied, the reasons for such denial. Service of this notification may be made in person or by first class mail. The Control Officer shall not accept a further application unless the applicant has corrected the circumstances giving rise to the objections as specified by the Control Officer as reasons for such denial.

**402 PERMIT REOPENINGS; REVOCATION AND REISSUANCE; TERMINATION:**

**402.1 Reopening for Cause:**

- a. Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
  - (1) Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is



later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to Section 403.2 of this rule. Any permit revision required pursuant to this rule shall comply with Section 403 of this rule for a permit renewal and shall reset the five year permit term.

- (2) Additional requirements, including excess emissions requirements, become applicable to an affected source under the Acid Rain Program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the Title V permit.
  - (3) The Control Officer or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
  - (4) The Control Officer or the Administrator determines that the permit must be revised or revoked to assure compliance with the applicable requirements.
- b. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall, except for reopenings under Section 402.1(a)(1) of this rule, affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as is practicable.
  - c. Action to reopen a permit under this section shall not be initiated before a notice of such intent is provided to the source by the Control Officer at least 30 days in advance of the date that the permit is to be reopened, except that the Control Officer may provide a shorter time period in the case of an emergency.
  - d. When a permit is reopened and revised pursuant to this rule, the Control Officer may make appropriate revisions to the permit shield established pursuant to Rule 210 of these rules.

#### **402.2 Reopening for Cause by the Administrator:**

- a. If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to Section 402.1 of this rule, the Administrator may notify the Control Officer and the permittee of such finding in writing. Within ten days of receipt of notice from the Administrator that cause exists to reopen a Title V permit, the Control Officer shall notify the source.
- b. Within 90 days of receipt of notice from the Administrator that cause exists to reopen a permit, the Control Officer shall forward to the Administrator a proposed determination of termination, modification, or revocation and reissuance of the permit. The Control Officer may request a 90-day extension of this limit if it is necessary to request a new or revised permit application or additional information from the applicant for, or holder of, a Title V permit.
- c. The Control Officer shall have 90 days from receipt of an objection by the Administrator to attempt to resolve the objection.

#### **402.3 The Control Officer may issue a notice of termination of a permit issued under these rules if:**

- a. The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.**
- b. The person applying for the permit failed to disclose a material fact required by the application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.**
- c. The terms and conditions of the permit have been or are being violated.**

#### **402.4 If the Control Officer issues a notice of termination under this rule, the notice shall be served on the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation and a statement that the permittee is entitled to a hearing.**

### **403 PERMIT RENEWAL AND EXPIRATION:**

- 403.1** Prior to renewing a permit issued under these rules, the Control Officer shall provide notice in the same manner and form as provided in Rule 210 of these rules.
- 403.2** The Control Officer shall not renew a permit issued under these rules unless the permittee applies for a permit renewal prior to the expiration of a permit in the manner required by Rule 210 of these rules. If a timely and complete applica-



tion for a permit renewal is submitted, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied. Any testing that is required for a renewal shall be completed before the proposed permit renewal is issued by the Control Officer.

**403.3** The Control Officer shall publish notice of a permit renewal decision in the same manner as that provided in Rule 210 of these rules for a Title V permit and as that provided in Rule 220 of these rules for a Non-Title V permit.

**404 PERMIT TRANSFERS:**

**404.1** Except as provided in A.R.S. § 49-429 and Section 404.2 of this rule, a Title V permit, a Non-Title V permit, or a General permit may be transferred to another person. Before the proposed transfer, the person who holds a valid Non-Title V permit or a valid General permit shall comply with the administrative permit revision procedures pursuant to Rule 220, Section 405.1 of these rules. At least 30 days before the proposed transfer, the person who holds a valid Title V permit shall give notice to the Control Officer in writing and shall comply with the administrative permit amendment procedures pursuant to Rule 210, Section 404 of these rules. Permit transfer notice shall contain the following:

- a. The permit number and expiration date.
- b. The name, address and telephone number of the current permit holder.
- c. The name, address and telephone number of the person to receive the permit.
- d. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance.
- e. A description of the equipment to be transferred.
- f. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee.
- g. Provisions for the payment of any fees pursuant to Rule 280 of these rules that will be due and payable before the effective date of transfer.
- h. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Control Officer to make the decision in Section 404.2 of this rule including:
  - (1) The qualifications of each person principally responsible for the operation of the source.
  - (2) A statement by the chief financial officer of the new permittee that it is financially capable of operating the source in compliance with the law, and the information that provides the basis for that statement.
  - (3) A brief description of any action for the enforcement of any federal or state law, rule or regulation, or any county, city or local government ordinance relating to the protection of the environment, instituted against any person employed by the new permittee and principally responsible for operating the source during the five years preceding the date of application. In lieu of this description, the new permittee may submit a copy of the certificate of disclosure or 10-K form required under A.R.S. § 49-109, or a statement that this information has been filed in compliance with A.R.S. § 49-109.

**404.2** The Control Officer shall deny the transfer if the Control Officer determines that the organization receiving the permit is not capable of operating the source in compliance with Article 3, Chapter 3, Title 49, Arizona Revised Statutes, the provisions of these rules, or the provisions of the permit. Notice of the denial stating the reason for the denial shall be sent to the original permit holder by certified mail stating the reason for the denial within ten working days of the Control Officer's receipt of the application notice. If the transfer is not denied within ten working days after receipt of the notice, the Control Officer shall approve such permit transfer.

**404.3** To appeal the transfer denial:

- a. Both the transferor and transferee shall petition the hearing board in writing for a public hearing; and
- b. The appeal process for a permit shall be followed.

**405 PERMITS CONTAINING THE TERMS AND CONDITIONS OF FEDERAL DELAYED COMPLIANCE ORDERS (DCO) OR CONSENT DECREES:**

**405.1** The terms and conditions of either a DCO or consent decree shall be incorporated into a permit through a permit revision



sion. In the event the permit expires prior to the expiration of the DCO or consent decree, the DCO or consent decree shall be incorporated into any permit renewal.

**405.2** The owner or operator of a source subject to a DCO or consent decree shall submit to the Control Officer a quarterly report of the status of the source and construction progress and copies of any reports to the Administrator required under the order or decree. The Control Officer may require additional reporting requirements and conditions in permits issued under this rule.

**405.3** For the purpose of this rule, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.

**406** **APPEAL:** Denial or revocation of a permit shall be stayed by the permittee's written petition for a hearing, filed in accordance with Rule 400 of these rules.

**407** **AIR QUALITY IMPACT MODELS:**

**407.1** Where the Control Officer requires a person to perform air quality impact modeling, the modeling shall be performed in a manner consistent with 40 CFR 51, Appendix W, "Guideline On Air Quality Models", as of July 1, 2004 (and no future amendments or additions), which shall be referred to hereinafter as "Guideline", and is adopted by reference.

**407.2** **Model Substitution:** Where the person can demonstrate that an air quality impact model specified in the guideline is inappropriate, the model may be modified or another model substituted. However, before such modification or substitution can occur, the Control Officer must make a written finding that:

- a. No model in the guideline is appropriate; or
- b. The data base required for the appropriate model in the guideline is not available; and
- c. A model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the guideline.

**408** **TESTING PROCEDURES:** Except as otherwise specified, the applicable testing procedures contained in the Arizona Testing Manual for Air Pollutant Emissions shall be used to determine compliance with standards or permit conditions established pursuant to these rules.

**409** **PERMIT FEES:** A fee shall be charged for each facility. No permit is valid until the applicable permit fee has been received and until the permit is issued by the Control Officer.

**410** **PORTABLE SOURCES:**

**410.1** An owner and/or operator of a portable source which will operate for the duration of its permit solely in Maricopa County shall obtain a permit from the Control Officer for Maricopa County and is subject to Sections 410.2, 410.3, and 410.4 of this rule. A portable source with a current State of Arizona permit need not obtain a Maricopa County permit but is subject to Sections 410.3, 410.4, and 410.5 of this rule. Any permit for a portable source shall contain conditions that will assure compliance with all applicable requirements at all authorized locations. A portable source that has permit issued by the Director and obtains a permit from the Control Officer for Maricopa County shall request that the Director terminate the permit. Upon issuance of the permit from the Control Officer for Maricopa County, the permit issued by the Director is no longer valid.

**410.2** An owner or operator of a portable source which has a Maricopa County permit but proposes to operate outside of Maricopa County, shall obtain a permit from the Director. A portable source that has a permit issued from the Control Officer for Maricopa County and obtains a permit issued by the Director shall request that the Control Officer terminate the permit issued by the Control Officer for Maricopa County. Upon issuance of a permit by the Director, the ~~Control Officer shall terminate the Maricopa County permit for that source~~ permit issued by the Control Officer for Maricopa County is no longer valid. If the owner and/or operator relocates the portable source in Maricopa County, the owner and/or operator shall notify the Control Officer as required by Section 410.4 of this rule of the relocation of the portable source. Whenever the owner and/or operator of a portable source operates a portable source in Maricopa County, such owner and/or operator shall comply with all regulatory requirements in these rules.

**410.3** An owner of a portable source which requires a permit under this rule, shall obtain the permit prior to renting or leasing said portable source. This permit shall be provided by the owner to the renter or lessee, and the renter or lessee shall be bound by the permit provisions. In the event a copy of the permit is not provided to the renter or lessee, both



the owner and the renter or lessee shall be responsible for the operation of the portable source in compliance with the permit conditions and any violations thereof.

**410.4** A portable source may be transported from one location to another within or across Maricopa County boundaries provided the owner and/or operator of such portable source notifies the Director and any Control Officer who has jurisdiction over the geographic area that includes the new location of the portable source by certified mail at least ten working days before the portable source is transported to the new location. The notification required under this rule shall include:

- a. A description of the portable source to be transported including the Maricopa County permit number or the State of Arizona permit number for such portable source;
- b. A description of the present location;
- c. A description of the location to which the portable source is to be transported, including the availability of all utilities, such as water and electricity, necessary for the proper operation of all control equipment;
- d. The date on which the portable source is to be moved;
- e. The date on which operation of the portable source will begin at the new location; and
- f. The duration of operation at the new location.

**410.5** An owner and/or operator of a portable source with a current State of Arizona permit that moves such portable source into Maricopa County shall notify the Control Officer that such portable source is being transported to a new location and shall include in such notification a copy of the State of Arizona permit and a copy of any conditions imposed by the State of Arizona permit. The source shall be subject to all regulatory requirements of these rules.

**411 PUBLIC RECORDS; CONFIDENTIALITY:**

**411.1** The Control Officer shall make all permits, including all elements required to be in the permit pursuant to Rule 210 of these rules and Rule 220 of these rules available to the public.

**411.2** A notice of confidentiality pursuant to A.R.S. § 49-487(c) shall:

- a. Precisely identify the information in the application documents, which is considered confidential.
- b. Contain sufficient supporting information to allow the Control Officer to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, could cause substantial harm to the person's competitive position.

**411.3** Within 30 days of receipt of a notice of confidentiality that complies with Section 411.2 of this rule, the Control Officer shall make a determination as to whether the information satisfies the requirements for trade secret or competitive position pursuant to A.R.S. § 49-487(C)(1) and so notify the applicant in writing. If the Control Officer agrees with the applicant that the information covered by the notice of confidentiality satisfies the statutory requirements, the Control Officer shall include a notice in the administrative record of the permit application that certain information has been considered confidential.

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

**REGULATION II - PERMITS AND FEES**

**RULE 210**

**TITLE V PERMIT PROVISIONS**

**INDEX**

**SECTION 100 - GENERAL**

101PURPOSE

102APPLICABILITY

**SECTION 200 - DEFINITIONS**

201EMISSIONS ALLOWABLE UNDER THE PERMIT

**SECTION 300 - STANDARDS**



- 301 PERMIT APPLICATION PROCESSING PROCEDURES
- 302 PERMIT CONTENTS
- 303 PERMIT REVIEW BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND AFFECTED STATES
- 304 EMISSION STANDARDS AND LIMITATIONS
- 305 COMPLIANCE PLAN; CERTIFICATION

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

- 401 FEES REQUIRED
- 402 PERMIT TERM
- 403 SOURCE CHANGES ALLOWED WITHOUT PERMIT REVISIONS
- 404 ADMINISTRATIVE PERMIT AMENDMENTS
- 405 MINOR PERMIT REVISIONS
- 406 SIGNIFICANT PERMIT REVISIONS
- 407 PERMIT SHIELDS
- 408 PUBLIC PARTICIPATION

**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

~~Revised 07/13/88~~  
~~Repealed and Adopted 11/15/93~~  
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**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION II - PERMITS AND FEES**

**RULE 210**

**TITLE V PERMIT PROVISIONS**

**SECTION 100 - GENERAL**

- 101 PURPOSE:** To provide an orderly procedure for the review of new Title V sources of air pollution and of the modification and operation of existing Title V sources through the issuance of Title V permits.
- 102 APPLICABILITY:** Unless otherwise noted, this rule applies to each source requiring a Title V permit or permit revision.

**SECTION 200 - DEFINITIONS:** ~~See Rule 100 General Provisions And Definitions of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definition shall apply: For the purpose of this rule, the following definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In~~



the event of any inconsistency between any of the Maricopa County air pollution control rules, the definition in this rule takes precedence.

**201 EMISSIONS ALLOWABLE UNDER THE PERMIT:** An enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

**SECTION 300 – STANDARDS**

**301 PERMIT APPLICATION PROCESSING PROCEDURES:**

**301.1 Standard Application Form And Required Information:** To apply for any permit under this rule, applicants shall complete the "Standard Permit Application Form" and shall supply all information required by the "Filing Instructions" as shown in Appendix B of these rules.

**301.2** ~~Unless otherwise required by Rule 200 Permit Requirements of these rules, a~~ A timely application is:

**a.** For a source that becomes subject to the permit program as a result of a change in regulation and not as a result of construction or a physical or operational change, one that is submitted within 12 months after the source becomes subject to the permit program.

~~a.~~ **b.** For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.

~~b.~~ **b.** ~~For the initial Phase II acid rain requirement under Rule 371 Acid Rain of these rules of a Title V permit, one that is submitted to the Control Officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.~~

**c.** Any existing source which becomes subject to a standard promulgated by the Administrator under Section 112(d) of the Act shall, within 12 months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.

**301.3** If, at the time an application for a permit required by these rules is submitted, an applicable implementation plan allows the determination of an alternate emission limit, a source may, in its application, propose an emission limit that is equivalent to the emission limit otherwise applicable to the source under the applicable implementation plan. The source shall also demonstrate that the equivalent limit is quantifiable, accountable, enforceable, and subject to replicable compliance determination procedures.

**301.4** A complete application is one that satisfies all of the following:

**a.** To be complete, an application shall provide all information required by Section 301.1-Standard Application Form And Required Information of this rule. An application for permit revision only need supply information related to the proposed change, unless the source's proposed permit revision will change the permit from a Non-Title V Permit to a Title V Permit. A responsible official shall certify the submitted information consistent with Section 301.7-Certification Of Truth, Accuracy, And Completeness of this rule.

**b.** An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of ~~Rule 240-Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ Federal Major New Source Review (NSR) and ~~Rule 241-Permits For New Sources And Modifications To Existing Sources~~ of these rules. If the proposed new source is a major source, as defined in ~~Rule 240-Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ of these rules, or the proposed permit revision constitutes a major modification as defined in ~~Rule 100-General Provisions And Definitions~~ of these rules, then the application shall comply with all applicable requirements of ~~Rule 240-Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ of these rules.

**c.** An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Rule 241-Minor New Source Review (NSR) of these rules. If the applicant determines that the proposed new source is subject to Rule 241 of these rules, or the proposed permit revision constitutes a minor NSR modification, the application shall comply with all the applicable requirements of Rule 241 of these rules.

~~e.~~ **d.** An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements established under ~~Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program~~ of these rules. If the proposed new source permit or permit revision is subject to the requirements of ~~Rule 372-Maricopa~~



County Hazardous Air Pollutants (HAPs) Program of these rules, the application shall comply with all applicable requirements of Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.

- d. ~~e.~~ An application to construct or reconstruct any major source of hazardous air pollutants shall contain a determination that maximum achievable control technology (MACT) for new sources under Section 112 of the Act will be met. Where MACT has not been established by the Administrator, such determination shall be made on a case-by-case basis under 40 C.F.R. 63.40 through 63.44, ~~as incorporated by reference in Rule 370-Federal Hazardous Air Pollutant Program of these rules.~~ For purposes of this section of this rule, constructing or reconstructing a major source shall have the meaning prescribed in 40 C.F.R. 63.41, ~~as incorporated by reference in Rule 370-Federal Hazardous Air Pollutant Program of these rules.~~
  - e. ~~f.~~ An application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete, unless the Control Officer notifies the applicant by certified mail within 60 days of receipt of the application that the application is not complete. For a proposed new major source or a major modification subject to the requirements of Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ Federal Major New Source Review (NSR) of these rules, the permit application shall be deemed to be submitted on the date that the completeness determination is made under Rule 240-~~Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources~~ of these rules.
  - f. ~~g.~~ If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or to take final action on that application, the Control Officer may request such information in writing and may set a reasonable deadline for a response. Except for minor permit revisions as set forth in Section 405 of this rule, a source's ability to continue operating without a permit, as set forth in this rule, shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Control Officer. The Control Officer may, after one submittal by the applicant under this rule, reject an application that is still determined to be incomplete and shall notify the applicant of the decision by certified mail.
  - ~~g.~~ ~~h.~~ The completeness determination shall not apply to revisions processed through the minor permit revision process.
  - ~~h.~~ ~~i.~~ To be complete, an application for a new permit or an application for a permit revision shall list and generally group activities, if applicable, which are insignificant as defined in Rule 100-General Provisions And Definitions of these rules ~~and which are listed in Appendix D-List Of Insignificant Activities of these rules.~~ Except as necessary to complete the assessment required by Sections 304.1(b) or (c) of this rule. ~~The the~~ application need not provide emissions data regarding insignificant activities. If the Control Officer determines that an activity listed as insignificant does not meet the requirements of insignificant as defined in Rule 100-General Provisions And Definitions of these rules ~~and as listed in Appendix D-List Of Insignificant Activities of these rules~~ (i.e., if emissions estimates are needed for another purpose, such as determining the amount of permit fees) or that emissions data for the activity is required to complete the assessment required by Sections 304.1(b) or (c) of this rule, then the Control Officer shall notify the applicant in writing and shall specify additional information required.
  - ~~i.~~ ~~j.~~ If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted source solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.
  - ~~j.~~ ~~k.~~ The Control Officer agrees with a notice of confidentiality submitted under A.R.S. §49-487.
- 301.5** A source that has submitted information with an application under a claim of confidentiality under A.R.S. § 49-487 and Rule 200-Permit Requirements of these rules shall submit a copy of such information directly to the Administrator.
- 301.6** **Duty To Supplement Or Correct Application:** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed permit.



**301.7 Certification Of Truth, Accuracy, And Completeness:** Any application form, report, or compliance certification submitted under these rules shall contain certification by a responsible official of truth, accuracy, and completeness of the application as of the time of submittal. This certification and any other certification required under this rule shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

**301.8 Action on Application:**

- a. The Control Officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.
- b. In addition, the Control Officer may issue, revise, or renew a permit only if all of the following conditions have been met:
  - (1) The permit application received must be complete according to Section 301.4 of this rule.
  - (2) Except for revisions qualifying as administrative or minor under Sections 404 and 405 of this rule, all of the requirements for public notice and participation under Section 408 of this rule must have been met.
  - (3) The Control Officer shall have complied with the requirements of Section 303 of this rule for notifying and responding to affected states and if applicable, other notification requirements of Rule 240, Section 304.2- Action On Application And Notification Requirements ~~and Rule 240, Section 511.3(b) Visibility Protection~~ of these rules.
  - (4) The conditions of the permit shall require compliance with all applicable requirements.
  - (5) For permits for which an application is required to be submitted to the Administrator under Section 303.1 of this rule, and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Department, the Control Officer has revised and submitted a proposed final permit in response to the objection and the Administrator has not objected to this proposed final permit within 45 days of receipt.
  - (6) For permits to which the Administrator has objected to issuance under a petition filed under 40 C.F.R. 70.8(d), the Administrator’s objection has been resolved.
- c. The Control Officer may issue a notice of revocation of a permit issued under this rule if:
  - (1) The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.
  - (2) The person applying for the permit failed to disclose a material fact required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.
  - (3) The terms and conditions of the permit have been or are being violated and the violation has not been corrected within a reasonable period of time as specified by the Control Officer.
- d. If the Control Officer issues a notice of denial or revocation of a permit under this rule, the notice shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial or revocation and explaining that the permit applicant or permittee is entitled to a hearing under A.R.S. §49-482.
- e. The Control Officer shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions. The Control Officer shall send this statement to the Administrator and to any other person who requests it.
- ~~f. Except as provided in 40 C.F.R. 70.4(b)(11), Rule 200-Permit Requirements of these rules and Rule 240-Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources, of these rules, regulations promulgated under Title IV or Title V of the Act, or the permitting of affected sources under the acid rain program, the Control Officer shall take final action on each permit application (and request for revision or renewal) within 18 months after receiving a complete application.~~
- ~~g. Priority shall be given by the Control Officer to taking action on applications for construction or modification submitted under Title I, Parts C-Prevention Of Significant Deterioration and D-New Source Review of the Act.~~
- ~~h. A proposed permit decision shall be published within nine months of receipt of a complete application and any~~



~~additional information requested under Section 301.4(e) of this rule to process the application. The Control Officer shall provide notice of the decision as provided in Section 408 of this rule and any public hearing shall be scheduled as expeditiously as possible.~~

**301.9 Requirement For A Permit:** Except as noted under the provisions in Sections 403 and 405 of this rule, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this rule. However, if a source submits a timely and complete application for permit issuance, revision, or renewal, the source's failure to have a permit is not a violation of these rules until the Control Officer takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Control Officer, any additional information identified as being needed to process the application. If a source submits a timely and complete application for a permit renewal, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied. This section of this rule does not affect a source's obligation to obtain a permit revision before making a modification to the source.

## 302 PERMIT CONTENTS:

**302.1** Each permit issued under this rule shall include the following elements:

- a. The date of issuance, the permit term, and the deadline by which the permittee must renew the permit.
- b. Enforceable emission limitations and standards including those operational requirements and limitations that assures compliance with all applicable requirements at the time of issuance.
  - (1) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
  - (2) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act and incorporated under Rule 371-Acid Rain of these rules, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.
  - (3) Any permit containing an equivalency demonstration for an alternative emission limit submitted under Section 301.3 of this rule shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
  - (4) The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in Rule 100-General Provisions and Definitions of these rules.
- c. As necessary, the following requirements with respect to monitoring:
  - (1) Requirements, including stipulated requirements, concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;
  - (2) Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported under Section 302.1(d) of this rule. Such monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this rule; and
  - (3) Any emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Sections 114(a)(3) or 504(b) of the Act.
- d. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:
  - (1) Records of required monitoring information that include the following:
    - (a) The date, place as defined in the permit, and time of sampling or measurements;
    - (b) The date(s) analyses were performed;



- (c) The name of the company or entity that performed the analysis;
    - (d) The analytical techniques or methods used;
    - (e) The results of such analysis; and
    - (f) The operating conditions as existing at the time of sampling or measurement.
  - (2) Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.
- e. With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:
  - (1) Submittal of reports of any required monitoring at least every six months. All instances of deviations from permit requirements shall be clearly identified in such reports. All required reports shall be certified by a responsible official consistent with Section 301.7 and Section 305.1(e) of this rule.
  - (2) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Control Officer shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements.
- f. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder and incorporated under Rule 371-Acid Rain of these rules.
  - (1) No permit revision shall be required for increases in emissions that are authorized by allowances acquired under the acid rain program and incorporated under Rule 371-Acid Rain of these rules, provided that such increases do not require a permit revision under any other applicable requirement.
  - (2) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to non-compliance with any other applicable requirement.
  - (3) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.
  - (4) Any permit issued under the requirements of this rule and Title V of the Act to a unit subject to the provisions of Title IV of the Act and incorporated under Rule 371-Acid Rain of these rules shall include conditions prohibiting all of the following:
    - (a) Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owners or operators of the unit or the designated representative of the owners or operators.
    - (b) Exceedances of applicable emission rates.
    - (c) The use of any allowance prior to the year for which it was allocated.
    - (d) Violation of any other provision of the permit.
- g. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.
- h. Provisions stating the following:
  - (1) That the permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes and the air quality rules. Compliance with permit terms and conditions does not relieve, modify, or otherwise affect the permittee's duty to comply with all applicable requirements of Arizona air quality statutes and the Maricopa County Air Pollution Control Regulations. Any permit non-compliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Non-compliance with any federally enforceable requirement in a permit constitutes a violation of the Act.
  - (2) That the permittee shall halt or reduce the permitted activity in order to maintain compliance with applicable requirements of Federal laws, Arizona laws, these rules, or other conditions of the permit.
  - (3) That the permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a



request by a permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

- (4) That the permit does not convey any property rights nor exclusive privilege, of any sort.
  - (5) That the permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for revising, revoking and reissuing the permit, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish a copy of such records directly to the Administrator along with a claim of confidentiality.
  - (6) For any major source operating in a nonattainment area for any pollutant(s) for which the source is classified as a major source, the source shall comply with reasonably available control technology (RACT) as defined in Rule 100-General Provisions And Definitions of these rules.
  - (7) For any major source operating in a nonattainment area designated as serious for PM<sub>10</sub>, for which the source is classified as a major source for PM<sub>10</sub>, the source shall comply with the best available control technology (BACT), as defined in Rule 100-General Provisions And Definitions of these rules, for PM<sub>10</sub>.
- i. A provision to ensure that a source pays fees to the Control Officer under A.R.S. §49-480(D) and Rule 280-Fees of these rules.
  - j. A provision stating that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.
  - k. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions:
    - (1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted source a record of the scenario under which it is operating;
    - (2) Shall extend the permit shield described in Section 407 of this rule to all terms and conditions under each such operating scenario; and
    - (3) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this rule.
  - l. Terms and conditions, if the permit applicant requests them, as approved by the Control Officer, for the trading of emissions increases and decreases in the permitted source, to the extent that the applicable requirements provide for trading increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:
    - (1) Shall include all terms required under Section 302.1 and Section 302.3 of this rule to determine compliance;
    - (2) May extend the permit shield described in Section 302.4 of this rule to all terms and conditions that allow such increases and decreases in emissions; and
    - (3) Shall meet all applicable requirements and requirements of this rule.
  - m. Terms and conditions, if the permit applicant requests them and they are approved by the Control Officer, setting forth intermittent operating scenarios including potential periods of downtime. If such terms and conditions are included, the county's emissions inventory shall not reflect the zero emissions associated with the downtime.
  - n. If a permit applicant requests it, the Control Officer shall issue permits that contain terms and conditions allowing for the trading of emission increases and decreases in the permitted source solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Control Officer shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this section of this rule shall not include modifications under any provision of Title I of the Act and may not exceed emissions allowable under the permit.



The terms and conditions shall include notice that (1) conforms to Section 403.4 and Section 403.5 of this rule and (2) describes how the increases or decreases in emissions will comply with the terms and conditions of the permit.

- o. Such terms and conditions as are consistent with the requirements of this rule, of Rule 100-General Provisions And Definitions of these rules and of the Clean Air Act and are found by the Control Officer to be necessary.

- 302.2** Federally Enforceable Requirements: All terms and conditions in a Title V Permit shall be enforceable by the Administrator and citizens under the Act, including any provisions designed to limit a source’s potential to emit. However, the Control Officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the Title V Permit that are not required under the Act or under any of its applicable requirements.
- 302.3** All applications for a permit required by this rule shall include a compliance plan meeting the requirements of Section 503 of the Act.
- 302.4** Each permit shall include the applicable permit shield provisions set forth in Section 407 of this rule.
- 302.5** A Title V permit issued to a major source shall require that revisions be made under Rule 200-Permit Requirements of these rules to incorporate additional applicable requirements adopted by the Administrator under the Act that become applicable to a source with a permit with a remaining permit term of three or more years. No revision shall be required if the effective date of the applicable requirements is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than 18 months after the promulgation of such standards and regulations. Any permit revision required under this section of this rule shall comply with provisions in Rule 200-Permit Requirements of these rules for permit renewal and shall reset the five year permit term.

**303 PERMIT REVIEW BY THE EPA AND AFFECTED STATES:**

- 303.1** Except as provided in Section 301.5 of this rule and as waived by the Administrator, for each Title V permit, a copy of each of the following shall be provided to the Administrator as follows:
  - a. The applicant shall provide a complete copy of the application, including any attachments, compliance plans, and other information required by Section 301.4 of this rule at the time of submittal of the application to the Control Officer.
  - b. The Control Officer shall provide the proposed final permit after public and affected State review.
  - c. The Control Officer shall provide the final permit at the time of issuance.
- 303.2** The Control Officer may require the application information to be submitted in a computer-readable format compatible with the Administrator’s national database management system.
- 303.3** The Control Officer shall keep all records associated with all permits including those records containing the calculations and rationale supporting the Control Officer’s decision to issue a permit for a minimum of five years from permit issuance.
- 303.4** No permit for which an application is required to be submitted to the Administrator under Section 303.1 of this rule shall be issued if the Administrator properly objects to its issuance in writing within 45 days of receipt of the proposed final permit from the Control Officer and all necessary supporting information.
- 303.5 Review By Affected States:**
  - a. For each Title V permit, the Control Officer shall provide notice of each proposed permit to any affected State on or before the time that the Control Officer provides this notice to the public as required under Section 408 of this rule except to the extent Section 405 of this rule requires the timing of the notice to be different.
  - b. If the Control Officer refuses to accept a recommendation of any affected State submitted during the public or affected State review period, the Control Officer shall notify the Administrator and the affected State in writing. The notification shall include the Control Officer’s reasons for not accepting any such recommendation and shall be provided to the Administrator as part of the submittal of the proposed final permit. The Control Officer shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.
- 303.6** Any person who petitions the Administrator under 40 C.F.R. 70.8(d) shall notify the Control Officer by certified mail of such petition as soon as possible, but in no case more than 10 days following such petition. Such notice shall



include the grounds for objection and whether such objections were raised during the public comment period. A petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day administrative review period and prior to the Administrator's objection.

**303.7** If the Control Officer has issued a permit prior to receipt of the Administrator's objection under this rule, and the Administrator indicates that a permit should be revised or revoked and reissued, the Control Officer shall respond consistent with Rule 200-Permit Requirements of these rules and may thereafter issue only a revised permit that satisfies the Administrator's objection. In any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.

**303.8 Prohibition on Default Issuance:**

- a. No Title V permit including a permit renewal or revision shall be issued until affected States and the Administrator have had an opportunity to review the proposed permit.
- b. No permit or renewal shall be issued unless the Control Officer has acted on the application.

**304 EMISSION STANDARDS AND LIMITATIONS:** Wherever applicable requirements apply different standards or limitations to a source for the same item, all applicable requirements shall be included in the permit.

**305 COMPLIANCE PLAN; CERTIFICATION:**

**305.1** All permits shall contain the following elements with respect to compliance:

- a. The following monitoring requirements sufficient to assure compliance with the terms and conditions of the permit:
  - (1) Any emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Section 114(a)(3) or 504(b) of the Act;
  - (2) Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported under Section 305.1(c) of this rule. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirements; and
  - (3) Requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
- b. All applicable recordkeeping requirements, as described in Section 302.1(d) of this rule.
- c. All applicable reporting requirements including the following:
  - (1) Submittal of reports of any required monitoring at least every six months. All instances of deviations from permit requirements shall be clearly identified in such reports. All required reports shall be certified by a responsible official consistent with Section 305.1(e) of this rule.
  - (2) Reporting within two working days from knowledge of deviations from permit requirements, including those attributable to upset conditions as defined in the permit and the probable cause of such deviations. Reporting within a reasonable time of any long-term corrective actions or preventative measures taken.
- d. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
  - (1) The frequency for submissions of compliance certifications, which shall not be less than annually;
  - (2) The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;
  - (3) A requirement that the compliance certification include the following:
    - (a) The identification of each term or condition of the permit that is the basis of the certification;
    - (b) The compliance status;
    - (c) Whether compliance was continuous or intermittent;



- (d) The method(s) used for determining the compliance status of the source, currently and over the reporting period; and
  - (e) Other facts the Control Officer may require to determine the compliance status of the source.
- (4) A requirement that all compliance certifications be submitted to the Control Officer and to the Administrator;
- (5) Additional requirements specified in Sections 114(a)(3) and 504(b) of the Act or under Rule 220-Non-Title V Permit Provisions, Section 304-Permits Containing Voluntarily Accepted Emissions Limitations, Controls, Or Other Requirements (Synthetic Minor) of these rules.
- e. A requirement for any document required to be submitted by a permit, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this rule shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- f. Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to:
  - (1) Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or where records are required to be kept under the conditions of the permit;
  - (2) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
  - (3) Inspect, at reasonable times, any sources, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
  - (4) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
  - (5) To record any inspection by use of written, electronic, magnetic, and photographic media.
- g. A compliance plan that contains all of the following:
  - (1) A description of the compliance status of the source with respect to all applicable requirements.
  - (2) A description as follows:
    - (a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
    - (b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
    - (c) For requirements with which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
  - (3) A compliance schedule as follows:
    - (a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
    - (b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this rule, unless a more detailed schedule is expressly required by the applicable requirement.
    - (c) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.



- (4) A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation. Such schedule shall contain:
  - (a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
  - (b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- (5) The compliance plan content requirements specified in Section 305.1(g) of this rule shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act and incorporated under Rule 371-Acid Rain of these rules with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.
- h. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.

#### SECTION 400 - ADMINISTRATIVE REQUIREMENTS

**401 FEES REQUIRED:** Persons subject to this rule shall pay the fees required, as set forth in Rule 280-Fees of these rules.

**402 PERMIT TERM:** A Title V Permit shall remain in effect for no more than five years.

#### **403 SOURCE CHANGES ALLOWED WITHOUT PERMIT REVISIONS:**

- 403.1** A source with a Title V permit may make changes that contravene an express permit term without a permit revision if all of the following apply:
- a. The changes are not modifications under any provision of Title I of the Act or under A.R.S. §49-401.01(24) or as defined in Rule 100-General Provisions And Definitions of these rules;
  - b. The changes do not result in emissions that exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;
  - c. The changes do not violate any applicable requirements or trigger any additional applicable requirements;
  - d. The changes meet all requirements for processing as a minor permit revision under Section 405 of this rule;
  - e. The changes do not violate federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; and
  - f. The changes do not constitute a minor NSR modification.**
- 403.2** The substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment shall qualify as a change that does not require a permit revision, if it meets all of the requirements of Sections 403.1, 403.4, and 403.5 of this rule.
- 403.3** Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted source, as established in the permit under Section 302.1(l) of this rule, where an applicable implementation plan provides for such emissions trades, without applying for a permit revision and based on the seven working days notice prescribed in Section 403.4 of this rule. This provision is available in those cases where the permit does not already provide for such emissions trading, and shall not include any emissions units for which emissions are not quantifiable nor for which there are no replicable procedures to enforce the emissions trades.
- 403.4** For each such change under Sections 403.1 and 403.3 of this rule, a written notice either by hand delivery or by certified mail shall be received by the Control Officer and the Administrator, a minimum of seven working days in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided less than seven working days in advance of the change but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible.
- 403.5** Each notification shall include:



- a. When the proposed change will occur.
- b. A description of each such change.
- c. Any change in emissions of regulated air pollutants.
- d. The pollutants emitted subject to the emissions trade, if any.
- e. The provisions in the implementation plan that provide for the emissions trade with which the source will comply and any other information as may be required by the provisions in the implementation plan authorizing the trade.
- f. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply.
- g. Any permit term or condition that is no longer applicable as a result of the change.

**403.6** The permit shield described in Section 407 of this rule shall not apply to any change made under Section 403.1 through Section 403.3 of this rule. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the implementation plan authorizing the emissions trade.

**403.7** Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another, as provided in Section 302.1(k) of this rule, shall not require any prior notice under this rule.

~~**403.8** Notwithstanding any other part of this rule, the Control Officer may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this rule over the term of the permit, does not satisfy Section 403.1 of this rule.~~

~~403.9~~ **403.8** The Control Officer shall make available to the public monthly summaries of all notices received under this rule.

**404 ADMINISTRATIVE PERMIT AMENDMENTS:**

**404.1** Except for provisions to Title IV of the Act, an administrative permit amendment is a permit revision that does any of the following:

- a. Corrects typographical errors;
- b. Identifies a change in the name, address, or phone number of any person identified in the permit or provides a similar minor administrative change at the source;
- c. Requires more frequent monitoring or reporting by the permittee; or
- d. Allows for a change in ownership or operational control of a source under Rule 200-Permit Provisions of these rules, where the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility coverage and liability between the current and new permittee has been submitted to the Control Officer.

**404.2** Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Act or incorporated under Rule 371-Acid Rain of these rules.

**404.3** The Control Officer shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request. Title V permits may incorporate such changes without providing notice to the public or affected States provided that such permits designate that such permit revisions have been made under this rule.

**404.4** The Control Officer shall submit a copy of Title V permits revised under this rule to the Administrator.

**404.5 Source's Ability To Make A Change:** Except for permit transfers described in Rule 200-Permit Provisions of these rules, the source may implement the changes addressed in the request for an administrative permit amendment immediately upon submittal of the request.

**405 MINOR PERMIT REVISIONS:**

**405.1** Minor permit revision procedures may be used only for those changes at a Title V source that satisfy all of the following:

- a. Do not violate any applicable requirement;



- b. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
  - c. Do not require or change:
    - (1) A case-by-case determination of an emission limitation or other standard,
    - (2) A source specific determination of ambient impacts, or
    - (3) A visibility or increment analysis.
  - d. Do not seek to establish nor to change a Title V permit term or condition for which there is no corresponding underlying applicable requirement and that the Title V source has assumed in order to avoid an applicable requirement to which the Title V source would otherwise be subject. Such terms and conditions include:
    - (1) A federally enforceable emissions cap which the Title V source would assume to avoid classification as a modification under any provision of Title I of the Act; and
    - (2) An alternative emissions limit approved under regulations promulgated under the Section 112(i)(5) of the Act.
  - e. Are not modifications under any provision of Title I of the Act or Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.
  - f. Are not changes in fuels not represented in the permit application or provided for in the Title V permit.
  - g. ~~The increase in the Title V source's potential to emit for any regulated air pollutant is not significant as defined in Rule 100 General Provisions And Definitions of these rules. Are not minor NSR modifications subject to Rule 241 of these rules, except that minor NSR modifications subject to Rule 241, Section 310 of these rules may be processed as minor permit revisions; and~~
  - h. Are not required to be processed as a significant permit revision under Section 406 of this rule.
- 405.2** As approved by the Control Officer, minor permit revision procedures may be used for Title V permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the Administrator.
- 405.3** To request a minor permit revision, a source shall complete the “Standard Permit Application Form” and shall include the following information:
- a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
  - b. For any source that is making the change immediately after it files the application, the Title V source's suggested draft permit; and
  - c. Certification by a responsible official that the proposed revision meets the criteria for use of minor permit revision procedures and a request that such procedures be used.
- 405.4** **EPA and Affected State Notification:** Within five working days of the Control Officer’s receipt of an application for a minor permit revision, the Control Officer shall notify the Administrator and affected States of the requested permit revision in accordance with Section 303 of this rule.
- 405.5** The Control Officer shall not issue a final permit revision until after the Administrator’s 45-day review period or until the Administrator has notified the Control Officer that the Administrator will not object to issuance of the permit revision, whichever is first. ~~Although,~~ although the Control Officer may approve the permit revision prior to that time. Within 90 days of the Control Officer's receipt of an application under minor permit revision procedures, or 15 days after the end of the Administrator’s 45-day review period, whichever is later, the Control Officer shall do one or more of the following:
- a. Issue the permit revision as proposed;
  - b. Deny the permit revision application;
  - c. Determine that the proposed permit revision does not meet the minor permit revision criteria and should be reviewed under the significant permit revision procedures; and/or



- d. Revise the proposed permit revision and transmit to the Administrator the new proposed permit revision as required in Section 303 of this rule.

**405.6 Source's Ability to Make Change:** The source may make the change proposed in its minor permit revision application immediately after it files the application. After ~~the~~ a Title V source makes the change allowed by the preceding sentence, and until the Control Officer takes any of the actions specified in Section 405.5 of this rule, the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the Title V source need not comply with the existing permit terms and conditions it seeks to modify. However, if the Title V source fails to comply with its proposed permit terms and conditions during this time period, the Control Officer may enforce existing permit terms and conditions, which the Title V source seeks to revise.

**405.7 Permit Shield:** The permit shield under Section 407 of this rule shall not extend to minor permit revisions.

**405.8** Notwithstanding any other part of this rule, the Control Officer may require a permit to be revised under Section 406 of this rule for any change that, when considered together with any other changes submitted by the same source under this rule or under Section 404 of this rule over the life of the permit, do not satisfy Section 405.1 of this rule.

**405.9** The Control Officer shall make available to the public monthly summaries of all applications for minor permit revisions.

**406 SIGNIFICANT PERMIT REVISIONS:**

**406.1** A significant permit revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision nor as an administrative permit amendment.

**406.2** A significant permit revision that is only required because of a change described in Section 405.1(f) or Section 405.1(g) of this rule shall not be considered a significant permit revision under Part 70 for the purposes of 40 C.F.R. 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall follow significant permit revision procedures.

**406.3** Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under Section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision procedures and Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.

**406.4** All modifications to sources subject to Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules shall follow significant permit revision procedures.

**406.5** Significant permit revisions shall meet all requirements of this rule for applications, public participation, review by affected States, and review by the Administrator, that apply to permit issuance and renewal.

~~**406.6** The Control Officer shall process the majority of significant permit revision applications received each calendar year within nine months of receipt of a complete permit application but in no case longer than 18 months. Applications for which the Control Officer undertakes the accelerated permitting process, under Rule 200, Section 312 of these rules, shall not be included in this requirement. Section 406.7 of this rule does not change any time frame requirements in Section 301 of this rule.~~

**407 PERMIT SHIELDS:**

**407.1** Each Title V permit issued under this rule shall specifically identify all federal, state, and local air pollution control requirements applicable to the Title V source at the time the Title V permit is issued. The Title V permit shall state that compliance with the conditions of the Title V permit shall be deemed compliance with any applicable requirement as of the date of Title V permit issuance, provided that such applicable requirements are included and expressly identified in the Title V permit. The Control Officer may include in a Title V permit determination that other requirements specifically identified are not applicable. Any Title V permit issued under this rule that does not expressly state that a permit shield exists shall not provide such a shield.

**407.2** Nothing in this rule or in any permit shall alter or affect the following:

- a. The provisions of Section 303 of the Act-Emergency Orders, including the authority of the Administrator under that section.
- b. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the



time of permit issuance.

- c. The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act.
- d. The ability of the Administrator or of the Control Officer to obtain information from a source under Section 114 of the Act, or any provision of State law.
- e. The authority of the Control Officer to require compliance with new applicable requirements adopted after the permit is issued.

**407.3** In addition to the provisions of Rule 200-Permit Requirements of these rules, a permit shall be reopened by the Control Officer and the permit shield revised, when it is determined that standards or conditions in the permit are based on incorrect information provided by the applicant.

**408 PUBLIC PARTICIPATION:**

**408.1** The Control Officer shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking any of the following actions for a source required to obtain a permit under Title V of the Clean Air Act:

- a. Issuing, denying, or renewing a permit.
- b. Issuing or denying a significant permit revision.
- c. Revoking and reissuing or reopening a permit.
- d. Issuing a conditional order under Rule 120-Conditional Orders of these rules.
- e. Granting a variance from a general permit under Rule 230-General Permits of these rules and Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.

**408.2** The Control Officer shall provide public notice of receipt of complete applications for ~~major sources~~ permits or permit revisions subject to Rule 240 of these rules by publishing a notice in a newspaper of general circulation in Maricopa County.

**408.3** The Control Officer shall provide the notice required under Section 408.1 of this rule as follows:

- a. The Control Officer shall publish the notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located.
- b. The Control Officer shall mail a copy of the notice to persons on a mailing list developed by the Control Officer consisting of those persons who have requested in writing to be placed on such a mailing list.
- c. The Control Officer shall give notice by other means if necessary to assure adequate notice to the affected public.

**408.4** The notice required by Section 408.3 of this rule shall include the following:

- a. Identification of the affected facility;
- b. Name and address of the permittee or applicant;
- c. Name and address of the permitting authority processing the permit action;
- d. The activity or activities involved in the permit action;
- e. The emissions change involved in any permit revision;
- f. The air contaminants to be emitted;
- g. A statement that any person may submit written comments, or a written request for a public hearing, or both, on the proposed permit action along with the deadline for such requests or comments;
- h. The name, address, and telephone number of a person from the Department from whom additional information may be obtained;
- i. Locations where copies of the permit or permit revision application, the proposed permit, and all other materials available to the Control Officer that are relevant to the permit decision may be reviewed, including the closest Department office, and the times at which such materials shall be available for public inspection;
- j. A summary of any notice of confidentiality filed under Rule 100-General Provisions And Definitions of these rules; and



- k. If applicable, a statement that the source has submitted a risk management analysis (RMA) under Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.
- l. A statement in the public record if the permit or permit revision would result in the generation of emission reduction credits under A.A.C. R18-2-1204-Title 18, Chapter 2, Article 12 or the utilization of emission reduction credits under A.A.C. R18-2-1206-Title 18, Chapter 2, Article 12.
- m. The Control Officer’s preliminary determination whether the application for a permit or permit revision should be approved or disapproved.

**408.5** The Control Officer shall hold a public hearing to receive comments on petitions for conditional orders, which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Control Officer shall hold a public hearing only upon written request. If a public hearing is requested, the Control Officer shall schedule the hearing and publish notice as described in A.R.S. §49-498 and in Section 408.4 of this rule. The Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.

**408.6** At the time the Control Officer publishes the first notice under Section 408.3(a) of this rule, the applicant shall post a notice containing the information required in Section 408.4 of this rule at the site where the source is or may be located. Consistent with federal, State, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.

**408.7** The Control Officer shall provide at least 30 days from the date of the first notice for public comment to receive comments and requests for a hearing. The Control Officer shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final ~~decision is made~~ proposed permit is submitted to the EPA, the record and copies of the Control Officer's responses shall be made available to the applicant and to all commenters.

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

**REGULATION II - PERMITS AND FEES**

**RULE 220**

**NON-TITLE V PERMIT PROVISIONS**

**INDEX**

**SECTION 100 - GENERAL**

101PURPOSE

102APPLICABILITY

**SECTION 200 – DEFINITIONS (NOT APPLICABLE)**

**SECTION 300 - STANDARDS**

301 PERMIT APPLICATION PROCESSING PROCEDURES

302 PERMIT CONTENTS

303 COMPLIANCE PLANS

304 PERMITS CONTAINING VOLUNTARILY ACCEPTED EMISSIONS LIMITATIONS, CONTROLS, OR OTHER REQUIREMENTS (SYNTHETIC MINOR)

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

401 FEES REQUIRED



- 402 PERMIT TERM
- 403 SOURCE CHANGES THAT REQUIRE NON-TITLE V PERMIT REVISIONS
- 404 PROCEDURES FOR CERTAIN CHANGES THAT DO NOT REQUIRE A NON-TITLE V PERMIT REVISION
- 405 PERMIT REVISIONS
- 406 PERMIT REVISIONS PROCEDURES
- 407 PUBLIC PARTICIPATION
- 408 AMENDMENTS TO A PERMIT

**SECTION 500 - MONITORING AND RECORDS**

- 501 LOG RETENTION REQUIREMENT
- 502 LOG FORMAT SPECIFICATIONS
- 503 LOG FILING

~~Revised 07/13/88~~

~~Repealed And Adopted 11/15/93~~

~~Revised 02/15/95~~

~~Revised 06/19/96~~

~~Revised 03/04/98~~

~~Revised 07/26/00~~

~~Revised 05/07/03~~

~~Revised 06/06/07~~

Revised 07/13/1988; Repealed And Adopted 11/15/1993; Revised 02/15/1995; Revised 06/19/1996; Revised 03/04/1998; Revised 07/26/2000; Revised 05/07/2003; Revised 06/06/2007; Revised xx/xx/xxxx

**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION II - PERMITS AND FEES**

**RULE 220**

**NON-TITLE V PERMIT PROVISIONS**

**SECTION 100 - GENERAL**

**101 PURPOSE:** To provide an orderly procedure for the review of Non-Title V sources of air pollution through the issuance of Non-Title V permits.

**102 APPLICABILITY:** This rule applies to each source requiring a Non-Title V permit or permit revision.

**SECTION 200 - DEFINITIONS (NOT APPLICABLE)** See Rule 100-General Provisions And Definitions of these rules for definitions of terms that are used but not specifically defined in this rule.



SECTION 300 - STANDARDS

301 PERMIT APPLICATION PROCESSING PROCEDURES:

301.1 Standard Application Form And Required Information: To apply for a permit under this rule, applicants shall complete a permit application filed in the manner and form prescribed by the Control Officer. The Control Officer, either upon the Control Officer's own initiative or upon the request of a permit applicant, may waive the requirement that specific information or data for a particular source or category of sources be submitted in the Non-Title V permit application. However, the Control Officer must determine that the information or data would be unnecessary to determine all of the following:

- a. The applicable requirements to which the source may be subject;
- b. The design and control of the air pollution control equipment such that the source may be expected to operate without emitting or without causing to be emitted air contaminants in violation of these rules;
- c. The fees to which the source may be subject under Rule 280-Fees of these rules; and
- d. A proposed emission limitation, control, or other requirement that meets the requirements of Section 304 of this rule.

301.2 Permit Application And A Compliance Plan:

- a. A permit application, required by this rule, shall include a compliance plan, if applicable, which meets the requirements of Section 303 of this rule when a notice of violation has been issued and not resolved at the time the permit application is filed.
- b. A permit application, required by this rule, can include a compliance plan, if applicable, which meets the requirements of Section 303 of this rule when the following circumstances occur:
  - (1) When a source is not in compliance with these rules but has not been issued a notice of violation,
  - (2) Under other circumstances determined by the Control Officer.

301.3 A Timely Permit Application:

- a. For a source, ~~other than a major source, applying for a permit for the first time, that becomes subject to the permit program as a result of a change in regulation and not as a result of construction or a physical or operational change,~~ one that is submitted within 12 months after the source becomes subject to the permit program.
- ~~a. b.~~ Unless otherwise required by Rule 200-Permit Requirements of these rules and for For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.
- ~~b. c.~~ Unless otherwise required by Rule 200-Permit Requirements of these rules and for any existing source which becomes subject to a standard promulgated by the Administrator under Section 112(d) of the Act-Hazardous Air Pollutants-Emission Standards, a timely application is a permit revision application that is submitted within 12 months of the date on which the standard is promulgated. Such permit revision application shall be subject to Rule 210-Title V Permit Provisions of these rules.

301.4 A complete application is one that satisfies all of the following:

- a. To be complete, an application shall provide all information required under Section 301.1 of this rule, except that notifications of permit revision need supply such information only if it is related to the proposed change. A responsible official shall certify the submitted information, consistent with Section 301.6 of this rule.
- b. To be complete, an application for a new permit or a notification of a permit revision shall contain an assessment of the applicability of the requirements of Rule 241 ~~Permits For New Sources And Modifications To Existing Sources~~ Minor New Source Review (NSR) of these rules and shall comply with all applicable requirements of Rule 241 ~~Permits For New Sources And Modifications To Existing Sources~~ Minor New Source Review (NSR) of these rules. If the applicant determines that the proposed new source is subject this Rule 241 of these rules, or the proposed permit revision constitutes a minor NSR modification, then the application shall comply with all applicable requirements of Rule 241 of these rules.
- c. To be complete, an application for a new permit or a notification of a permit revision shall contain an assessment of the applicability of the requirements established under Rule 372-Maricopa County Hazardous Air Pollutants



(HAPs) Program of these rules. If the proposed new source permit or the proposed permit revision is subject to the requirements of Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules, the application shall comply with all applicable requirements of Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules.

- d. An application for a new permit, a notification of a permit revision, or a permit renewal shall be deemed to be complete unless the Control Officer notifies the applicant by certified mail within 60 days of receipt of the application that the application is not complete and specifies what additional information is necessary for the application to be complete.
- e. If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or to take final action on that application, the Control Officer may request such information in writing and may set a reasonable deadline for a response. Except for minor permit revisions procedures as set forth in Section 406 of this rule, a source's ability to continue operating without a permit, as set forth in this rule, shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Control Officer. The Control Officer may, after one submittal by the applicant under this rule, reject an application that is still determined to be incomplete and shall notify the applicant of the decision by certified mail.
- f. The completeness determination shall not apply to revisions processed through the minor permit revision process.
- g. The Control Officer agrees with the notice of confidentiality submitted under A.R.S. §49-487.
- h. Any emission source or equipment item listed in Rule 200-Permit Requirements of these rules shall be included in the application. The application need not provide emissions data regarding the activities listed in Rule 200-Permit Requirements of these rules. If the Control Officer determines that a source or an activity listed on the application does not meet the requirements of Rule 200-Permit Requirements of these rules, the Control Officer shall notify the applicant in writing and specify additional information required, which may include emissions data and supporting documents.
- i. If a source wishes to voluntarily enter into an emissions limitation, control, or other requirement pursuant to Section 304 of this rule, a source shall describe that emissions limitation, control, or other requirement in its application, along with proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emissions limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.

**301.5 Duty To Supplement Or Correct Application:** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed permit.

**301.6 Action on Application:**

- a. The Control Officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.
- b. For Non-Title V permits that contain voluntary emission limits, controls, or other requirements established under Section 304 of this rule, the Control Officer shall have complied with the requirement of Section 304.4 of this rule to provide the Administrator with a copy of each such proposed permit. In addition, the Control Officer may issue, revise, or renew a permit only if all of the following conditions have been met:
  - (1) The permit application received must be complete according to Section 301.4 of this rule.
  - (2) Except for revisions qualifying as administrative or minor under Sections 405.1 and 405.2 of this rule, all of the requirements for public notice and participation under Section 407 of this rule must have been met.
  - (3) The conditions of the permit shall require compliance with all applicable requirements.
  - (4) For permits for which an application is required to be submitted to the Administrator under Section 304 of this rule, and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Control Officer, the Control Officer has revised and submitted a proposed final permit in response to the objection and the



Administrator has not objected to this proposed final permit within 45 days of receipt.

- c. The Control Officer may issue a notice of revocation of a permit issued under this rule if:
  - (1) The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.
  - (2) The person applying for the permit failed to disclose a material fact required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.
  - (3) The terms and conditions of the permit have been or are being violated and the violation has not been corrected within a reasonable period of time as specified by the Control Officer.
- d. If the Control Officer issues a notice of denial or revocation of a permit under this rule, the notice shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial or revocation and explaining that the permit applicant or permittee is entitled to a hearing ~~under A.R.S. §49-482.~~
- e. Except as provided in Rule 200-Permit Requirements of these rules, the Control Officer shall take final action on each permit application (and request for revision or renewal) within 90 days of receipt of a complete application, unless a finding is made that more time is needed, but in no case longer than nine months after receiving a complete application.

**301.7** Except as noted under the provisions in Section 404 of this rule, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under this rule. However, if a source submits a timely and complete application for permit issuance, revision, or renewal, the source's failure to have a permit is not a violation of these rules until the Control Officer takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Control Officer, any additional information identified as being needed to process the application. If a source submits a timely and complete application for a permit renewal, but the Control Officer fails to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied. This section of this rule does not affect a source's obligation to obtain a permit revision before making a modification to the source.

**302 PERMIT CONTENTS:** Each permit issued under this rule shall include the following elements:

- 302.1** The date of issuance and the permit term.
- 302.2** Enforceable emission limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of issuance, and operational requirements and limitations that have been voluntarily accepted under Section 304 of this rule, or that have been voluntarily accepted under Rule 201-Emissions Caps of these rules. Whenever more than one standard in this rule applies to any source, or whenever a standard in this rule and a standard in the Maricopa County Air Pollution Control Regulations Regulation III-Control Of Air Contaminants applies to any source, the rule or combination of rules resulting in the lowest rate or lowest concentration of regulated air pollutants released to the atmosphere shall apply, unless otherwise specifically exempted or designated.
- 302.3** A compliance plan, if applicable, which meets the requirements of Section 303 of this rule.
- 302.4** As necessary, requirements concerning the use, maintenance, and if applicable, installation of monitoring equipment or methods.
- 302.5** Periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, if the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring). The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement and as otherwise required under Section 304 of this rule. Recordkeeping provisions may be sufficient to meet the requirements of this rule.
- 302.6** All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Section 114(a)(3) of the Act and including any monitoring and analysis procedures or test methods required under Section 304 of this rule.



- 302.7** All recordkeeping requirements, including recordkeeping requirements established under Section 304 of this rule, if applicable, for the retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.
- 302.8** All applicable reporting requirements, ~~and require~~ including submittal of any required monitoring reports at least annually. ~~Upon request, such reporting requirements shall require~~ and prompt reporting of deviations from permit requirements, including those deviations attributable to upset conditions, as defined in the permit. Reports of deviations shall include the probable cause of the deviations and any corrective actions or preventative measures taken. For the purposes of this Section, reporting shall be considered prompt when such reporting is made in accordance with Rule 130-Emergency Provisions of these rules.
- 302.9** A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.
- 302.10** Provisions stating that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- 302.11** Provisions stating that the permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated non-compliance does not stay any permit condition.
- 302.12** Provisions stating that the permit does not convey any property rights nor does it convey exclusive privileges of any sort.
- 302.13** Provisions stating that the permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for revising, revoking and reissuing the permit, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish, to the Control Officer copies of records required to be kept by the permit.
- 302.14** Provisions stating that any document required to be submitted by a permit, including reports, shall contain certification by a responsible official of truth, accuracy, and completeness under Rule 100-General Provisions And Definitions of these rules.
- 302.15** A provision to ensure that a source pays fees to the Control Officer under A.R.S. §49-480(D) and Rule 280-Fees of these rules.
- 302.16** Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted source a record of the scenario under which it is operating. The terms and conditions of each such alternative scenario must meet all applicable requirements and the requirements of this rule.
- 302.17** Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to enter upon the permittee's premises, where a source is located or where emission-related activity is conducted, or where records are required to be kept, under the conditions of the permit.
- 302.18** Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to have access to and to copy, at reasonable times, any records that are required to be kept under the conditions of the permit.
- 302.19** Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to inspect, at reasonable times, any source's equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.
- 302.20** Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements.
- 302.21** Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to record any inspection by use of written, electronic, magnetic, and photographic media.
- 302.22** Provisions specifying the conditions under which the permit will be reopened prior to the expiration date of the permit.



**302.23** Federally Enforceable Requirements: Designated terms and conditions contained in Non-Title V permits issued under Rule 220-Non-Title V Permit Provisions of these rules will be considered federally enforceable, provided that the County's Permit Program is approved by the Administrator and incorporated into the applicable State Implementation Plan (SIP) under Section 110 of the Act, and the permit meets the requirements set forth in Section 304 of this rule:

- a. Terms or conditions designated as federally enforceable in a Non-Title V permit, including but not limited to those that are entered into voluntarily under Section 304 of this rule and which have been submitted to the Administrator for review, include:
  - (1) Emissions limitations, controls, or other requirements; and
  - (2) Monitoring, recordkeeping, and reporting requirements associated with the emissions limitations, controls, or other requirements.
- b. The Control Officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Non-Title V permit that are not required under the Act, or under any such applicable requirements, or that are not entered into voluntarily under Section 304 of this rule.

**302.24** Provisions stating that the permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes and the air quality rules. Compliance with permit terms and conditions does not relieve, modify, or otherwise affect the permittee's duty to comply with all applicable requirements of Arizona air quality statutes and the Maricopa County Air Pollution Control Regulations. Any permit non-compliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Non-compliance with any federally enforceable requirement in a permit constitutes a violation of the Act.

**303 COMPLIANCE PLANS:** Each compliance plan shall contain the following elements:

**303.1** A description of the compliance status of the source with respect to applicable requirements that will become effective during the permit term or for which the source is not in compliance at the time of permit issuance.

**303.2** A description as follows:

- a. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
- b. For requirements with which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
- c. For additional requirements as may be specified under Section 304 of this rule.

**303.3** A compliance schedule as follows:

- a. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this rule, unless a more detailed schedule is expressly required by the applicable requirement.
- b. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in non-compliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

**303.4** A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation. Such schedule shall contain:

- a. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and
- b. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.



- 303.5** If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.
- 303.6** The Control Officer may develop special guidance documents and forms to assist certain sources in completing the compliance plan.

**304 PERMITS CONTAINING VOLUNTARILY ACCEPTED EMISSIONS LIMITATIONS, CONTROLS, OR OTHER REQUIREMENTS (SYNTHETIC MINOR):**

- 304.1** A source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls, or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to avoid classification as a source that requires a Title V permit, or to avoid one or more other applicable requirements. For the purposes of this rule, "enforceable as a practical matter" means that specific means to assess compliance with an emissions limitation, control, or other requirement are provided for in the permit in a manner that allows compliance with the limit standard or trade provision to be readily determined by an inspection of the source records or reports. In addition, for the purposes of this rule, "enforceable as a practical matter" shall include the following criteria:
- a. The permit conditions are permanent and quantifiable;
  - b. The permit includes a legally enforceable obligation to comply;
  - c. The permit limits impose an objective and quantifiable operational or production limit, or require the use of in-place air pollution control equipment;
  - d. The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;
  - e. The permit conditions are enforceable and are independent of any other applicable limitations; and
  - f. The permit conditions for monitoring, recordkeeping, and reporting requirements are sufficient to comply with Rule 220-Non-Title V Permit Provisions, Sections 302.3, 302.4, 302.5, 302.6, and 302.7 of these rules.
- 304.2** In order for a source to obtain a permit containing voluntarily accepted emissions limitations, controls, or other requirements, the source shall demonstrate all of the following in its permit application:
- a. The emissions limitations, controls, or other requirements to be imposed for the purpose of avoiding an applicable requirement are at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source, including those that originate in an applicable implementation plan; and
  - b. All voluntarily accepted emissions limitations, controls, or other requirements will be permanent, quantifiable, and otherwise enforceable as a practical matter.
- 304.3** The Control Officer shall not issue a permit that waives nor makes less stringent any limitations or requirements contained in or issued under an applicable implementation plan or that are otherwise federally enforceable.
- 304.4** At the same time as notice of proposed issuance is first published under A.R.S. §49-426(D), the Control Officer shall send a copy of any Non-Title V permit proposed to be issued under Section 304 of this rule to the Administrator review during the comment period described in the notice under Section 407 of this rule.
- 304.5** The Control Officer shall send a copy of each final permit issued under Section 304 of this rule to the Administrator.
- 304.6** For all permits containing voluntarily accepted emission limitations, controls, or other requirements established under this section, the Control Officer shall provide an opportunity for public participation as provided for in Section 407 of this rule.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

- 401 FEES REQUIRED:** Persons subject to this rule shall pay the fees required, as set forth in Rule 280-Fees of these rules.
- 402 PERMIT TERM:** A Non-Title V permit shall remain in effect for no more than five years.
- 403 SOURCE CHANGES THAT REQUIRE NON-TITLE V PERMIT REVISIONS:**
- 403.1** A source with a Non-Title V permit may make any physical change or change in the method of operation without



revising the source's permit, unless the change is specifically prohibited in the source's permit or is a change described in the following subsections. A change that does not require a permit revision may still be subject to requirements in Section 404 of this rule.

**403.2** The following changes at a source with a Non-Title V permit shall require a permit revision:

- a. A change that ~~triggers~~ would trigger a new applicable requirement or ~~violates~~ violates an existing applicable requirement;
- b. Establishment of, or change in, an emissions cap;
- c. A change that will require a case-by-case determination of an emissions limitation or other standard, or a source specific determination of ambient impacts, or a visibility or increment analysis;
- d. A change that results in emissions which are subject to monitoring, recordkeeping, or reporting under Sections 302.6, 302.7, and 302.8 of this rule, if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
- e. A change that will authorize the burning of used oil, used oil fuel, hazardous waste or hazardous waste fuel, or any other fuel not currently authorized by the permit;
- f. A change that requires the source to obtain a Title V permit under Rule 210-Title V Permit Provisions of these rules;
- g. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;
- h. Establishment or revision of an emissions limit under Section 304 of this rule;
- i. Increasing operating hours or rates of production above the permitted level; ~~and~~
- j. Making a change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:
  - (1) From removing equipment that results in a permanent decrease in actual emissions, if the source keeps on-site records of the change in a log that satisfies Section 500 of this rule and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
  - (2) From a change in an applicable requirement: ~~and~~
- k. A minor NSR modification.

**404 PROCEDURES FOR CERTAIN CHANGES THAT DO NOT REQUIRE A NON-TITLE V PERMIT REVISION:**

**404.1** Except for a physical change or change in the method of operation at a Non-Title V source requiring a permit revision under Section 403 of this rule or a change subject to logging or notice requirements in Section 404.2 of this rule or Section 404.3 of this rule, a change at a Non-Title V source shall not be subject to revision, notice, or logging requirements under these rules.

**404.2** Except as otherwise provided in the conditions applicable to an emissions cap created under Rule 201-Emissions Caps of these rules, the following changes may be made if the source keeps on-site records of the changes according to Section 500 of this rule:

- a. Implementing an alternative operating scenario, including raw material changes;
- b. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;
- c. Engaging in any new exempted activity listed in Rule 200-Permit Requirements, Section 303.3(c) of these rules, but not listed in the permit;
- d. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Control Officer may require verification of efficiency of the new equipment by performance tests; and
- e. Making a change that results in a decrease in actual emissions, if the source wants to claim credit for the decrease in determining whether the source has a net emissions increase for any purpose. The logged information shall include a description of the change that will produce the decrease in actual emissions. A decrease that has not



been logged is creditable only if the decrease is quantifiable, enforceable, and otherwise qualifies as a creditable decrease.

**404.3** Except as otherwise provided in the conditions applicable to an emissions cap created under Rule 201-Emissions Caps of these rules, the following changes may be made if the source provides written notice to the Control Officer in advance of the change as provided below:

- a. Replacing an item of air pollution control equipment listed in the permit with one that is not identical but that is substantially similar and has the same or better pollutant removal efficiency: 7 days. The Control Officer may require verification of efficiency of the new equipment by performance tests;
- b. Making a physical change or change in the method of operation that increases actual emissions more than 10% of the major source threshold for any conventional air pollutant but does not require a permit revision: 7 days;
- c. Replacing an item of air pollution control equipment listed in the permit with one that is not substantially similar but that has the same or better efficiency: 30 days. The Control Officer may require verification of efficiency of the new equipment by performance tests;
- d. Making any change that would trigger an applicable requirement that already exists in the permit: 30 days, unless otherwise required by the applicable requirement;
- e. Making a change that amounts to reconstruction of the source or an affected facility: 7 days. For purposes of this section reconstruction of a source or an affected facility shall be presumed if the fixed capital cost of the new components exceed 50% of the fixed capital cost of a comparable entirely new source or affected facility and the changes to the components have occurred over the 12 consecutive months beginning with commencement of construction; and
- f. Making a change that will result in the emissions of a new regulated air pollutant above an applicable regulatory threshold, but that does not trigger a new applicable requirement for that source category: 30 days. For purposes of this requirement, an applicable regulatory threshold for a conventional air pollutant shall be 10% of the applicable major source threshold for that pollutant.

**404.4** For each change under Section 404.3 of this rule, the written notice shall be by certified mail or hand delivery and shall be received by the Control Officer the minimum amount of time in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided with less than required notice, but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change, as possible.

**404.5** The written notice shall include:

- a. When the proposed change will occur;
- b. A description of the change;
- c. Any change in emissions of regulated air pollutants; and
- d. Any permit term or condition that is no longer applicable as a result of the change.

**404.6** Notwithstanding any other part of this section of this rule, the Control Officer may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this section of this rule over the term of the permit, constitutes a change under Section 403.2 of this rule.

**404.7** If a source change is described under both Section 404.2 of this rule and Section 404.3 of this rule, the source shall comply with Section 404.3 of this rule.

**404.8** If a source change is described under both Section 404.3 of this rule and Section 403.1 of this rule, the source shall comply with Section 403.1 of this rule.

**404.9** A source may implement any change under Section 404.3 of this rule without the required notice by applying for a minor permit revision under Section 405.2 of this rule and complying with Section 406.1 of this rule.

## **405 PERMIT REVISIONS:**

### **405.1 Administrative Permit Revisions:**

- a. An administrative permit revision is required to correct typographical errors in a Non-Title V Permit.



- b. An administrative permit revision is required to change the name, address, or phone number of any person identified in the Non-Title V permit.
- c. An administrative permit revision is required to change ownership or operational control of a source with a Non-Title V permit, where the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for the change of permit responsibility and liability between the current and new permittee has been submitted to the Control Officer.
- d. Incorporates any other type of change which the Control Officer has determined to be similar to those changes described in this subsection.

**405.2 Minor Permit Revisions:**

- a. Minor permit revision procedures shall be used for a change that triggers a new applicable requirement, if all of the following apply:
  - (1) ~~For emissions units not subject to an emissions cap, the net emissions increase is less than the significance level defined in Rule 100-General Provisions And Definitions of these rules; The change is not a minor NSR modification subject to Rule 241 of these rules, except that minor NSR modifications subject to Rule 241, Section 310 of these rules may be processed as minor permit revisions;~~
  - (2) A case-by-case determination of an emissions limitation or other standard is not required; and
  - (3) The change does not require the source to obtain a Title V permit under Rule 210-Title V Permit Provisions of these rules.
- b. Minor permit revision procedures shall be used for a change that ~~increases operating hours or rates of production~~ increases emissions above the permitted level, unless the increase otherwise creates a condition that requires a non-minor permit revision;
- c. Minor permit revision procedures shall be used for a change in fuel from fuel oil or coal to natural gas or propane, if not authorized in the permit;
- d. Minor permit revision procedures shall be used for a change that results in emissions subject to monitoring, recordkeeping, or reporting under Sections 302.6, 302.7, or 302.8 of this rule and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
- e. Minor permit revision procedures shall be used for a change that decreases emissions permitted under an emissions cap under Rule 201-Emissions Caps of these rules, unless the decrease requires a change in the conditions required to enforce the emissions cap or to ensure that emissions trades conducted under the emissions cap are quantifiable and enforceable; and
- f. Minor permit revision procedures shall be used for a change that replaces an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.

**405.3 Non-Minor Permit Revisions:** A source with a Non-Title V permit shall make the following changes only after its permit is revised following the public participation requirements of Section 407 of this rule:

- a. Establishing or revising a voluntarily accepted emission limitation or standard described in Section 304 of this rule, or an emissions cap described in Rule 201-Emissions Caps of these rules, except a decrease in the limitation authorized by Section 405.2(e) of this rule;
- b. Making any change in fuel not authorized by the Non-Title V permit and that is not fuel oil or coal to natural gas or propane;
- c. ~~A change to, or an addition of, an emissions unit not subject to an emissions cap that will result in a net emissions increase of a pollutant greater than the significance level defined in Rule 100-General Provisions And Definitions of these rules; A change that is a minor NSR modification subject to Rule 241 of these rules, except for a minor modification subject to Rule 241, Section 310 of these rules.~~
- d. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:
  - (1) From removing equipment that results in a permanent decrease in actual emissions, if the source keeps on-site records of the change in a log that satisfies Section 500 of this rule and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
  - (2) From a change in an applicable requirement.



- e. A change that will cause the source to violate an existing applicable requirement, including the conditions establishing an emissions cap;
- f. A change that will require any of the following:
  - (1) A case-by-case determination of an emission limitation or other standard;
  - (2) A source-specific determination of ambient impacts or a visibility or increment analysis; or
  - (3) A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.
- g. A change that requires the source to obtain a Title V permit under Rule 210-Title V Permit Provisions of these rules.

#### 406 PERMIT REVISIONS PROCEDURES:

**406.1 The Source's Responsibility For A Notification Of A Permit Revision:** A source shall submit to the Control Officer a notification of a Non-Title V permit revision, in a form and manner as prescribed by the Control Officer, with the appropriate fee as required by Rule 280-Fees of these rules. In a notification of a Non-Title V permit revision, a source must supply information that is related to the proposed change. If the source's proposed Non-Title V permit revision will revise its Non-Title V permit from a Non-Title V permit to a Title V permit, then the source must submit a Title V permit application in accordance with Rule 210-Title V Permit Provisions of these rules. The Control Officer shall issue the entire Title V permit, and not just the portion of the Non-Title V permit being revised, in accordance with Title V permit content and issuance requirements, including requirements for public, affected state, and EPA review contained in Rule 210-Title V Permit Provisions of these rules.

#### 406.2 The Control Officer's Responsibility for Action on a Notification of a Permit Revision:

- a. **Administrative Permit Revision:** The Control Officer shall take final action within 60 days of receipt of a notification of an administrative permit revision.
- b. **Minor Permit Revision:** The Control Officer shall do one or more of the following within 60 days of receipt of a notification of a minor permit revision:
  - (1) Issue the minor permit revision as proposed;
  - (2) Deny the minor permit revision application; or
  - (3) Determine that the minor permit revision does not meet the minor permit revision criteria and should be reviewed under the non-minor permit revision procedures.
- c. **Non-Minor Permit Revision:** The Control Officer shall take final action on the majority of the notifications of non-minor permit revisions within 90 days of receipt. In no case shall the final action take longer than nine months.

#### 406.3 The Source's Ability to Make Changes Requested in a Notification of a Permit Revision:

- a. **Administrative Permit Revision Or Minor Permit Revision:**
  - (1) A source may implement the changes addressed in the administrative permit revision application or in a minor permit revision application after it files the application, unless the revision triggers minor New Source Review (NSR) under Rule 241 of these rules.
  - (2) A source shall still comply with any Federal laws, Arizona laws, or these rules, and a source shall comply with the "new" permit conditions that the source proposes in its notification of a minor permit revision. The Control Officer may enforce the existing permit conditions if the Control Officer determines that the source is not complying with the "new" permit conditions.
- b. **Non-Minor Permit Revision:** A source may implement the changes addressed in the notification for a non-minor permit revision upon the Control Officer's revising the permit.

#### 407 PUBLIC PARTICIPATION:

**407.1** The Control Officer shall provide public notice and an opportunity for public comment before taking any of the following actions:

- a. Issuing, denying, or renewing a permit to a Non-Title V source ~~listed in Rule 280-Fees, Section 403.1-Table A-Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as



defined in Rule 100 of these rules;

- b. Issuing or denying a non-minor permit revision to a Non-Title V source ~~listed in Rule 280 Fees, Section 403.1-Table A Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as defined in Rule 100 of these rules;
- c. Revoking and reissuing or reopening a permit to a Non-Title V source ~~listed in Rule 280 Fees, Section 403.1-Table A Sources, Section 403.2-Table B, and Section 403.3-Table C Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as defined in Rule 100 of these rules; or
- d. Issuing a conditional permit under Rule 120-Conditional Orders of these rules to a Non-Title V source ~~listed in Rule 280 Fees, Section 403.1-Table A Sources, Section 403.2-Table B Sources, and Section 403.3-Table C Sources of these rules~~ with emissions of a regulated air pollutant that exceeds the public notice threshold as defined in Rule 100 of these rules.

**407.2** ~~For sources listed in Rule 280 Fees, Section 403.1-Table A Sources, Section 403.2-Table B Sources, and Section 403.3-Table C Sources of these rules, the~~ The Control Officer shall publish, once each week, a list of all permit applications received. The list will be available to the public at the Department’s main office and on the Internet. The list shall include the following information:

- a. Name and address of the affected facility(ies).
- b. The activity(ies) involved in each permit action.
- c. A statement that any person may submit written comments on a proposed permit action no later than the deadline for submitting such comments.
- d. The deadline for submitting written comments.
- e. Name, address, and phone number of a person from the Department from whom additional information may be obtained.
- f. The location where copies of the permit or permit revision application, the proposed permit, and all other materials available to the Control Officer that are relevant to the permit decision may be reviewed and the times during which such materials will be available for public inspection.
- g. A statement if the permit or permit revision would result in the generation of emission reduction credits under A.A.C. R18-2-1204-Title 18, Chapter 2, Article 12 or the utilization of emission reduction credits under A.A.C. R18-2-1206 Title 18, Chapter 2, Article 12.
- h. The Control Officer’s preliminary determination whether the application for a permit or permit revision should be approved or disapproved.

**407.3** ~~For sources listed in Rule 280 Fees, Section 403.1-Table A Sources, Section 403.2-Table B Sources, and Section 403.3-Table C Sources of these rules, the~~ The Control Officer shall publish in a newspaper or post on the department’s website, once each month, a list of all permits issued.

**407.4** **Public Hearing:** The Control Officer shall hold a public hearing to receive comments on petitions for conditional orders, which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Control Officer shall hold a public hearing only upon written request. If a public hearing is requested, the Control Officer shall schedule the public hearing and publish a notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located and by other means if necessary to assure adequate notice to the affected public. The Control Officer shall give notice of any public hearing at least 30 days in advance of the public hearing.

**407.5** At the time the Control Officer publishes the first notice under Section 407.1 of this rule, the applicant shall post a notice containing the information required in Section 407.2 of this rule at the site where the source is or may be located. Consistent with Federal, State, and local law, the posting shall be prominently placed at a location under the applicant’s legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the public hearing. Any posting shall be maintained until the public comment period is closed.

**407.6** The Control Officer shall provide at least 30 days from the date of its first notice for public comment. The Control Officer shall keep a record of the commenters and the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the



Control Officer's responses shall be made available to the applicant and to all commenters.

**408 AMENDMENTS TO A PERMIT:** The Control Officer may amend any Non-Title V permit annually without following Rule 200-Permit Requirements, Section 402-Permit Reopenings; Revocation And Reissuance; Termination of these rules in order to incorporate changes reflected in logs or notices filed under Section 404 of this rule. The amendment shall be effective to the anniversary date of the permit. The Control Officer shall make available to the public for any source:

**408.1** A complete record of logs and notices sent to the Control Officer under Section 404 of this rule; and

**408.2** Any amendments or revisions to the source's permit.

#### SECTION 500 - MONITORING AND RECORDS

**501 LOG RETENTION REQUIREMENT:** If a source makes a change that requires logging, then the source shall keep such log for five years from the date the source creates such log.

**502 LOG FORMAT SPECIFICATIONS:** If a source makes a change that requires logging, then the source shall perform such logging in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, if approved by the Control Officer. Each log entry shall include at least the following information:

**502.1A** description of the change including:

a. A description of any process change.

b. A description of any equipment change, including both old and new equipment descriptions, model numbers, and serial numbers, or any other unique equipment number.

c. A description of any process material change.

**502.2** The date and time that the change occurred.

**502.3** The provision of Section 404.2 of this rule that authorizes the change to be made with logging.

**502.4** The date the log entry was made and the first and last name of the person making the log entry.

**503 LOG FILING:** A copy of all logs required under Section 404.2 of this rule shall be filed with the Control Officer within 30 days after each anniversary of the permit issue date. If no changes were made at the source requiring logging, a statement to that effect shall be filed instead.

### REGULATION II - PERMITS AND FEES

#### RULE 230

#### GENERAL PERMITS

#### INDEX

#### SECTION 100 – GENERAL

101PURPOSE

102APPLICABILITY

#### SECTION 200 – DEFINITIONS

201SIMILAR IN NATURE

#### SECTION 300 – STANDARDS

301RULES APPLICABLE TO A GENERAL PERMIT

302GENERAL PERMIT DEVELOPMENT

303APPLICATION FOR COVERAGE UNDER GENERAL PERMIT

304PUBLIC NOTICE



- 305 SOURCES FOR WHICH A GENERAL PERMIT MAY NOT BE ISSUED
- 306 GENERAL PERMIT RENEWAL
- 307 RELATIONSHIP TO INDIVIDUAL PERMITS
- 308 GENERAL PERMIT VARIANCE FOR ANY NON-FEDERALLY ENFORCEABLE REQUIREMENT OF A PERMIT
- 309 GENERAL PERMIT SHIELD
- 310 GENERAL PERMIT APPEALS
- 311 REVOCATIONS OF AUTHORITY TO OPERATE
- 312 CHANGES TO FACILITIES GRANTED COVERAGE UNDER GENERAL PERMIT

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

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**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION II PERMITS AND FEES**

**RULE 230**

**GENERAL PERMITS**

**SECTION 100 GENERAL**

**101 PURPOSE:** To allow for the issuance of general permits for a facility class that contains a large number of sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping.

**102 APPLICABILITY:** A general permit shall not be issued for affected sources except as provided in regulations promulgated by the Administrator under Title IV of the Act.

**SECTION 200 DEFINITIONS:** ~~See Rule 100 General Provisions And Definitions of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definition shall apply: For the purpose of this rule, the following definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.~~

**201 SIMILAR IN NATURE** - Refers to facility size, processes and operating conditions.

**SECTION 300 STANDARDS**

**301 RULES APPLICABLE TO A GENERAL PERMIT:** Unless otherwise stated, the provisions of Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 220-Non-Title V Permit Provisions, Rule 241-Minor New Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, Rule 270-Performance Tests, and Rule 400-Procedure Before The Hearing Board shall apply to general permits.

**302 GENERAL PERMIT DEVELOPMENT:**

- 302.1** The Control Officer may issue a general permit on his own initiative or in response to a petition. At the time the Control Officer issues a general permit, the Control Officer may also establish a specific application with filing instructions for sources in the category covered by the general permit.
- 302.2** Any person may submit a petition to the ~~Director or to the~~ Control Officer requesting the issuance of a general permit for a defined class of facilities. The petition shall propose a particular class of facilities, shall list the approximate number of facilities in the proposed class along with their size, processes and operating conditions, and shall demonstrate how the class meets the criteria for a general permit as specified in Sections 100 and 301 through 303 of this rule and in A.R.S. § 49-426(H). The Control Officer shall provide a written response to the petition within 120 days of receipt.
- 302.3** A general permit shall be issued ~~or denied~~ for classes of facilities using the same engineering technical review process that applies to permits for individual sources and following the public notice requirements of Section 304 of this rule.
- 302.4** A general permit shall include all of the following:
- a.** General permits issued for Title V major sources shall contain all elements in Rule 210-Title V Permit Provisions, Section 302.1-Permit Contents of these rules except Sections 302.1(b)(2) and 302.1(f).
  - b.** General permits issued for Non-Title V sources shall contain all elements in Rule 220-Non-Title V Permit Provisions, Section 302-Permit Contents of these rules.
  - ~~b.~~ **c.** The process for individual sources to apply for coverage under the general permit.
- 302.5** A source applying for authority to operate under a general permit shall not propose nor accept pursuant to Rule 220-Non-Title V Permit Provisions of these rules emissions limitations, controls, or other requirements that are not included in the general permit.
- 302.6** General permits developed by the Control Officer shall require both of the following of sources that are covered under the general permit:
- a.** Installation and operation of reasonably available control technology (RACT) as determined by Rule 241, Section 302 of these rules.
  - c.** Compliance with Sections 111 or 112 of the Act as applicable.

**303 APPLICATION FOR COVERAGE UNDER GENERAL PERMIT:**

- 303.1** Once the Control Officer has issued a general permit, any source which is a member of the class of facilities covered by the general permit may apply to the Control Officer for authority to operate under the general permit. Applicants shall complete the specific application form, or if none has been adopted, the standard application form. The specific application form shall, at a minimum, require the applicant to submit the following information:
- a.** Information identifying and describing the source, its processes, and operating conditions in sufficient detail to allow the Control Officer to determine qualification for and to assure compliance with the general permit.
  - b.** ~~A~~ For general permits issued for Title V major sources, compliance plan that meets the requirements of Rule 210-Title V Permit Provisions, Section 305-Compliance Plan; Certification of these rules.
  - c.** For general permits issued for Non-Title V sources, compliance plan that meets the requirements of Rule 220-Non-Title V Permit Provisions, Section 303-Compliance Plans of these rules.
- 303.2** For sources required to obtain a permit under Title V of the Act, the Control Officer shall provide the Administrator with a permit application summary form and any relevant portion of the permit application and compliance plan. To the extent possible, this information shall be provided in computer readable format compatible with the Administrator's national database management system.
- 303.3** The Control Officer shall act on the application for coverage under ~~the a~~ general permit as expeditiously as possible; ~~but a final decision shall be reached within 180 days.~~ The source may operate under the terms of ~~its application~~ the applicable general permit during that time. ~~If the application for coverage is denied, the Control Officer shall notify the source that it shall apply for an individual permit within 180 days of receipt of notice.~~ The Control Officer may defer acting on an application under this rule, if the Control Officer has provided notice of intent to renew or not to renew the permit.
- 303.4** The Control Officer shall make available to the public a monthly summary of all applications received under this rule.



**304 PUBLIC NOTICE:**

- 304.1** The Control Officer shall provide public notice for any proposed general permit, for any revision of an existing general permit, and for renewal of an existing general permit.
- 304.2** The Control Officer shall publish notice of the proposed general permit once each week for two consecutive weeks in a newspaper of general circulation within Maricopa County. The notice shall describe the following:
  - a.** The proposed general permit.
  - b.** The category of sources that would be affected.
  - c.** The air contaminants which the Control Officer expects to be emitted by a typical facility in the class and by class as a whole.
  - d.** The Control Officer's proposed actions and effective date for the actions.
  - e.** Locations where documents relevant to the proposed general permit will be available during normal business hours.
  - f.** The name, address, and telephone number of a person within the Department who may be contacted for further information.
  - g.** The address where any person may submit comments and/or request a public hearing and the date and time by which comments or public hearing request are required to be received.
  - h.** The process by which sources may obtain authorization to operate under the general permit.
- 304.3** For general permits under which operation may be authorized in lieu of individual source permits issued under Rule 210-Title V Permit Provisions of these rules, the Control Officer shall give notice of the proposed general permit to each affected state at the same time that the proposed general permit goes out for public notice. The Control Officer shall provide the proposed final permit to the Administrator after public and affected state review. No Title V permit shall be issued if the Administrator properly objects to its issuance in writing within 45 days from receipt of the proposed final permit and any necessary supporting information from the Control Officer.
- 304.4** The Control Officer shall provide at least 30 days from the date of the first notice described in Section 304.3 of this rule for public comment.
- 304.5** Written comments to the Control Officer shall include the name of the person and the person's agent or attorney and shall clearly set forth reasons why the general permit should or should not be issued.
- 304.6** At the time a general permit is issued, the Control Officer shall make available a response to all relevant comments on the proposed permit raised during the public comment period and during any requested public hearing. The response shall specify which provisions, if any, of the proposed permit have been changed and the reason for the changes. The Control Officer shall also notify in writing any petitioner and each person who has submitted written comments on the proposed permit or requested notice of the final permit decision.

**305 SOURCES FOR WHICH A GENERAL PERMIT MAY NOT BE ISSUED:** A general permit shall not be issued to sources that are subject to case-by-case standards or requirements.

**306 GENERAL PERMIT RENEWAL:** ~~The Control Officer shall review and may renew general permits every five years. A source's authorization to operate under a general permit shall expire when the general permit expires regardless of when the authorization began during the five year period, except as provided in Section 311.3 of this rule. In addition to the public notice required to issue a proposed general permit under Section 304 of this rule, the Control Officer shall notify in writing all sources who have been granted or who have applications pending for authorization to operate under the general permit. The written notice shall describe the source's duty to reapply and may include requests for information required under the proposed general permit.~~

- 306.1** The Control Officer shall review and may renew general permits every five years.
- 306.2** A source's authorization to operate under a general permit shall expire when the general permit expires regardless of when the authorization began during the five year period, except as provided in Section 311.3 of this rule.
- 306.3** At the time a general permit is renewed, the Control Officer shall notify in writing all sources that were granted coverage under the previous permit and shall require them to submit a timely renewal application. For purposes of general permits, a timely application is one that is submitted within the time-frame specified by the Control Officer in the written notification. Until such time that a timely application is submitted, the source shall continue to comply with the previously issued general permit coverage. Upon submittal of a timely application, the source shall comply with



the renewed permit. Failure to submit a timely application terminates the source's right to operate.

- 307 RELATIONSHIP TO INDIVIDUAL PERMITS:** Any source covered under a general permit may request to be excluded from coverage by applying for an individual source permit. Coverage under the general permit shall terminate on the date the individual permit is issued.
- 308 GENERAL PERMIT VARIANCE FOR ANY NON-FEDERALLY ENFORCEABLE REQUIREMENT OF A PERMIT:**
- 308.1** Where, maximum achievable control technology (MACT), as defined in Rule 370-Federal Hazardous Air Pollutant Program of these rules, or hazardous air pollutant reasonably available control technology (HAPRACT) has been established in a general permit for a source category designated pursuant to Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program of these rules, the owner and/or operator of a source within that source category may apply for a variance from the standard by demonstrating compliance with Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program, Section 306-Risk Management Analysis of these rules at the time the source applies for coverage under the general permit.
- 308.2** If the owner and/or operator makes the showing required by Rule 372-Maricopa County Hazardous Air Pollutants (HAPs) Program, Section 306-Risk Management Analysis of these rules and otherwise qualifies for the general permit, the Control Officer shall, in accordance with the procedures established pursuant to this rule, approve the application and authorize operation under a variance from the standard of the general permit.
- 308.3** Except as modified by the variance, the source shall comply with all conditions of the general permit.
- 308.4** Applications and approvals of general permit variances shall be subject to the public notice requirements of Rule 210-Title V Permit Provisions of these rules.
- 309 GENERAL PERMIT SHIELD:** Each general permit issued under this rule shall specifically identify all federal, state, and local air pollution control requirements applicable to the source at the time the general permit is issued. The general permit shall state that compliance with the conditions of the general permit shall be deemed in compliance with any applicable requirement as of the date of general permit issuance. Any permit under this rule that does not expressly state that a permit shield exists shall be presumed not to provide such a shield. Notwithstanding the above provisions, the source shall be subject to enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit. A permit shield provided for a general permit shall meet all the requirements of Rule 210-Title V Permit Provisions of these rules.
- 310 GENERAL PERMIT APPEALS:** Any person who filed a comment on a proposed general permit as provided in Section 304 of this rule may appeal the terms and conditions of a general permit, as they apply to the facility class covered under a general permit, by filing an appeal with the hearing board within ten days of issuance of the general permit.
- 311 REVOCATIONS OF AUTHORITY TO OPERATE:**
- 311.1** The Control Officer may require a source authorized to operate under a general permit to apply for and to obtain an individual source permit at any time if:
- The Control Officer has determined that the source is not in compliance with the terms and conditions of the general permit; or
  - The Control Officer has determined that the emissions from the source or facility class are significant contributors to ambient air quality standard violations which are not adequately addressed by the requirements in the general permit; or
  - The Control Officer has information which indicates that the effects on human health and the environment from the sources covered under the general permit are unacceptable.
- 311.2** The Control Officer shall provide written notice to all sources operating under a general permit prior to cancellation of a general permit. Such notice shall include an explanation of the basis for the proposed action. Within six months of receipt of the notice of the expiration, termination or cancellation of any general permit, sources notified shall submit an application to the Control Officer for an individual permit.
- 311.3** A source previously authorized to operate under a general permit may operate under the terms of the general permit until the earlier of the date it submits a complete application for an individual permit, or 180 days after receipt of the notice of expiration, termination or cancellation of any general permit.



**312 CHANGES TO FACILITIES GRANTED COVERAGE UNDER GENERAL PERMIT:**

**312.1** An owner and/or operator of a source that has been granted coverage under a general permit may make the following changes at the source only after the owner and/or operator provides written notification to the Control Officer and only if such changes do not require the owner and/or operator to obtain a Title V or a Non-Title V permit:

- a. Adding new emissions units.
- b. Installing a replacement emissions unit.
- c. Adding or replacing air pollution control equipment.

**312.2** Notification Required: The written notification required by Section 312.1 of this rule shall include:

- a. When the proposed change will occur;
- b. A description of the change; and
- c. Any change in emissions of regulated air pollutants.

**312.3** An owner and/or operator of a source that has been granted coverage under a general permit shall keep a record of any physical change or change in the method of operation that could affect emissions. The record shall include a description of the change and the date the change occurred.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

~~REGULATION II - PERMITS AND FEES~~

~~RULE 240~~

~~PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND~~

~~MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES~~

~~INDEX~~

~~SECTION 100 - GENERAL~~

- 101 PURPOSE
- 102 APPLICABILITY

~~SECTION 200 - DEFINITIONS~~

- 201 ADVERSE IMPACT ON VISIBILITY
- 202 CATEGORICAL SOURCES
- 203 CONVENTIONAL AIR POLLUTANT
- 204 DISPERSION TECHNIQUE
- 205 GOOD ENGINEERING PRACTICE (GEP) STACK HEIGHT
- 206 HIGH TERRAIN
- 207 INNOVATIVE CONTROL TECHNOLOGY
- 208 LOW TERRAIN
- 209 LOWEST ACHIEVABLE EMISSION RATE (LAER)



- 210 MAJOR SOURCE
- 211 RECONSTRUCTION
- 212 RESOURCE RECOVERY PROJECT
- 213 SECONDARY EMISSIONS
- 214 SIGNIFICANCE LEVELS

**~~SECTION 300 – STANDARDS~~**

- 301 PERMIT OR PERMIT REVISION REQUIRED
- 302 APPLICATION COMPLETENESS
- 303 AIR IMPACT ANALYSIS FOR ANY GEOGRAPHICAL AREA
- 304 ACTION ON APPLICATION AND NOTIFICATION REQUIREMENTS
- 305 PERMIT REQUIREMENTS FOR SOURCES LOCATED IN NONATTAINMENT AREAS
- 306 OFFSET AND NET AIR QUALITY BENEFIT STANDARDS
- 307 SPECIAL REQUIREMENTS FOR MAJOR SOURCES OF VOC OR OXIDES OF NITROGEN IN OZONE NON-ATTAINMENT AREAS CLASSIFIED AS SERIOUS OR SEVERE
- 308 PERMIT REQUIREMENTS FOR SOURCES LOCATED IN ATTAINMENT AND UNCLASSIFIABLE AREAS
- 309 STACK HEIGHT LIMITATION

**~~SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)~~**

**~~SECTION 500 – MONITORING AND RECORDS~~**

- 501 POLLUTANTS TO BE INCLUDED IN ANALYSIS OF AMBIENT AIR QUALITY
- 502 PRECONSTRUCTION AIR QUALITY MONITORING DATA
- 503 COMPLETE APPLICATION AIR QUALITY MONITORING DATA
- 504 POST-APPROVAL AIR QUALITY MONITORING DATA FOR OZONE
- 505 POST-CONSTRUCTION AIR QUALITY MONITORING DATA
- 506 OPERATIONS OF MONITORING STATIONS
- 507 EXCEPTIONS TO MONITORING FOR A PARTICULAR POLLUTANT
- 508 VISIBILITY AND AIR QUALITY IMPACT ANALYSIS
- 509 INNOVATIVE CONTROL TECHNOLOGY
- 510 AIR QUALITY MODELS
- 511 VISIBILITY PROTECTION

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**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION II PERMITS AND FEES**

**RULE 240**

**PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND  
MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES**

**SECTION 100 GENERAL**

**101 PURPOSE:** To provide an orderly procedure for the review of new major sources of conventional air pollutants and of major modifications to existing major sources of conventional air pollutants requiring permits or permit revisions.

**102 APPLICABILITY:** The provisions of this rule apply to new major sources of conventional air pollutants and major modifications to existing major sources of conventional air pollutants. The provisions of this rule do not apply to new sources and modifications to existing sources subject to the requirements of Rule 241 Permits For New Sources And Modifications To Existing Sources of these rules.

**SECTION 200 DEFINITIONS:** See Rule 100 General Provisions And Definitions of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

**201 ADVERSE IMPACT ON VISIBILITY**— Visibility impairment that interferes with the management, protection, preservation, or enjoyment of visual experience of a Class I area, as determined by Rule 500 Air Quality Standards of these rules.

**202 CATEGORICAL SOURCES**— The following classes of sources:

Coal cleaning plants with thermal dryers;

Kraft pulp mills;

Portland cement plants;

Primary zinc smelters;

Iron and steel mills;

Primary aluminum ore reduction plants;

Primary copper smelters;

Municipal incinerators capable of charging more than 50 tons of refuse per day;

Hydrofluoric, sulfuric, or nitric acid plants;

Petroleum refineries;

Lime plants;

Phosphate rock processing plants;

Coke oven batteries;



Sulfur recovery plants;

Carbon black plants using the furnace process;

Primary lead smelters;

Fuel conversion plants;

Sintering plants;

Secondary metal production plants;

Chemical process plants;

Fossil fuel boilers, or combinations thereof, totaling more than 250 million British thermal units (BTU) per hour heat input;

Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;

Taconite preprocessing plants;

Glass fiber processing plants;

Charcoal production plants;

Fossil fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million BTU per hour rated heat input.

**203** ~~CONVENTIONAL AIR POLLUTANT~~— Any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard.

**204** ~~DISPERSION TECHNIQUE~~— Any technique that attempts to affect the concentration of a pollutant in the ambient air by any of the following:

~~204.1~~ Using that portion of a stack that exceeds good engineering practice stack height;

~~204.2~~ Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

~~204.3~~ Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into 1 stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This shall not include any of the following:

~~a.~~ The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the source generating the gas stream.

~~b.~~ The merging of exhaust gas streams under any of the following conditions:

~~(1)~~ The source owner or operator demonstrates that the source was originally designed and constructed with the merged gas streams;

~~(2)~~ After July 8, 1995, such merging is part of a change in operation at the source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or

~~(3)~~ Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Control Officer shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source, owner or operator, that merging was not significantly motivated by such intent, the Control Officer shall deny credit for the effects of such merging in calculating the allowable emissions for the



source:

- e. Smoke management in agricultural or silvicultural prescribed burning programs.
- d. Episodic restrictions on residential woodburning and open burning.
- e. Techniques that increase final exhaust gas plume rise if the resulting allowable emissions of sulfur dioxide from the source do not exceed 5,000 tons per year.

205

**GOOD**

~~ENGINEERING PRACTICE (GEP) STACK HEIGHT~~—A stack height meeting the requirements described in Section 309 of this rule.

206

~~HIGH TERRAIN~~—Any area having an elevation of 900 feet or more above the base of the stack of a source.

207

~~INNOVATIVE CONTROL TECHNOLOGY~~—Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

208

~~LOW TERRAIN~~—Any area other than high terrain.

209

~~LOWEST ACHIEVABLE EMISSION RATE (LAER)~~—For any source, the more stringent rate of emissions based on 1 of the following:

~~209.1~~ The most stringent emissions limitation that is contained in the State Implementation Plan (SIP), as defined in Rule 100-General Provisions And Definitions of these rules, for the class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable; or

~~209.2~~ The most stringent emissions limitation that is achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under the applicable standards of performance in Rule 360-New Source Performance Standards of these rules and in 40 C.F.R. 60 and 40 C.F.R. 61.

210

~~MAJOR SOURCE~~

~~210.1~~ Any stationary source located in a nonattainment area that emits, or has the potential to emit, 100 tons per year or more of any conventional air pollutant, except as follows:

<b>Pollutant Emitted</b>	<b>Nonattainment Pollutant And Classification</b>	<b>Quantity Threshold Tons/Year Or More</b>
Carbon Monoxide (CO)	CO, Serious, with stationary sources as more than 25% of source inventory	50
Volatile Organic Compounds (VOC)	Ozone, Serious	50
VOC	Ozone, Severe	25
PM <sub>10</sub>	PM <sub>10</sub> , Serious	70
NO <sub>x</sub>	Ozone, Serious	50
NO <sub>x</sub>	Ozone, Severe	25

or



- ~~210.2~~ Any stationary source located in an attainment or unclassifiable area that emits, or has the potential to emit, 100 tons per year or more of any conventional air pollutant if the source is classified as a Categorical Source, or 250 tons per year or more of any pollutant subject to regulation under the Act if the source is not classified as a Categorical Source; or
- ~~210.3~~ Any change to a minor source, except for VOC or NO<sub>x</sub> emission increases at minor sources in serious or severe ozone nonattainment areas, that would increase its emissions to the qualifying levels in Section 210.1 or Section 210.2 of this rule;
- ~~210.4~~ Any change in VOC or NO<sub>x</sub> at a minor source in serious or severe ozone nonattainment areas that would be significant as described in Section 307.2 of this rule and that would increase its emissions to the qualifying levels in Section 210.1 of this rule;
- ~~210.5~~ Any stationary source that emits, or has the potential to emit, five or more tons of lead per year;
- ~~210.6~~ Any source classified as major undergoing modification that meets the definition of reconstruction;
- ~~210.7~~ A major source that is major for VOCs shall be considered major for ozone; or
- ~~210.8~~ A major source that is major for oxides of nitrogen shall be considered major for ozone in nonattainment areas classified as marginal, moderate, serious or severe.
- ~~211~~ **RECONSTRUCTION** – Of sources located in nonattainment areas, reconstruction shall be presumed to have taken place if the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new stationary source, as determined in accordance with the provisions of 40 C.F.R. 60.15(f)(1) through (3).
- ~~212~~ **RESOURCE RECOVERY PROJECT** – Any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. For the purpose of this rule, only energy conversion facilities that utilize solid waste that provides more than 50% of the heat input shall be considered a resource recovery project.
- ~~213~~ **SECONDARY EMISSIONS** – Emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support source which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.
- ~~214~~ **SIGNIFICANCE LEVELS** – The following ambient concentrations for the enumerated pollutants:

Pollutant	Averaging Time				
	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO <sub>2</sub>	1 mg/m <sup>3</sup>	5 mg/m <sup>3</sup>		25 mg/m <sup>3</sup>	
NO <sub>2</sub>	1 mg/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>
PM <sub>10</sub>	1 mg/m <sup>3</sup>	5 mg/m <sup>3</sup>			

Except for the annual pollutant concentrations, exceedance of significance levels shall be deemed to occur when the ambient concentration of the above pollutant is exceeded more than once per year at any one location. If the concentration occurs at a specific location and at a time when the Arizona ambient air quality standards for the pollutant are not violated, the significance level does not apply.

**SECTION 300 – STANDARDS**

- ~~301~~ **PERMIT OR PERMIT REVISION REQUIRED:** No person shall commence construction of a new major source nor commence major modification of a major source without first obtaining a permit or a permit revision from the Control Officer.
- ~~302~~ **APPLICATION COMPLETENESS:** An application for a permit or a permit revision under this rule shall not be considered



complete unless the application demonstrates that:

- ~~302.1~~ The requirements in Section 303 of this rule are met;
- ~~302.2~~ The more stringent of the applicable new source performance standards (NSPS) in Rule 360 New Source Performance Standards of these rules or the existing source performance standards in Regulation III Control Of Air Contaminants of these rules are applied to the proposed new major source or major modification of a major source;
- ~~302.3~~ The new major source or major modification will not have an adverse impact on visibility as determined by Section 511 of this rule and will satisfy all the visibility requirements contained in Section 511 of this rule. A demonstration of the impact on visibility shall be made according to Section 508 of this rule and shall be included with the application;
- ~~302.4~~ All applicable provisions of Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Permits For New Major Sources And Major Modifications To Existing Major Sources, Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules are met;
- ~~302.5~~ The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification. The degree of emission limitation required for control of any pollutant under this rule shall not be affected in any manner by:
  - ~~a.~~ Stack height in excess of GEP stack height except as provided in Section 309 of this rule; or
  - ~~b.~~ Any other dispersion technique, unless implemented prior to December 31, 1970.
- ~~302.6~~ The new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in Rule 370-Federal Hazardous Air Pollutant Program of these rules and/or Rule 372-Maricopa County Hazardous Air Pollutants (HAPS) Program of these rules.
- ~~302.7~~ The new major source or major modification will not exceed the limitations, if applicable, on emission from fugitive sources contained in Rule 310-Fugitive Dust, Rule 311-Particulate Matter From Process Industries, and Rule 316-Nonmetallic Mineral Processing of these rules.
- ~~302.8~~ A stationary source that will emit 5 or more tons of lead per year will not violate the ambient air quality standards for lead contained in Rule 510-Air Quality Standards of these rules.

~~303~~ **AIR IMPACT ANALYSIS FOR ANY GEOGRAPHICAL AREA:** Except for assessing air quality impacts within Class I areas, the air impact analysis required to be conducted as part of a permit application shall initially consider only the geographical area located within a 50 kilometer (31 mile) radius from the point of greatest emissions for the new major source or major modification. The Control Officer, on his own initiative or upon receipt of written notice from any person, shall have the right at any time to request an enlargement of the geographical area for which an air quality impact analysis is to be performed by giving the person applying for the permit or permit revision written notice thereof, specifying the enlarged radius to be so considered. In performing an air impact analysis for any geographical area with a radius of more than 50 kilometers (31 miles), the person applying for the permit or permit revision may use monitoring or modeling data obtained from major sources having comparable emissions or having emissions which are capable of being accurately used in such demonstration and which are subjected to terrain and atmospheric stability conditions which are comparable or which may be extrapolated with reasonable accuracy for use in such demonstration.

~~304~~ **ACTION ON APPLICATION AND NOTIFICATION REQUIREMENTS:** Unless the requirement has been satisfied under these rules, the Control Officer shall comply with the following requirements:

- ~~304.1~~ Within 60 days after receipt of an application for a permit, of a permit revision subject to this rule, or of any addition to such application, the Control Officer shall advise the applicant of any deficiency in the application. The date of receipt of the application shall be, for the purpose of this rule, the date on which the Control Officer received all required information. The permit application shall not be deemed complete solely because the Control Officer failed to meet the requirements of this section.
- ~~304.2~~ In addition to Section 511 of this rule, a copy of any notice required by Section 511 of this rule shall be sent to the permit applicant, to the Administrator, and to the following officials and agencies having cognizance of the location where the proposed major source or major modification would occur:



- a. The Control Officer for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
- b. The Board Of Supervisors for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
- c. The city or town managers of the city or town which contains, and any city or town the boundaries of which are within five miles of the location of the proposed or existing source that is the subject of the permit or permit revision application;
- d. Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and
- e. Any State, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.

**304.3** The Control Officer shall take final action on the application within one year of the proper filing of the complete application. The Control Officer shall notify the applicant in writing of his approval or of his denial.

**304.4** The Control Officer shall terminate a permit or permit revision issued under this rule if the proposed construction or major modification is not begun within 18 months of issuance, or if during the construction or major modification, work is suspended for more than 18 months.

**304.5** Within 30 days of the issuance of any permit under this rule, the Control Officer shall submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Act.

### **305 PERMIT REQUIREMENTS FOR SOURCES LOCATED IN NONATTAINMENT AREAS:**

**305.1** Except as provided in Section 305.3 through Section 305.7 of this rule, no permit or permit revision shall be issued under this rule to a person proposing to construct a new major source or proposing to make a major modification to a source located in any nonattainment area for the pollutant(s) for which the source is classified as a major source or the modification is classified as a major modification unless:

- a. The person demonstrates that the new major source or the major modification will meet an emission limitation which is the lowest achievable emission rate (LAER) for that source for that specific pollutant(s). In determining LAER for a reconstructed stationary source, the provisions of 40 C.F.R. 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.
- b. The person demonstrates that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) in the State are in compliance with, or are on a schedule of compliance for, all conditions contained in permits of each of the sources and all other applicable emission limitations and standards under the Act and in this rule.
- c. The person demonstrates that emission reductions for the specific pollutant(s) from source(s) in existence in the allowable offset area of the new major source or major modification (whether or not under the same ownership) meet the offset and net air quality benefit requirements of Section 306 of this rule.

**305.2** No permit or permit revision under this rule shall be issued to a person proposing to construct a new major source or proposing to make a major modification to a major source located in a nonattainment area unless:

- a. The person performs an analysis of alternative sites, sizes, production processes and environmental control techniques for such new major source or major modification; and
- b. The Control Officer determines that the analysis demonstrates that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

**305.3** At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the



source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

**305.4** Secondary emissions shall not be considered in determining the potential to emit of a new source or modification and therefore whether the new source or modification is major. However, if a new source or modification is subject to this rule on the basis of its direct emissions, a permit or a permit revision, under this rule to construct the new source or modification, shall be denied, unless the conditions specified in Section 305.1(a) and Section 305.1(b) of this rule are met, for reasonably quantifiable secondary emissions caused by the new source or modification.

**305.5** A permit to construct a new source or modification shall be denied, unless the conditions specified in Section 305.1(a), Section 305.1(b), and Section 305.1(c) of this rule are met for fugitive emissions caused by the new source or modification. However, these conditions shall not apply to a new major source or major modification that would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source is neither a categorical source nor a source belonging to the category of sources for which New Source Performance Standards (NSPS) under 40 C.F.R. Part 60 or National Emission Standards For Hazardous Air Pollutants (NESHAPS) under 40 C.F.R. Part 61 promulgated by the Administrator prior to August 7, 1980.

**305.6** The requirements of Section 305.1(c) of this rule shall not apply to temporary emission sources, such as pilot plants and portable sources, which are only temporarily located in the nonattainment area, are otherwise regulated by a permit, and are in compliance with the conditions of that permit.

**305.7** A decrease in actual emissions shall be considered in determining the potential of a new source or modification to emit only to the extent that the Control Officer has not relied on it in issuing any permit or permit revision under these rules, or the State has not relied on it in demonstrating attainment or reasonable further progress (RFP).

**305.8** The issuance of a permit or permit revision under this rule shall not relieve the owner and/or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements pursuant to local, State, or Federal law.

**305.9** Within 30 days of the issuance of any permit under this section, the Control Officer shall submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Act.

**306 OFFSET AND NET AIR QUALITY BENEFIT STANDARDS:**

**306.1** Increased emissions by a major source or major modification subject to this rule shall be offset by reductions in the emissions of each pollutant for which the area has been designated as nonattainment and for which the source or modification is classified as major. The offset may be obtained by reductions in emissions from the source or modification, or from any other source within the allowable offset area. Credit for an emissions offset can be used only if it has not been relied upon in demonstrating attainment or in demonstrating reasonable further progress (RFP), and if it has not been relied upon previously in issuing a permit or permit revision under this rule, under Section 301 through Section 305 of this rule, or not otherwise required under this rule or under any provision of the State Implementation Plan (SIP).

**306.2** An offset shall not be sufficient unless reductions of total emissions for the particular pollutant for which the offset is required will be:

- a: Obtained from sources within the allowable offset area;
- b: A surplus emission, which is an emission reduction not required by current regulations in the State Implementation Plan (SIP); not already relied upon for SIP planning purposes; and not used by the source to meet any other regulatory requirement, including, at the time emission reduction credits (ERCs) are used, reasonably available control technology (RACT), reasonable further progress (RFP), or milestones thereof, or demonstration of attainment;
- c: Contemporaneous with the operation, the new major source, or major modification;
- d: An emission enforceable by the Administrator;



- e. ~~A quantifiable emission. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process or production inputs, modeling or other reasonable measurement practices. Quantification methods shall be credible, workable, and replicable. The method for calculating emissions should be used to measure the emissions both before and after the changes in emission levels, both at the generator and at the user of the emission reduction credits (ERCs); and~~
- f. Sufficient to satisfy the Control Officer that emissions from the new major source or major modification, together with the offset, will result in reasonable further progress (RFP) for that pollutant.

**306.3** ~~In ozone nonattainment areas classified as marginal, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.10:1. In ozone nonattainment areas classified as moderate, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.15:1. New major sources and major modifications in serious and severe ozone nonattainment areas shall comply with this section and with Section 307 of this rule.~~

**306.4** ~~Only intrapollutant emission offsets shall be allowed. Intrapollutant emission offsets for VOCs shall only include offset reductions in emissions of VOCs. Intrapollutant emission offsets for oxides of nitrogen shall only include offset reductions in emissions of oxides of nitrogen.~~

**306.5** ~~For purpose of this rule, reasonable further progress (RFP) shall mean compliance with the schedule of annual incremental reductions in emissions of the applicable air pollutant prescribed by the Control Officer based on air quality modeling under Section 510 of this rule, to provide for attainment of the applicable air quality standards by the deadlines set under Part D of Title I of the Act, or in an applicable implementation plan.~~

**306.6** ~~For the purpose of this rule, net air quality benefit shall mean that during similar time periods either Section 306.6(a) or Section 306.6(b) of this rule is applicable:~~

- a. ~~A reduction in the number of violations of the applicable Arizona ambient air quality standard within the allowable offset area has occurred and the following mathematical expression is satisfied:~~

$$\frac{N - \sum_{i=1}^N X_i - C}{N} \leq \frac{K - \sum_{j=1}^K X_j - C}{K}$$

when:

- C= The applicable Arizona ambient air quality standard.
- X<sub>i</sub>= The concentration level of the violation at the i<sup>th</sup> receptor for the pollutant after offsets.
- N= The number of violations for the pollutant after offsets (N ≤ K).
- X<sub>j</sub>= The concentration level of the violation at the j<sup>th</sup> receptor from the pollutant before offsets.
- K= The number of violations for the pollutant before offsets.

- b. ~~The average of the ambient concentrations within the allowable offset area after the implementation of the contemplated offsets will be less than the average of the ambient concentrations within the allowable offset area without the offsets.~~

**306.7** ~~For the purpose of this rule, baseline shall be defined as:~~

- a. ~~The baseline of total emissions from any sources in existence or sources that have obtained a permit or permit revision under this rule, regardless of whether or not the sources are in actual operation at the time of application for the permit or permit revision, shall be the total actual emissions at the time the application is filed. In addition, the baseline of total emissions shall consist of all emission limitations included as conditions on federally enforceable permits, except that the offset baseline shall be the actual emissions of the source from~~



which offset credit is obtained if:

- (1) No emission limitations are applicable to a source from which offsets are being sought; or
- (2) The demonstration of reasonable further progress (RFP) and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area.

**b.** If the emission limitations for a particular pollutant allow greater emissions than the potential emission rate of the source for that pollutant, the baseline shall be the potential emission rate at the time application for the permit or permit revision under this rule is filed, and emissions offset credit shall be allowed only for control below the potential emission rate.

**306.8** For an existing fuel combustion source, offset credit shall be based on the allowable emissions under the regulations or permit conditions applicable to the source for the type of fuel being burned at the time the application for the permit or permit revision under this rule is filed. If an existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the actual emissions for the fuels involved shall not be acceptable unless:

- a.** The permit or permit revision under this rule for the source specifically requires the use of a specified alternative control measure that would achieve the same degree of emissions reduction if the source switches back to a dirtier fuel at some later date; and
- b.** The source demonstrates to the satisfaction of the Control Officer that it has secured an adequate long-term supply of the cleaner fuel.

**306.9** Offsets shall be made on either a pounds per hour, pounds per day, pounds per quarter, tons per quarter, or tons per year basis, whichever is applicable, when all sources involved in the emission offset calculations are operating at their maximum expected or allowed production rate and, except as otherwise provided in Section 306.8 of this rule, utilizing the type of fuel burned at the time the application for the permit or permit revision under this rule is filed. A tons per year basis shall not be used if the new or modified source or the source offsets are not expected to operate throughout the entire year. No emissions credit may be allowed for replacing one VOC with another VOC of lesser reactivity.

**306.10** Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, if the work force to be affected has been notified of the proposed shutdown or curtailment. No offset credits for shutdowns or curtailments shall be provided for emissions reductions that are necessary to bring a source into compliance with reasonably available control technology (RACT) or any other standard under an applicable implementation plan.

**306.11** The allowable offset area shall be the geographical area in which the sources are located whose emissions are being sought to offset emissions from a new major source or major modification. For the pollutants sulfur dioxide, PM<sub>10</sub>, and carbon monoxide, the allowable offset area shall be determined by atmospheric dispersion modeling. If the emission offsets are obtained from a source on the same premises or in the immediate vicinity of the new major source or major modification, and the pollutants disperse from substantially the same effective stack height, atmospheric dispersion modeling shall not be required. The allowable offset area for all other pollutants shall be the nonattainment areas for those pollutants within which the new major source or major modification is to be located.

**306.12** An emission reduction may only be used to offset emissions if the reduced level of emissions will continue for the life of the new source or modification and if the reduced level of emissions is legally and federally enforceable at the time of permit issuance. It shall be considered legally enforceable, if the following conditions are met:

- a.** The emission reduction is included as a condition in the permit of the source relied upon to offset the emissions from the new major source or major modification, or in the case of reductions from sources controlled by the applicant, is included as a condition of the permit or permit revision under this rule for the new major source or major modification;
- b.** The emission reduction is adopted as a part of this rule or comparable rules of any other governmental entity or is contractually enforceable by the Control Officer and is in effect at the time the permit is issued.

**306.13** For the purpose of this rule, the Control Officer may initiate or a source may propose a mobile source emission reduction



credit (MERC) program. "MERC Program" or "Program" means any activity undertaken by a person which generates actual mobile source emission reductions within the Maricopa County nonattainment area for purposes of establishing MERCs under this rule.

**a. Applicability:** A MERC Program applies to any owner, user, transferor, or transferee of a MERC for new source review (NSR) purposes, of a mobile source for which a MERC has been granted, and for any generator of a MERC.

**b. Limitations:**

- (1) A MERC Program can be a one-time action, a series of one-time actions, or a continuous set of actions.
- (2) A MERC generated by a MERC Program must create an actual emissions reduction.
- (3) A MERC generated by a MERC Program is subject to the written approval of the Control Officer and the Administrator.
- (4) At a minimum, a MERC, like other emission reduction credits used as NSR offsets, must meet the requirements of Section 306.2 of this rule, including being surplus, enforceable, permanent, and quantifiable.

(5) The MERC Program shall include specifications regarding:

(a) Quantification of mobile source emission credit.

(b) Life of mobile source emission credit. The life of a MERC shall be dependent on the duration of the actual emission reductions activity. For the purpose of this section, actual emission reductions mean emission reductions which occur or are projected to occur within the Maricopa County nonattainment area and which meet the requirements of Section 306.2 of this rule.

(c) Evidence of disposal of original mobile source. For the purpose of this section, disposal is not limited to scrapping a mobile source but includes relocating a mobile source outside the Maricopa County nonattainment area.

(d) Recordkeeping and reporting.

**c. Inspections And Recordkeeping:**

- (1) Any owner, user, transferor, or transferee of a MERC for new source review (NSR) purposes, of a mobile source for which a MERC has been granted, or any generator of a MERC shall compile and retain, for five years beyond the credit life (if the credit has a limited life), all records reasonably necessary to verify compliance with the requirements of this rule and with any other requirements imposed under the granting or use of the MERC. The Control Officer shall determine what records are "reasonably necessary" and, prior to the MERC generating activity taking place, shall approve a written document, which describes these requirements. Records may be maintained in an electronic format, if compatible with existing Department computer equipment, as determined by the Control Officer.
- (2) Access to and copies of all applicable records, for inspection, shall be provided to the Control Officer upon request.
- (3) Any owner, user, transferor, or transferee of a MERC for new source review (NSR) purposes, of a mobile source for which a MERC has been granted, or any generator of a MERC, is subject to random inspections by the Control Officer to verify compliance with this rule and any other requirements imposed under the granting or use of the MERC.
- (4) The Control Officer shall, upon request, have access to the premises of any owner, user, transferor, or



transferee of a MERC for new source review (NSR) purposes, of any mobile source for which a MERC has been granted, or any generator of a MERC, for purposes of conducting an inspection to verify compliance with this rule and with any other requirements imposed under the granting or use of the MERC.

- (5) Inspections may include review of records, testing, or any other action to verify compliance with this rule and with any other requirements imposed under the granting or use of the MERC.

**307 ~~SPECIAL REQUIREMENTS FOR MAJOR SOURCES OF VOC OR OXIDES OF NITROGEN IN OZONE NONATTAINMENT AREAS CLASSIFIED AS SERIOUS OR SEVERE:~~**

**307.1** The provisions of Section 307 of this rule only apply to stationary sources of VOC or oxides of nitrogen in ozone nonattainment areas classified as serious or severe. Unless otherwise provided in this rule, all requirements of Rule 200-Permit Requirements, Rule 210 Title V Permit Provisions, Rule 240 Permits For New Major Sources And Major Modifications To Existing Major Sources, Rule 245 Continuous Source Emission Monitoring, and Rule 270 Performance Tests of these rules apply.

**307.2** Significant means, for the purposes of a major modification of any major source of VOC or oxides of nitrogen or for determining whether an otherwise minor source is major under Section 210 Definition Of Major Source of this rule, any physical change or change in the method of operations that results in net increases in emissions of either pollutant by more than 25 tons when aggregated with all other creditable increases and decreases in emissions from the source over the previous five consecutive calendar years, including the calendar year in which the increase is proposed. For the purpose of Section 307 of this rule, a physical change or change in the method of operation that results in an increase of less than one ton per year of VOC or oxides of nitrogen before netting does not trigger a 5-year aggregation exercise.

**307.3** For any major source that emits or has the potential to emit less than 100 tons VOC or oxides of nitrogen per year, a significant increase in VOC or oxides of nitrogen, respectively, shall constitute a major modification, except that the increase in emissions from any discrete emissions unit, operation, or other pollutant emitting activity that is offset from other units, operations, or activities at the source at a ratio of 1.3:1 for the increase in VOC or oxides of nitrogen, respectively, from the unit, operation, or activity shall not be considered part of the major modification. Best available control technology (BACT) shall be substituted for lowest achievable emission rate (LAER) for all major modifications under this section. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in Section 307.5 and Section 307.6 of this rule.

**307.4** For any stationary source that emits or has the potential to emit 100 tons or more of VOC or oxides of nitrogen per year, any significant increase in VOC or oxides of nitrogen, respectively, shall constitute a major modification. If the increase in emissions from the modification at any discrete emissions unit, operation, or other pollutant emitting activity is offset from other units, operations or activities at the source at a ratio of 1.3:1 for the increase in VOC or oxides of nitrogen, respectively from the unit, operation or activity, best available control technology (BACT) shall be substituted for lowest achievable emission rate (LAER) at the unit, operation, or activity. Net emissions increases in VOC or oxides of nitrogen above the internal offset described herein shall be subject to the offset requirements in Section 307.5 and Section 307.6 of this rule.

**307.5** For any new major source or major modification that is classified major because of emissions or potential to emit VOC or oxides of nitrogen in an ozone nonattainment area classified as serious, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.2:1. The offset shall be made in accordance with the provisions of Section 306 of this rule.

**307.6** For any new major source or major modification that is classified as such because of emissions or potential to emit VOC or oxides of nitrogen in an ozone nonattainment area classified as severe, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.3:1. If the State Implementation Plan (SIP) requires all existing major sources of these pollutants in the nonattainment area to apply best available control technology (BACT), then the offset ratio shall be 1.2:1. These offsets shall be made in accordance with the provisions of Section 306 of this rule.

**308 ~~PERMIT REQUIREMENTS FOR SOURCES LOCATED IN ATTAINMENT AND UNCLASSIFIABLE AREAS:~~**

**308.1** Except as provided in Section 308.2 through Section 308.7 and Section 509 of this rule, no permit or permit revision under this rule shall be issued to a person proposing to construct a new major source or proposing to make a major modification



to a major source that would be constructed in an area designated as attainment or unclassifiable for any pollutant, unless the source or modification meets the following conditions:

- ~~a.~~ A new major source shall apply best available control technology (BACT) for each pollutant listed in Rule 100-General Provisions And Definitions of these rules for which the potential to emit is significant.
- ~~b.~~ A major modification shall apply best available control technology (BACT) for each pollutant listed in Rule 100-General Provisions And Definitions of these rules for which the modification would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or of a change in the method of operation in the unit.
- ~~c.~~ For phased construction projects, the determination of best available control technology (BACT) shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology (BACT) for the source.
- ~~d.~~ Best available control technology (BACT) shall be determined on a case-by-case basis and may constitute application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques, for control of such pollutant. In no event shall such application of best available control technology (BACT) result in emissions of any pollutant which would exceed the emissions allowed by any applicable new source performance standard or national emission standard for hazardous air pollutants under Rule 360 New Source Performance Standards, Rule 370 Federal Hazardous Air Pollutant Program, and Rule 372 Maricopa County Hazardous Air Pollutants (HAPS) Program of these rules. If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be prescribed instead to satisfy the requirement for the application of best available control technology (BACT). Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.
- ~~e.~~ The person applying for the permit or permit revision under this rule performs an air impact analysis and monitoring as specified in Section 500 of this rule and such analysis demonstrates that allowable emission increases from the proposed new major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions, for all pollutants listed in Rule 500-Attainment Area Classification of these rules, and minor and mobile sources for oxides of nitrogen:
  - (1) Would not cause nor contribute to an increase in concentrations of any pollutant by an amount in excess of any applicable maximum allowable increase over the baseline concentration in Rule 500-Attainment Area Classification of these rules for any attainment or unclassified area; or
  - (2) Would not cause nor contribute to an increase in ambient concentrations for a pollutant by an amount in excess of the significance level for such pollutant in any adjacent area in which Arizona primary or secondary ambient air quality standards for that pollutant are being violated. A new major source of volatile organic compounds (VOCs) or oxides of nitrogen, or a major modification to a major source of VOCs or oxides of nitrogen, shall be presumed to contribute to violations of the Arizona ambient air quality standards for ozone if it will be located within 50 kilometers (31 miles) of a nonattainment area for ozone. The presumption may be rebutted for a new major source or major modification if it can be satisfactorily demonstrated to the Control Officer that emissions of VOCs or oxides of nitrogen from the new major source or major modification will not contribute to violations of the Arizona ambient air quality standards for ozone in adjacent nonattainment areas for ozone. Such a demonstration shall include a showing that topographical, meteorological or other physical factors in the vicinity of the new major source or major modification are such that transport of VOCs emitted from the source are not expected to contribute to violations of the ozone standards in the adjacent nonattainment areas.



**f. Air quality models:**

- (1) All estimates of ambient concentrations required under this rule shall be based on the applicable air quality models, data basis, and other requirements specified in 40 C.F.R. 51, Appendix W, "Guideline On Air Quality Models", as of July 1, 2004 (and no future amendments or additions), which shall be referred to hereinafter as "Guideline" and is adopted by reference.
- (2) Where an air quality impact model specified in the Guideline is inappropriate, the model may be modified or another model substituted. Such a change is subject to notice and opportunity for public comment. Written approval of the Administrator shall be obtained for any modification or substitution.

**308.2** The requirements of this section shall not apply to a new major source or major modification to a source with respect to a particular pollutant if the person applying for the permit or permit revision under this rule demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant.

**308.3** The requirements of this section shall not apply to a new major source or major modification of a source if such source or modification would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source is not either among the Categorical Sources listed in Section 202 of this rule or belongs to the category of sources for which New Source Performance Standards (NSPS) under 40 C.F.R. Part 60 or National Emission Standards For Hazardous Air Pollutants (NESHAPS) under 40 C.F.R. Part 61, promulgated by the Administrator prior to August 7, 1980.

**308.4** The requirements of this section shall not apply to a new major source or major modification to a source when the owner of such source is a nonprofit health or educational institution.

**308.5** The requirements of this section shall not apply to a portable source which would otherwise be a new major source or major modification to an existing source if such portable source is temporary, is under a permit or permit revision issued under this rule, is in compliance with the conditions of that permit or permit revision under this rule, the emissions from the source will not impact a Class I area nor an area where an applicable increment is known to be violated, and reasonable notice is given to the Control Officer prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Control Officer not less than 10 calendar days in advance of the proposed relocation unless a different time duration is previously approved by the Control Officer.

**308.6 Special Requirements Applicable To Federal Land Managers:**

**a.** Notwithstanding any other provision of this rule, a Federal Land Manager may present to the Control Officer a demonstration that the emissions attributed to such new major source or major modification to a source will have significant adverse impact on visibility or other specifically defined air quality related values of any Federal Mandatory area designated in Rule 500-Attainment Area Classification of these rules, regardless of the fact that the change in air quality resulting from emissions attributable to such new major source or major modification to a source in existence will not cause or contribute to concentrations which exceed the maximum allowable increases for a Class I area. If the Control Officer concurs with such demonstrations, the permit or permit revision under this rule shall be denied.

**b.** If the owner or operator of a proposed new major source or a source for which major modification is proposed demonstrates to the Federal Land Manager that the emissions attributable to such major source or major modification will have no significant adverse impact on the visibility or other specifically defined air quality related values of such areas and the Federal Land Manager so certifies to the Control Officer, the Control Officer may issue a permit or permit revision under this rule notwithstanding the fact that the change in air quality resulting from emissions attributable to such new major source or major modification will cause or contribute to concentrations which exceed the maximum allowable increases for a Class I area. Such a permit or permit revision under this rule shall require that such new major source or major modification comply with such emission limitations as may be necessary to assure that emissions will not cause increases in ambient concentrations greater than the following maximum allowable increases over baseline concentrations for such pollutants:



Maximum Allowable Increases		
Pollutant	Averaging Time	Increase In mg/m <sup>3</sup>
TSP	Annual Geometric	19
	Mean	
TSP	24-hour Maximum	37
SO <sub>2</sub>	Annual Arithmetic	20
	Mean	
SO <sub>2</sub>	24-hour Maximum	91
SO <sub>2</sub>	3-hour Maximum	325
NO <sub>2</sub>	Annual Arithmetic	25
	Mean	

~~308.7~~ The issuance of a permit or permit revision under this rule in accordance with this section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.

~~308.8~~ At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

**309 STACK HEIGHT LIMITATION:**

~~309.1~~ The limitations set forth herein shall not apply to stacks or dispersion techniques used by the owner or operator prior to December 31, 1970, for which the owner or operator had:

- ~~a:~~ Begun, or caused to begin, a continuous program of physical on-site construction of the stack;
- ~~b:~~ Entered into building agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time; or
- ~~e:~~ Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.

~~309.2~~ Good engineering practice (GEP) stack height is calculated as the greater of the following four numbers:

- ~~a:~~ 65 meters (213.25 feet).
- ~~b:~~ For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 C.F.R. Parts 51 and 52 and Section 305 of this rule,  $H_g = 2.5H$ .
- ~~e:~~ For all other stacks,  $H_g = H + 1.5L$ , where:

~~$H_g$  = good engineering practice stack height, measured from the ground level elevation at the base of the stack;~~

~~$H$  = height of nearby structure measured from the ground level elevation at the base of the stack;~~

~~$L$  = lesser dimension (height or projected width) of nearby structure; provided that the EPA, the Director, or the Control Officer may require the use of a field study or fluid model to verify good engineering practice (GEP) stack height for the source; or~~



- d. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain obstacles.
- e. For a specific structure or terrain feature, "nearby" shall be:
  - (1) For purposes of applying the formulae in Section 309.2(b) of this rule and Section 309.2(e) of this rule, that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile).
  - (2) For conducting demonstrations under Section 309.2(d) of this rule, means not greater than 0.8 km (one-half mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (H+) of the feature, not to exceed two miles if such feature achieved a height (H+) 0.8 km from the stack. The height shall be at least 40% of the good engineering practice (GEP) stack height determined by the formula provided in Section 309.2(e) of this rule, or 85 feet (26 meters), whichever is greater, as measured from the ground level elevation at the base of the stack.
- f. "Excessive concentrations" means, for the purpose of determining good engineering practice stack height under Section 309.2(d) of this rule:
  - (1) For sources seeking credit for stack height exceeding that established under Sections 309.2(b) and 309.2(e) of this rule, a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the requirements for permits or permit revisions under this rule, an excessive concentration alternatively means a maximum ground level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and greater than the applicable maximum allowable increase contained in Rule 500 Attainment Area Classification of these rules. The allowable emission rate to be used in making demonstrations under Section 309.2(d) of this rule shall be prescribed by the new source performance standard (NSPS) which is applicable to the source category, unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Control Officer, an alternative emission rate shall be established in consultation with the source owner or operator.
  - (2) For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Sections 309.2(b) and 309.2(e) of this rule, either:
    - (a) A maximum ground level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in Section 309.2(f)(1) of this rule, except that emission rate specified by any applicable State Implementation Plan (SIP) shall be used, or
    - (b) The actual presence of a local nuisance caused by the existing stack, as determined by the Control Officer; and
  - (3) For sources seeking credit after January 12, 1979, for a stack height determined under Sections 309.2(b) and 309.2(e) of this rule, where the Control Officer requires the use of a field study or fluid model to verify good engineering practice (GEP) stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Sections 309.2(b) and 309.2(e) of this rule, a maximum ground level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40% in excess of the maximum concentration experienced in



~~the absence of such downwash, wakes, or eddy effects.~~

- ~~309.3~~ The degree of emission limitation required of any source after the respective date given in Section 309.1 of this rule for control of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique.
- ~~309.4~~ The good engineering practice (GEP) stack height for any source seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards or applicable prevention of significant deterioration (PSD) increments can be adjusted by determining the stack height necessary to predict the same maximum air pollutant concentration on any elevated terrain feature as the maximum concentration associated with the emission limit which results from modeling the source using the good engineering practice (GEP) stack height as determined herein and assuming the elevated terrain features to be equal in elevation to the good engineering practice (GEP) stack height. If this adjusted good engineering practice (GEP) stack height is greater than stack height the source proposes to use, the source's emission limitation and air quality impact shall be determined using the proposed stack height and the actual terrain heights.
- ~~309.5~~ Before the Control Officer issues a permit or permit revision under this rule to a source based on a good engineering practice (GEP) stack height that exceeds the height allowed by Section 309.2 of this rule, the Control Officer shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of Rule 210 Title V Permit Provisions of these rules.

#### ~~SECTION 400 ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)~~

#### ~~SECTION 500 MONITORING AND RECORDS~~

- ~~501~~ **~~POLLUTANTS TO BE INCLUDED IN ANALYSIS OF AMBIENT AIR QUALITY:~~** Any application for a permit or permit revision under this rule to construct a new major source or major modification to a major source shall contain for each of the following pollutants an analysis of ambient air quality in the area that the new major source or major modification would affect:
- ~~501.1~~ For the new source, each pollutant that it would have the potential to emit in a significant amount.
- ~~501.2~~ For the modification, each pollutant for which it would result in a significant net emissions increase.
- ~~502~~ **~~PRECONSTRUCTION AIR QUALITY MONITORING DATA:~~**
- ~~502.1~~ With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain all air quality monitoring data as the Control Officer determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of the pollutant would affect.
- ~~502.2~~ With respect to any such pollutant, other than nonmethane hydrocarbons, for which a national ambient air quality standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of such standard or of any maximum allowable increase.
- ~~502.3~~ In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that if the Control Officer determines that a complete and adequate analysis can be accomplished with continuous air quality monitoring data gathered over a period shorter than one year, but not to be less than four months, the data that is required shall have been gathered over at least that shorter period.
- ~~503~~ **~~COMPLETE APPLICATION AIR QUALITY MONITORING DATA:~~** For any application which, prior to February 9, 1982, becomes complete, except as to the requirements of Section 502.2 of this rule, the data that Section 502.2 of this rule requires shall have been gathered over at least the period from February 9, 1981, to the date the application becomes otherwise complete, except that:
- ~~503.1~~ If the new source or modification would have been major for that pollutant under Section 308 of this rule as in effect on October 2, 1979, any monitoring data shall have been gathered over at least the period required by Section 308 of this rule.



~~503.2~~ If the Control Officer determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months), the data that Section 502.2 of this rule requires shall have been gathered over that shorter period.

~~503.3~~ If the monitoring data would relate exclusively to ozone and would not have been required under Section 308 of this rule as in effect on October 2, 1979, the Control Officer may waive the otherwise applicable requirements of Section 308 of this rule to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over the full year.

~~504~~ **POST-APPROVAL AIR QUALITY MONITORING DATA FOR OZONE:** The owner or operator of a proposed stationary source or modification to a source of VOCs who satisfies all conditions of 40 C.F.R. 51, Appendix S, Section IV, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Section 502 of this rule.

~~505~~ **POST-CONSTRUCTION AIR QUALITY MONITORING DATA:** The owner or operator of a new major source or major modification shall, after construction of the source or modification, conduct such ambient monitoring as the Control Officer determines is necessary to determine the effect emissions from the new source or modification may have, or are having, on air quality in any area.

~~506~~ **OPERATIONS OF MONITORING STATIONS:** The owner or operator of a new major source or major modification shall meet the requirements of 40 C.F.R. 58, Appendix B, during the operation of monitoring stations for purposes of satisfying Section 502 through Section 505 of this rule.

~~507~~ **EXCEPTIONS TO MONITORING FOR A PARTICULAR POLLUTANT:** The requirements of Section 502 through Section 506 of this rule shall not apply to a new major source or major modification to an existing source with respect to monitoring for a particular pollutant if:

~~507.1~~ The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

<b>Pollutant</b>	<b>Concentration</b>	<b>Averaging Time</b>
Carbon Monoxide	575 mg/m <sup>3</sup>	8 hour average
Nitrogen dioxide	14 mg/m <sup>3</sup>	annual average
PM <sub>10</sub>	10 mg/m <sup>3</sup>	24 hour average
Sulfur dioxide	13 mg/m <sup>3</sup>	24 hour average
Lead	0.1 mg/m <sup>3</sup>	24 hour average
Fluorides	0.25 mg/m <sup>3</sup>	24 hour average
Total reduced sulfur	10 mg/m <sup>3</sup>	1 hour average
Hydrogen sulfide	0.04 mg/m <sup>3</sup>	1 hour average
Reduced sulfur compounds	10 mg/m <sup>3</sup>	1 hour average
Ozone	Increased emissions of less than 100 tons per year of volatile organic compounds or oxides of nitrogen	

or,

~~507.2~~ The concentrations of the pollutant in the area that the new source or modification would affect are less than the concentrations listed in Section 507.1 of this rule.

~~508~~ **VISIBILITY AND AIR QUALITY IMPACT ANALYSIS:** Any application for a permit or a permit revision under this rule to construct a new major source or major modification to a source shall contain:

~~508.1~~ An analysis of the impairment to visibility, soils and vegetation that would occur as a result of the new source or modification and general commercial, residential, industrial and other growth associated with the new source or modification. The applicant need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

~~508.2~~ An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and



~~other growth associated with the new source or modification.~~

**509 INNOVATIVE CONTROL TECHNOLOGY:**

~~509.1 Notwithstanding the provisions of Sections 308.1(a), 308.1(b), and 308.1(c), of this rule, the owner or operator of a proposed new major source or major modification may request that the Control Officer approve a system of innovative control technology rather than the best available control technology (BACT) requirements otherwise applicable to the new source or modification.~~

~~509.2 The Control Officer shall approve the installation of a system of innovative control technology if the following conditions are met:~~

- ~~a. The owner or operator of the proposed source or modification satisfactorily demonstrates that the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;~~
- ~~b. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 308.1(b) of this rule by a date specified in the permit or permit revision under this rule for the source. Such date shall not be later than four years from the time of start up or seven years from the issuance of a permit or permit revision under this rule;~~
- ~~c. The source or modification would meet requirements equivalent to those in Section 308.1 of this rule based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified in the permit or permit revision under this rule;~~
- ~~d. Before the date specified in the permit or permit revision under this rule, the source or modification would not:
  - ~~(1) Cause or contribute to any violation of an applicable State ambient air quality standard; or~~
  - ~~(2) Impact any area where an applicable increment is known to be violated.~~~~
- ~~e. All other applicable requirements, including those for public participation have been met.~~
- ~~f. The Control Officer receives the consent of the governors of other affected states.~~
- ~~g. The limits on pollutants contained in Rule 500 Attainment Area Classification of these rules for Class I areas will be met for all periods during the life of the source or modification.~~

~~509.3 The Control Officer shall withdraw any approval to employ a system of innovative control technology made under this rule if:~~

- ~~a. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or~~
- ~~b. The proposed system fails before the specified date, so as to contribute to an unreasonable risk to public health, welfare, or safety; or~~
- ~~c. The Control Officer decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.~~

~~509.4 If the new source or major modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with Section 509.3 of this rule, the Control Officer may allow the owner or operator of the source or modification up to an additional three years to meet the requirement for the application of best available control technology (BACT) through use of a demonstrated system of control.~~

**510 AIR QUALITY MODELS:**

~~510.1 Where the Control Officer requires a person requesting a permit or permit revision under this rule to perform air quality impact modeling to obtain such permit or permit revision under this rule, the modeling shall be performed in a~~



manner consistent with the Guideline.

**510.2** Where the person requesting a permit or permit revision under this rule can demonstrate that an air quality impact model specified in the Guideline is inappropriate, the model may be modified or another model substituted. However, before such modification or substitution can occur, the Control Officer must make a written finding that:

- a. No model in the Guideline is appropriate for a particular permit or permit revision under this rule under consideration; or
- b. The data base required for the appropriate model in the Guideline is not available; and
- c. The model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline; and
- d. The model proposed as a substitute or modification has been approved by the Administrator.

**510.3** Use of a modified or substituted model under this rule shall be subject to notice and opportunity for public comment under Rule 210 Title V Permit Provisions of these rules.

**511 VISIBILITY PROTECTION:**

**511.1** For any new major source or major modification subject to the provisions of this rule, no permit or permit revision under this rule shall be issued to a person proposing to construct or to modify the source, unless the applicant has provided:

- a. An analysis of the anticipated impacts of the proposed source on visibility in any Class I areas which may be affected by the emissions from that source; and
- b. Results of monitoring of visibility in any area near the proposed source for such purposes and by such means as the Control Officer determines is necessary and appropriate.

**511.2** A determination of an adverse impact on visibility shall be made based on consideration of all of the following factors:

- a. The times of visitor use of the area.
- b. The frequency and timing of natural conditions in the area that reduce visibility.
- c. All of the following visibility impairment characteristics:
  - (1) Geographic extent;
  - (2) Intensity;
  - (3) Duration;
  - (4) Frequency; and
  - (5) Time of day.
- d. The correlation between the characteristics listed in Section 511.2(c) of this rule and the factors described in Sections 511.2(a) and 511.2(b) of this rule.

**511.3** The Control Officer shall not issue a permit or a permit revision under this rule, or pursuant to Rule 200 Permit Requirements, Rule 210 Title V Permit Provisions, Rule 245 Continuous Source Emission Monitoring, and Rule 270 Performance Tests of these rules, for any new major source or major modification subject to this rule, unless the following requirements have been met:

- a. The Control Officer shall notify the individuals identified in Section 511.3(b) of this rule within 30 days of receipt of any advance notification of any such permit application or permit revision application under this rule.



- ~~b.~~ Within 30 days of receipt of an application for a permit or permit revision under this rule for a source whose emissions may affect a Class I area, the Control Officer shall provide written notification of the application to the Federal Land Manager and to the federal official charged with direct responsibility for management of any lands within any such area. The notice shall:
  - ~~(1)~~ Include a copy of all information relevant to the permit application or to the permit revision application under this rule;
  - ~~(2)~~ Include an analysis of the anticipated impacts of the proposed source on visibility in any area which may be affected by emissions from the source; and
  - ~~(3)~~ Provide for no less than a 30 day period within which written comments may be submitted.
- ~~e.~~ The Control Officer shall consider any analysis provided by the Federal Land Manager that is received within the comment period provided in Section 511.3(b) of this rule.
  - ~~(1)~~ Where the Control Officer finds that the analysis provided by the Federal Land Manager does not demonstrate to the satisfaction of the Control Officer that an adverse impact on visibility will result in the area, the Control Officer shall, within the public notice required by Rule 210 Title V Permit Provisions of these rules, either explain the decision or specify where the explanation can be obtained.
  - ~~(2)~~ When the Control Officer finds that the analysis provided by the Federal Land Manager demonstrates to the satisfaction of the Control Officer that an adverse impact on visibility will result in the area, the Control Officer shall not issue a permit or permit revision under this rule for the proposed new major source or major modification.
- ~~d.~~ When the proposed permit decision is made under Rule 210 Title V Permit Provisions of these rules and available for public review, the Control Officer shall provide the individuals identified in Section 511.3(b) of this rule with a copy of the proposed permit decision and shall make available to them any materials used in making that determination.

**REGULATION II PERMITS AND FEES**

**RULE 240**

**FEDERAL MAJOR NEW SOURCE REVIEW (NSR)**

**INDEX**

**SECTION 100 – GENERAL**

- 101     PURPOSE
- 102     APPLICABILITY

**SECTION 200 – DEFINITIONS (NOT APPLICABLE)**

**SECTION 300 – STANDARDS**

- 301     PERMIT OR PERMIT REVISION REQUIRED
- 302     APPLICATION COMPLETENESS
- 303     AIR IMPACT ANALYSIS FOR ANY GEOGRAPHICAL AREA
- 304     ACTION ON APPLICATION AND NOTIFICATION REQUIREMENTS
- 305     PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES OR MAJOR MODIFICATIONS LOCATED IN NON-ATTAINMENT AREAS
- 306     PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES OR MAJOR MODIFICATIONS LOCATED IN ATTAINMENT OR UNCLASSIFIABLE AREAS



307 STACK HEIGHT AND DISPERSION TECHNIQUES

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

Adopted 11/15/1993; Revised 02/15/1995; Revised 02/07/2001; Revised 05/07/2003; Revised 06/06/2007; Repealed and Adopted xx/xx/xxxx

**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION II PERMITS AND FEES**

**RULE 240**

**FEDERAL MAJOR NEW SOURCE REVIEW (NSR)**

**SECTION 100 GENERAL**

**101** **PURPOSE:** To implement the federal new source review requirements, including nonattainment area new source review requirements of sections 172(c)(5) and 173 of the Clean Air Act for any area designated nonattainment for any national ambient air quality standard under 40 CFR 81.303 and attainment area prevention of significant deterioration requirements of section 165 of the Clean Air Act for any area designated attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Clean Air Act. This is a preconstruction review and permitting program applicable to new or modified major stationary sources in areas designated nonattainment, attainment or unclassifiable.

**102** **APPLICABILITY:** The provisions of this rule apply to any new major stationary source -or major modification to an existing major stationary source of regulated NSR pollutants.

**103** **INCORPORATION BY REFERENCE:** The CFR sections cited in this rule are incorporated by reference at Appendix G of these rules and made part of the Maricopa County Air Pollution Control Regulations.

**SECTION 200 DEFINITIONS:** The definitions applicable throughout this rule are incorporated by reference into Sections 304 and 305 of this rule. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence for this rule. See Rule 100 (General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

**SECTION 300 - STANDARDS**

**301** **PERMIT OR PERMIT REVISION REQUIRED:** No person shall begin actual construction of a new major source or a major modification subject to the requirements of this rule without first obtaining a proposed final permit from the Control Officer, pursuant to Rule 210 Section 303.1(b) of these rules, stating that the major source or major modification shall meet those requirements.

**302** **APPLICATION COMPLETENESS:** An application for a permit or a permit revision under this rule other than a PAL permit pursuant to Sections 304 and 305 of this rule shall not be considered complete unless the application demonstrates that:

**302.1** The impact analyses requirements in Section 304.17 and Section 305 of this rule are met and demonstrate that the new major source or major modification will not interfere with the attainment or maintenance of any applicable NAAQS.

**302.2** The more stringent of the applicable new source performance standards (NSPS) in Section 111 of the Clean Air Act or the existing source performance standards in Regulation III-Control Of Air Contaminants of these rules are applied to the proposed new major source or major modification of a major source.

**302.3** The new major source or major modification will not have an adverse impact on visibility in any Federal Class I area or mandatory Class I Federal area, as determined by Sections 304 and 305 of this rule and will satisfy all the visibility requirements contained in Sections 304 and 305 of this rule. A demonstration of the impact on visibility shall be made



according to 40 CFR 51.307(a), 40 CFR 52.21(o), and (p)(1) through (p)(4) as incorporated by reference in Appendix G of these rules; and shall be included with the application.

**302.4** All applicable requirements of the SIP are met, including but not limited to the requirements contained in Rule 200-Permit Requirements, Rule 210-Title V Permit Provisions, Rule 240-Federal Major Source Review (NSR), Rule 245-Continuous Source Emission Monitoring, and Rule 270-Performance Tests of these rules.

**302.5** The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification. The degree of emission limitation required for control of any pollutant under this rule shall not be affected in any manner by:

- a.** Stack height in excess of GEP stack height except as provided in Section 306 of this rule; or
- b.** Any other dispersion technique, unless implemented prior to December 31, 1970.

**302.6** The new major source or major modification will the applicable standards for hazardous air pollutants contained in Section 112 of the Clean Air Act.

**302.7** The new major source or major modification will comply with all applicable requirements of Regulation III.

**302.8** If a stationary source will emit 5 or more tons of lead per year, that it will not violate the NAAQS for lead.

**303** **ACTION ON APPLICATION AND NOTIFICATION REQUIREMENTS:** Unless the specific requirement has been satisfied under Rule 210 of these rules, the Control Officer shall comply with the following requirements:

**303.1** Within 60 days after receipt of an application for a permit, or a permit revision subject to this rule, or of any addition to such application, the Control Officer shall advise the applicant of any deficiency in the application. The date of receipt of the application shall be, for the purpose of this rule, the date on which the Control Officer received all required information and deemed the application complete. The permit application shall not be deemed complete solely because the Control Officer failed to meet the requirements of this section.

**303.2** Prior to issuing a permit or permit revision pursuant to this rule, the Control Officer shall:

- a.** Make a preliminary determination whether the permit or permit revision or should be approved with conditions or disapproved.
- b.** Make available in at least one location, including the closest Department office, a copy of all materials the applicant submitted, a copy of the preliminary determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination. Permits or permit revisions subject to the provisions in Section 305 of this rule, shall also make available the degree of increment consumption that is expected from the source or modification.
- c.** Publish in at least one newspaper of general circulation in Maricopa County a notice stating the preliminary determination of the Control Officer, noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. The notice shall include the time and place of any hearing that may be held, including a statement of procedure to request a hearing (unless a hearing has already been scheduled).
- d.** Send a copy of the notice requesting public comment to the permit applicant, the Administrator, and the following officials and agencies having cognizance of the location where the proposed major source or major modification would occur:
  - (1)** The Control Officer for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
  - (2)** The Board Of Supervisors for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
  - (3)** The city or town managers of the city or town which contains, and any city or town the boundaries of which are within five miles of the location of the proposed or existing source that is the subject of the permit or permit revision application;
  - (4)** Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and



- (5) Any State, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.
- e. The Control Officer shall consult with the Federal Land Manager on a proposed major stationary source or major modification that may impact visibility in any Class I Area, in accordance with 40 CFR 51.307 as incorporated by reference in Appendix G of these rules.
- f. Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the Control Officer’s judgment such a hearing is warranted. The Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.
- g. Consider all written comments that were submitted within the 30 day public comment period and all comments received at any public hearing in making a final determination on the approvability of the application and make all comments available, including the Control Officer’s response to the comments, for public inspection in the same location where the Control Officer made available preconstruction information relating to the proposed source or modification.
- h. Make a final determination whether the permit or permit revision should be approved with conditions or denied within one year of the proper filing of the complete application. The Control Officer shall notify the applicant in writing of his approval or of his denial.

**303.3** The authority to construct and operate a new major source or major modification under a permit or permit revision issued under this rule shall terminate if the owner and/or operator does not commence the proposed construction within 18 months of issuance, or if during the construction, the owner and/or operator suspends work for more than 18 months. The Control Officer may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

**303.4** Within 30 days of the issuance of any permit under this rule, the Control Officer shall submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Clean Air Act.

**303.5** Prior to issuance of a preliminary decision to issue a permit or permit revision for a new major stationary source or major modification, the Control Officer shall make each of the following determinations:

- a. That the new or modified source will not violate applicable state implementation plan (SIP) requirements.
- b. That the new or modified source will not interfere with the attainment or maintenance of any applicable NAAQS.
- c. For applications subject to Section 305, that the new or modified source will not cause or contribute to a violation of a prevention of significant deterioration (PSD) increment identified in Section 305 of this rule.

**304** **PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES OR MAJOR MODIFICATIONS LOCATED IN NONATTAINMENT AREAS:** New major stationary sources or major modifications proposed to locate in an area designated nonattainment under 40 CFR 81.303 and which would be major for the nonattainment regulated NSR pollutant are considered nonattainment new source review actions and are subject to the requirements in Section 304 of this rule.

**304.1** **Definitions:** The definitions contained in 40 CFR 51.100, 40 CFR 51.301, and 40 CFR 51.165(a)(1) are incorporated by reference in Appendix G of these rules except as provided below:

- a. The following incorporated provisions of 40 CFR 51.165(a)(1) are revised as follows:
  - (1) The definition of “major stationary source” shall include the following: “any stationary source that emits, or has the potential to emit, five or more tons of lead per year.”
  - (2) The term “reviewing authority” shall be replaced with “Control Officer”.
  - (3) In the definition of “net emissions increase”, the term “reasonable period” shall be replaced with “Between the date five years before construction on the date the particular change commences, and the date that the increase from the particular change occurs.”
  - (4) The definition of the term “Projected actual emissions” as defined in 40 CFR 51.165(a)(1)(xxviii) (B)(1) shall be revised to include “Maricopa County” and to read as: “... the company’s filings with Maricopa County, the State or Federal regulatory authorities....”



- b. The following definitions of 40 CFR 51.165(a)(1) are excluded: (xliii), (xliv), (xlv), and (xlvi).
- c. The following definitions in 40 CFR 51.301 are included: “Adverse impact on visibility”, “Natural conditions”, and “Visibility impairment”.

**304.2** **Emission calculation requirements to determine NSR applicability:** Except for an application for a PAL permit subject to Section 304.9, the provisions contained in 40 CFR 51.165(a)(2)(ii)(A) through (F) as incorporated by reference in Appendix G of these rules shall be used to determine if a proposed project will result in a new major stationary source or a major modification to an existing stationary source. These provisions shall not be used to determine the quantity of offsets required for a project subject to the requirements of Section 304.

**304.3** **Emission offsets:** Increased emissions, calculated pursuant to Section 304.5(d), a major source or major modification subject to Section 304 shall be offset by reductions in the emissions of each pollutant for which the area has been designated as nonattainment and for which the source or modification is classified as major. Unless a ratio is provided for the applicable nonattainment area in Section 304.6 of this rule, the ratio of total actual emissions reductions to emission increases shall be at least 1 to 1.

**304.4** **Baseline for determining credit for offsets:** The baseline for determining credit for emissions reductions shall be the actual emissions of the source from which offset credit is obtained.

**304.5** **Offset and emission reduction requirements:**

- a. All emission reductions claimed as offset credit shall meet the provisions contained in 40 CFR 51.165(a)(3)(ii)(A) through (D) as incorporated by reference in Appendix G of these rules and 40 CFR 51.165(a)(3)(ii)(G) as incorporated by reference in Appendix G of these rules.
- b. All emission reductions claimed as offset credits shall be federally enforceable by the time a permit is issued to the owner and/or operator of the major source subject to this Section and shall be in effect by the time the new or modified source subject to the permit commences operations.
- c. Location of offsetting emissions: The applicant of a major source or major modification subject to this rule must obtain offset credits from the same source or from other sources in the same nonattainment area, except that the Control Officer may allow the applicant to obtain offset credits from another nonattainment area if the provisions contained in 40 CFR Part 51 Appendix S (IV)(D) as incorporated by reference in Appendix G of these rules are satisfied.
- d. The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset under this Section shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.
- e. Interpollutant offsetting:
  - (1) For the purposes of satisfying the offset requirements the Control Officer may approve interpollutant emission offsets for precursor pollutants on a case by case basis, except for PM<sub>10</sub>, which is subject to Section 304.5(e)(2), and PM<sub>2.5</sub>, which is subject to Section 304.5(e)(5). In such cases, the Control Officer shall impose, based on an air quality analysis, emission offset ratios in addition to the requirements of Sections 304.3 and 304.6. Interpollutant emission offsets used at a major stationary source must receive written approval by the Administrator.
  - (2) Interpollutant offsets between PM<sub>10</sub> and PM<sub>10</sub> precursors are not allowed.
  - (3) PM<sub>10</sub> emissions shall not be allowed to offset Nitrogen Oxides or Volatile Organic Compound (VOC) emissions in ozone nonattainment areas.
  - (4) In no case shall the compounds excluded from the definition of VOC be used as offsets for VOC.
  - (5) Interpollutant offsets between PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors are not allowed unless modeling has been used to demonstrate appropriate PM<sub>2.5</sub> interpollutant offset ratios as approved in a PM<sub>2.5</sub> Attainment Plan.

**304.6** **Offset ratios for ozone nonattainment areas:** In meeting the emissions offset requirements of Section 304.3 for ozone nonattainment areas, the offset ratio of total actual emissions reductions of VOC or nitrogen oxides to the emissions increase of VOC or nitrogen oxides shall be as follows:



- a. In any marginal nonattainment area for ozone – at least 1.1 to 1;
- b. In any moderate nonattainment area for ozone – at least 1.15 to 1;
- c. In any serious, severe, or extreme nonattainment area for ozone the applicable ratio as provided in 40 CFR 51.165(a)(9)(ii)(C) through (E) and 40 CFR 51.165(a)(9)(iii) as incorporated b reference in Appendix G of these rules.

**304.7 Source Obligations:**

- a. The issuance of a permit or permit revision under this rule in accordance with this section shall not relieve the owner and/or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.
- b. At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.
- c. Any owner and/or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this rule, any changes to the application as required by the Control Officer, or with the terms of its permit, shall be subject to enforcement action.

**304.8 Non-Major Modifications that Result in Reasonable Possibility of Significant Emissions Increase:** The provisions of this section shall apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source, other than at a source with a PAL, in circumstances where there is a reasonable possibility, within the meaning of 40 CFR 51.165(a)(6)(vi), that a project that is not part of a major modification that may result in a significant emissions increase of such pollutant and the owner and/or operator elects to use the method specified in the definition of projected actual emissions in 40 CFR 51.165(a)(1)(xxviii)(B)(1)through(3) for calculating projected actual emissions. The owner and/or operator shall meet the following requirements:

- a. Comply with the procedures in 40 CFR 51.165(a)(6)(i) through (vi) as incorporated by reference in Appendix G of these rules.
- b. Make the information required to be documented and maintained pursuant to this section available for review upon a request for inspection by the Control Officer or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii) as incorporated by reference in Appendix G of these rules.

**304.9 Plantwide Applicability Limits (PAL) Permit:**

- a. Any major stationary source with a PAL permit for a regulated NSR pollutant, shall comply with provisions contained in 40 CFR 51.165(f)(1) through (15) as incorporated by reference in Appendix G of these rules.
- b. The Control Officer may issue a PAL permit for any existing major stationary source if the PAL permit meets the requirements in 40 CFR 52.21(aa) as incorporated by reference in Appendix G of these rules.
- c. The term “PAL” shall mean “actuals PAL” throughout Section 304.9.
- d. The following terms as used in 40 CFR 52.21 (aa) shall be replaced as follows:
  - (1)“The term “Administrator” shall be replaced by the term “Control Officer”
  - (2)“The term “PSD” shall be replaced by the term “NSR”
  - (3)“The term “BACT” shall be replaced by the term “LAER”
  - (4)“The term “Plan” shall be replaced by the term “SIP”

**304.10 Additional Requirements:** Except as provided in Section 304.12 through Section 304.15 of this rule, the Control Officer shall not issue any permit or permit revision under this rule to an applicant proposing to construct a new major source or proposing to make a major modification for the pollutant for which the area is designated nonattainment unless:

- a. The Control Officer has determined that the new major source or the major modification will meet an emission limitation which is the lowest achievable emission rate (LAER) for that source for that regulated NSR pollutant.
- b. The Control Officer has determined that all existing major sources owned or operated by the applicant (or any



entity controlling, controlled by, or under common control with such person) in the State are in compliance with, or are on a schedule of compliance for, all conditions contained in permits for each of the sources and all other applicable emission limitations and standards under the Act and in this rule.

- c. The Control Officer has determined that emission reductions for the specific pollutant(s) from of the new major source or major modification meet the offset requirements of Section 304.3 through 304.6 of this rule.
- d. The Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area.

**304.11** No permit or permit revision under this rule shall be issued for a new major source or major modification to a major source located in a nonattainment area unless:

- a. The applicant performs an analysis of alternative sites, sizes, production processes and environmental control techniques for such new major source or major modification; and
- b. The Control Officer determines that the analysis demonstrates that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

**304.12** Secondary emissions shall not be considered in determining the potential to emit of a new source or modification and therefore whether the new source or modification is major. However, if a new source or modification is subject to this rule on the basis of its direct emissions, a permit or a permit revision, under this rule to construct the new source or modification, shall be denied, unless the requirements in Sections 304.10(a) and (b) of this rule are met, for reasonably quantifiable secondary emissions caused by the new source or modification.

**304.13** A permit to construct a new major source or major modification shall be denied, unless the conditions specified in Sections 304.10(a), 304.10(b), and 304.10(c) of this rule are met for fugitive emissions caused by the new source or modification. However, these conditions shall not apply to a new major source or major modification that would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a source category listed in 40 CFR 51.165(a)(1)(iv)(c)(1) through (27).

**304.14** The requirements of Section 304.10(c) of this rule shall not apply to temporary emissions units, such as pilot plants portable facilities that will be relocated outside of the nonattainment area, and the construction phase of a new source, if those units will operate for no more than 12 months in the nonattainment area, are otherwise in compliance with the requirement to obtain a permit under this rule, and are in compliance with the conditions of that permit.

**304.15** A decrease in actual emissions shall be considered in determining the net emission increase of a new source or modification only to the extent that the Control Officer has not relied on it in issuing any permit or permit revision under these rules (including the issuance of any ERC (Emission Reduction Certificate), or the State has not relied on it in demonstrating attainment or reasonable further progress (RFP).

**304.16** Ambient Air Quality Standards Impact Analysis: The Control Officer may require the use of an air quality model to estimate the effects of a new or modified stationary source. The analysis shall estimate the effects of the new or modified stationary source, and verify that the new or modified stationary source will not prevent or interfere with the attainment or maintenance of any ambient air quality standard. In making this determination the Control Officer shall take into account the mitigation of emissions through offsets pursuant to this rule and the impacts of transported pollutants on downwind pollutant concentrations. The Control Officer may impose, based on an air quality analysis, offset ratios greater than the requirements of Sections 304.3 and 304.6.

**304.17** All estimates of ambient concentrations required pursuant to this rule shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models) as incorporated by in Appendix G of these rules and consistent with the provisions in Rule 200 (Permit Requirements), Section 407 of these rules.

**304.18** The applicant of a proposed new major source or major modification that may affect visibility of a Class I area shall provide the Control Officer with an analysis of impairment to visibility that would occur as a result of the source or modification as required by 40 CFR 51.307(b)(2) as incorporated by reference in Appendix G of these rules and in accordance with 40 CFR 51.166(o) as incorporated by reference in Appendix G of these rules.

**305** **PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES OR MAJOR MODIFICATIONS LOCATED IN ATTAINMENT OR UNCLASSIFIABLE AREAS:** The provisions of this section apply to new major stationary sources and



major modifications to existing major stationary sources located in areas designated as attainment or in areas that are unclassifiable for any criteria air pollutant. The intent of Section 305 of this rule is to incorporate the federal prevention of significant deterioration (PSD) rule requirements into Maricopa County Air Pollution Control Regulations by incorporating the federal requirements by reference.

**305.1 Incorporation by Reference.** The following provisions are incorporated by reference in Appendix G of these rules:

- a. 40 CFR 51.100: Definitions.
- b. 40 CFR 51.166(p): Sources impacting Federal Class I areas—additional requirements.
- c. The following definitions contained in 40 CFR 51.301: “Natural conditions”; and “Visibility impairment”.
- d. 40 CFR 52.21: Prevention of significant deterioration of air quality, except:
  - (1) The following paragraphs of 40 CFR 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (i), (p)(6-8), (q), (s), (t), (u), (w), (x), (y), (z), and (cc).
  - (2) The following incorporated provisions of 40 CFR 52.21 are revised as follows:
    - (a) The term “administrator” shall read as follows:
      - (i) “EPA administrator” in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (j)(2) and (p)(2); and
      - (ii) “Control Officer” elsewhere, as defined in Rule 100.
    - (b) The phrase “paragraph (q) of this section” in 40 CFR 52.21(1)(2) and (p)(1) shall be revised to read as follows: the public participation provisions of Rule 210 of these rules.
    - (3) The definition of the term “Subject to regulation” as defined in 40 CFR 52.21(b)(49) shall be revised to read as follows: “Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.”

**305.2 Additional Requirements:** No permit or permit revision under this rule shall be issued to a applicant proposing to construct a new major source or proposing to make a major modification to a major source that would be constructed in an area designated as attainment or unclassifiable for any regulated NSR pollutant, unless the source or modification meets the provisions of 40 CFR 52.21 as incorporated by reference in Appendix G of these rules and the following conditions:

- a. In addition to the air impact analysis and monitoring requirements under 40 CFR 52.21(k) and (m), the applicant for the permit or permit revision under this rule shall also demonstrate that allowable emissions increases from the proposed major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions would not cause nor contribute to an increase in ambient concentrations for a pollutant in which primary or secondary NAAQS for that pollutant are being violated.
- b. A new major source or a major modification to a major source shall be presumed to contribute to violations of the NAAQS when such source or modification would, at a minimum, exceed the significance levels in 40 CFR 51.165(a)(11)(b)(2) as incorporated by reference in Appendix G of these rules at any locality that does not or would not meet the applicable NAAQS.
- c. A new major source or major modification to a major source subject to Section 305.2(b) may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any NAAQS. In the absence of such emission reductions, the Control Officer shall deny the proposed permit or permit revision.
- d. The presumption provision in Section 305.2(b) of this rule may be rebutted for a new major source or major modification if it can be satisfactorily demonstrated to the Control Officer that emissions with respect to a particular pollutant from the new major source or major modification will not contribute to violations of the NAAQS in designated as nonattainment areas under section 107 of the Clean Air Act.
- e. The demonstration required by Section 305.2(d) of this rule shall include a showing that topographical,



meteorological or other physical factors in the vicinity of the new major source or major modification are such that transport of VOCs emitted from the source are not expected to contribute to violations of the ozone standards in the adjacent nonattainment areas.

**306** **STACK HEIGHT AND DISPERSION TECHNIQUES:** Criteria for good engineering practice for stack heights and dispersion techniques is established as follows:

**306.1** **Incorporation by Reference:** Except as provided below, the definitions contained in 40 CFR 51.100 (gg) “A stack in existence”, (hh) “Dispersion technique”, (ii) “Good engineering practice (GEP)”, (jj) “Nearby”, and (kk) “Excessive concentration” are incorporated by reference in Appendix G of these rules.

**a.** The term “authority administering the State implementation plan” shall be replaced with “Control Officer”.

**b.** The term “EPA, State or local control agency” shall be replaced with “Control Officer”.

**c.** The term “reviewing agency” shall be replaced with “Control Officer”.

**306.2** The degree of emission limitation required of any source for control of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice as determined in accordance with 40 CFR 51.100 (ii) as incorporated by reference in Appendix G of these rules or by any other dispersion technique as defined in 40 CFR 51.100 (hh) as incorporated by reference in Appendix G of these rules, except as provided in Section 306.3.

**306.3** The provisions of Section 306 shall not apply to:

**a.** a stack in existence, or dispersion techniques implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed, or for which major modifications, as defined in this rule, were carried out after December 31, 1970; or

**b.** Coal fired steam electric generating units, subject to the provisions of Section 118 of the Clean Air Act which commenced operation before July 1, 1957, and whose stacks constructed under a construction contract awarded before February 8, 1974.

**306.4** Before the Control Officer issues a permit or permit revision under this rule to a source based on a good engineering practice (GEP) stack height that exceeds the height allowed by 40 CFR 51.100(ii) as incorporated by reference in Appendix G of these rules, the Control Officer shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of Rule 210-Title V Permit Provisions of these rules.

**306.5** Any field study or fluid model used to demonstrate GEP stack height under Section 306.2 and any determination of “excessive concentration” as defined in 40 CFR 51.100 (kk) must be approved by the EPA and the Control Officer prior to any emission limit being established.

**306.6** The provisions of Section 306 do not restrict, in any manner, the actual stack height of any stationary source or facility.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

**REGULATION II - PERMITS AND FEES**

**RULE 241**

**PERMITS FOR NEW SOURCES AND MODIFICATIONS TO EXISTING SOURCES**

**MINOR NEW SOURCE REVIEW (NSR)**

**INDEX**

**SECTION 100 – GENERAL**

101 PURPOSE



102 APPLICABILITY

103 EXEMPTION

**SECTION 200 - DEFINITIONS (~~NOT INCLUDED~~) (NOT APPLICABLE)**

**SECTION 300 - STANDARDS**

301 PERMIT OR PERMIT REVISION REQUIRED

302 BEST AVAILABLE CONTROL TECHNOLOGY (BACT) OR REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIRED

303 REVIEW OF NAAQS COMPLIANCE

~~304~~ BEST AVAILABLE CONTROL TECHNOLOGY (BACT) BACT REQUIRED

~~302~~ REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) RACT REQUIRED

306 BACT DETERMINATIONS

307 RACT DETERMINATIONS

308 NAAQS COMPLIANCE ASSESSMENT

309 APPLICATION DENIAL

310 APPLICATION PROCESSED AS MINOR PERMIT REVISION

311 APPLICATION PROCESSED AS SIGNIFICANT OR NON-MINOR PERMIT REVISION

312 MODELING REQUIRED

313 PERMIT CONDITIONS SPECIFIED PURSUANT TO THIS RULE

~~303~~ 314 CIRCUMVENTION

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (~~NOT INCLUDED~~) (NOT APPLICABLE)**

**SECTION 500 - MONITORING AND RECORDS (~~NOT INCLUDED~~) (NOT APPLICABLE)**

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**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION II PERMITS AND FEES**

**RULE 241**

**PERMITS FOR NEW SOURCES AND MODIFICATIONS TO**

**EXISTING SOURCES**

**MINOR NEW SOURCE REVIEW (NSR)**

**SECTION 100 GENERAL**



- 101** **PURPOSE:** To provide ~~control technology requirements for a procedure for the review of~~ new sources and modifications to existing sources of air pollution requiring permits or permit revisions for the protection of the national ambient air quality standards (NAAQS).
- 102** **APPLICABILITY:** ~~The provisions of this rule shall not apply to new major sources and major modifications to existing major sources subject to the requirements of Rule 240 of these rules. The provisions of this rule shall apply to:~~
- 102.1** The construction of any new Title V or Non-Title V source, except as provided in Section 103 of this rule.
- 102.2** Any minor NSR modification to a Title V or Non-Title V source, except as provided in Section 103 of this rule.
- 102.3** A regulated minor NSR pollutant emitted by a new stationary source, if the source will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold.
- 102.4** An increase in emissions of a regulated minor NSR pollutant from a minor NSR modification, if the modification would increase the source's potential to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold.
- 103** **EXEMPTION:** The provisions of this rule shall not apply to the emissions of a pollutant from any of the activities identified in Section 102 of this rule, if the emissions of that pollutant are subject to major source requirements under Rule 240 (Federal Major New Source Review (NSR)) of these rules.

**SECTION 200 – DEFINITIONS (NOT APPLICABLE)** See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

**SECTION 300 - STANDARDS:**

- 301** **PERMIT OR PERMIT REVISION REQUIRED:** An owner and/or operator of a source shall not begin actual construction:
- 301.1** Of a new stationary source, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.
- 301.2** Of a minor NSR modification, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.
- 302** **BEST AVAILABLE CONTROL TECHNOLOGY (BACT) OR REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIRED:** The Control Officer shall not issue a proposed final Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule to an owner and/or operator of a source proposing to construct a new source or make a minor NSR modification unless such owner and/or operator implements BACT or RACT, as required by Sections 304 or 305 of this rule.
- 303** **REVIEW OF NAAQS COMPLIANCE:** Notwithstanding the implementation of RACT or BACT under this rule, the Control Officer will determine according to Section 308 of this rule that an applicant for a permit subject to this rule will not interfere with attainment or maintenance of a national ambient air quality standard. In making the determination under this section of this rule, the Control Officer shall take into consideration minor NSR thresholds.
- ~~301~~**304** **BEST AVAILABLE CONTROL TECHNOLOGY (BACT) BACT REQUIRED:** An applicant for a permit or permit revision subject to Rules 210, 220, or 230 of these rules shall ~~apply~~ implement BACT for each pollutant emitted which exceeds any of the threshold limits set forth in any one of the following criteria:
- ~~301.1~~ **304.1** Any new stationary source which emits more than ~~150 lbs/day or~~ 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide, or ~~particulate matter~~; more than ~~85 lbs/day or~~ 15 tons/yr of PM10; ~~or more than 550 lbs/day or~~ 100 tons/yr of carbon monoxide; ~~more than 10 tons/yr of~~ PM2.5; ~~or more than 0.3 tons/yr of~~ lead.
- ~~301.2~~ **304.2** Any modified stationary source if the modification causes an increase in emissions ~~on any single day of~~ more than ~~150 lbs/day or~~ 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide ~~or particulate matter~~; more than



~~85 lbs/day or 15 tons/yr of PM10; or more than 550 lbs/day or 100 tons/yr of carbon monoxide; more than 10 tons/yr of PM2.5; or more than 0.3 tons/yr of lead.~~ BACT is only required for the sources or group of sources being modified.

~~302~~**305** ~~REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)~~ **RACT REQUIRED:** An applicant for a permit or permit revision for a new or modified stationary source which emits or causes an increase in emissions of up to ~~150 lbs/day or 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide, or particulate matter;~~ up to 85 lbs/day or 15 tons/yr of PM10; ~~or up to 550 lbs/day or 100 tons/yr of carbon monoxide; up to 10 tons/yr of PM2.5; or up to 0.3 tons/yr of lead shall apply~~ implement RACT for each pollutant emitted from said new or modified stationary source.

**306 BACT DETERMINATIONS:**

- 306.1** An applicant for a permit or permit revision for a new or modified stationary source shall present an emissions analysis to determine whether the future emissions increase will trigger BACT requirements.
- 306.2** The applicant shall conduct a BACT analysis for each pollutant which exceeds the BACT threshold. The applicant may conduct a case-by-case analysis.
- 306.3** The applicant may accept legally and practically enforceable limits on the operation of their source in order to restrict emissions to below the BACT thresholds and avoid imposition of BACT in accordance with Rule 220, Section 304 of these rules. At such time as the applicability of any requirement of this rule would be triggered by an existing source solely by virtue of a relaxation of any enforceable limitation on the capacity of the source to emit a pollutant, then the requirements of this rule will apply to the source in the same way as they would apply to a new or modified source otherwise subject to this rule.
- 306.4** The selection of BACT shall address the control of each emission point for the subject pollutant at a facility or the affected area in the case of a modification.

**307 RACT DETERMINATIONS:** The Control Officer shall determine RACT, as appropriate, for each emission unit subject to the RACT requirements under Section 305 of this rule. RACT shall be determined as follows:

- 307.1** For any facilities subject to a source-specific rule under Regulation III-Control Of Air Contaminants of these rules, RACT is the emissions limitation of the existing source performance standard.
- 307.2** For any facilities not subject to a source-specific rule under Regulation III-Control Of Air Contaminants of these rules, RACT is the lowest emission limitation that a particular source is capable of achieving by the application of control technology that is reasonably available considering technological and economic feasibility and shall be determined by one of the following:
  - a.** Technology that may previously have been applied to a similar, but not necessarily identical, source category. RACT for a particular facility is determined on a case-by-case basis, considering the technological feasibility and cost-effectiveness of the application of the control technology to the source category.
  - b.** A control technique guideline issued by the Administrator under section 108(f)(1) of the Act.
  - c.** An emissions standard established or revised by the Administrator for the same type of source under section 111 or 112 of the Act after November 15, 1990.

**308 NAAQS COMPLIANCE ASSESSMENT:** An ambient air quality assessment must demonstrate that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of a standard imposed in the national ambient air quality standards.

- 308.1** An owner and/or operator of a source may elect to have the Control Officer perform a screen model of its emissions. If the results of the screen model indicate that the source or minor NSR modification will interfere with attainment or maintenance of a standard imposed in the national ambient air quality standards, the owner and/or operator may perform a more refined model to make the demonstration required by this rule.
- 308.2** The requirements of this rule shall be satisfied, if the results of the screen or more refined modeling conducted pursuant to Section 308.1 of this rule demonstrate either of the following:
  - a.** Ambient concentrations resulting from emissions from the source or modification combined with existing concentrations of regulated minor NSR pollutants will not cause or exacerbate the violation of a standard imposed in national ambient air quality standards.



- b.** Emissions from the source or minor modification will have an ambient impact below the significance levels as defined in Rule 240 of these rules.

**308.3** The assessment required by this rule shall take into account any limitations, controls, or emissions decreases that are or will be enforceable in the permit or permit revision for the source.

**309** **APPLICATION DENIAL:** The Control Officer shall deny an application for a Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule, if an assessment conducted pursuant to Section 308 of this rule demonstrates that the source or permit revision will interfere with attainment or maintenance of a standard imposed in the national ambient air quality standards.

**310** **APPLICATION PROCESSED AS MINOR PERMIT REVISION:** An application for a permit or permit revision subject to this rule may be processed as a minor permit revision if all of the following conditions are satisfied for each pollutant subject to Section 305 of this rule:

**310.1** The emissions for each pollutant are below the public notice threshold as defined in Rule 100 of these rules.

**310.2** The result of the screen model for a regulated minor NSR pollutant show expected concentrations, including background concentrations, that are less than 75% of the applicable standard imposed in the national ambient air quality standards.

**310.3** The permit or permit revision meets the criteria of minor permit revision in Rules 210 or 220 of these rules.

**311** **APPLICATION PROCESSED AS SIGNIFICANT OR NON-MINOR PERMIT REVISION:** A copy of the notice required by Rule 210, Section 408 for permits or significant permit revisions or Rule 220, Section 407 of these rules for permits or non-minor permit revisions subject to this rule must also be sent to the Administrator through the appropriate regional office. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under this rule.

**312** **MODELING REQUIRED:** All modeling required pursuant to this rule shall be conducted in accordance with 40 CFR 51, Appendix W.

**313** **PERMIT CONDITIONS SPECIFIED PURSUANT TO THIS RULE:** The Control Officer shall specify those conditions in the permit that are implemented pursuant to this rule. The specified conditions shall be included in subsequent permit renewals unless modified pursuant to this rule or Rule 240 of these rules.

**303314** **CIRCUMVENTION:** The submission of applications for permits or permit revisions for new or modified sources in phases so as to circumvent the requirements of this section is prohibited. The burden of proof to show that an application for a permit or permit revision is not being submitted as a phase of a larger project shall be upon the applicant. A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, conceals or dilutes an emission which would otherwise constitute a violation of this section. A person shall not circumvent this section to dilute air contaminants by using more emission openings than is considered normal practice by the industry or by the activity in question.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

## REGULATION V AIR QUALITY STANDARDS AND AREA CLASSIFICATION

### RULE 500

#### ATTAINMENT AREA CLASSIFICATION

#### INDEX

#### SECTION 100 - GENERAL

101PURPOSE



**SECTION 200 - DEFINITIONS (NOT APPLICABLE)**

SEE RULE 100 (GENERAL PROVISIONS AND DEFINITIONS) OF THESE RULES FOR DEFINITIONS OF TERMS THAT ARE USED BUT NOT SPECIFICALLY DEFINED IN THIS RULE

**SECTION 300 - STANDARDS**

301 CLASSIFICATION AND REDESIGNATION OF ATTAINMENT AREAS

302 LIMITATION OF POLLUTANTS IN CLASSIFIED ATTAINMENT AREAS

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

Revised 07/13/88

~~Repealed and Adopted 11/15/93~~

Revised 07/26/00

Revised 07/13/1988; Repealed and Adopted 11/15/1993; Revised 07/26/2000; Revised xx/xx/xxxx

**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION V AIR QUALITY STANDARDS AND AREA CLASSIFICATION**

**RULE 500**

**ATTAINMENT AREA CLASSIFICATION**

**SECTION 100 GENERAL**

**101 PURPOSE:** To set forth the criteria used to classify attainment areas and pollution standards for attainment areas.

**SECTION 200 - DEFINITIONS (NOT APPLICABLE)**

See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

**SECTION 300 STANDARDS**

**301 CLASSIFICATION AND REDESIGNATION OF ATTAINMENT AREAS:** All attainment and unclassified areas or parts thereof shall be classified as ~~either~~ Class I, Class II or Class III.

**301.1 Class I Areas:** All of the following areas which were in existence on August 7, 1977, including any boundary changes to those areas which occurred subsequent to the date of enactment of the Clean Air Act Amendments of 1977 and before March 12, 1993, shall be Class I areas irrespective of attainment status and shall not be redesignated:

- a. International parks;
- b. National wilderness areas which exceed 5,000 acres in size;
- c. National parks which exceed 6,000 acres in size;
- d. National memorial parks which exceed 5,000 acres in size;

**301.2 Class I or Class II Areas:**

- a. The following areas shall be designated only as Class I or Class II:
  - (1) An area, which, as of August 7, 1977, exceeds 10,000 acres in size and is a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore.



(2) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

b. All other areas, other than those areas described in ~~subsection Section~~ Section 301.2(a) of this rule, shall be Class II areas, unless redesignated under ~~subsection Section~~ Section 301.3 of this rule or ~~subsection Section~~ Section 301.4 of this rule.

**301.3 Redesignation As Class I Area Or Class II Area:** The Control Officer may request the Governor or the Governor's designee to redesignate areas of the state as Class I or Class II, provided that the following requirements are fulfilled:

- a. At least 1 public hearing is held in or near the area affected.
- b. Other states, Indian governing bodies, and Federal Land Managers whose land may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing.
- c. A discussion document of the reasons for the proposed redesignation, including a description and analysis of health, environmental, economic, social, and energy effects of the proposed redesignation, is prepared by the Governor or the Governor's designee. The discussion document shall be made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing shall contain appropriate notification of the availability of such discussion document.
- d. Prior to the issuance of notice respecting the redesignation of an area which includes any Federal lands, the Governor or the Governor's designee has provided written notice to the appropriate Federal Land Manager and afforded the Federal Land Manager adequate opportunity, not in excess of 60 days, to confer with the state respecting the redesignation and to submit written comments and recommendations. The Governor or the Governor's designee shall publish a list of any inconsistency between such redesignation and such recommendations, together with the reasons for making such redesignation against the recommendation of the Federal Land Manager, if any Federal Land Manager has submitted written comments and recommendations.
- e. The redesignation is proposed after consultation with the elected leadership of local governments in the area covered by the proposed redesignation.
- f. The redesignation is submitted to the Administrator of the Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).
- g. A redesignation shall not be effective until approved by the Administrator of EPA as part of an applicable implementation plan.
- h. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body.

**301.4 Redesignation As Class III Area:** The Control Officer may request the Governor or the Governor's designee to redesignate areas of the state as Class III, if all of the following criteria are met:

- a. Such redesignation meets the requirements of ~~subsection Section~~ Section 301.3 of this rule.
- b. Such redesignation has been approved after consultation with the appropriate committee of the legislature if it is in session or with the leadership of the legislature if it is not in session.
- c. The general purpose units of local government representing a majority of the residents of the area to be redesignated concur in the redesignation.
- d. Such redesignation shall not cause, or contribute to, concentration of any air pollutant which exceeds any maximum allowable increase or maximum allowable concentration permitted under the classification of any area.
- e. For any new major source, as defined in Rule 240, Section 210 of these rules, or for a major modification of such source which may be permitted to be constructed and operated only if the area in question is redesignated as Class III, any permit application or related materials shall be made available for public inspection prior to a public hearing.
- f. The redesignation is submitted to the Administrator of EPA as a revision to the SIP.
- g. A redesignation shall not be effective until approved by the Administrator of EPA as part of an applicable implementation plan.
- h. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body.



302 LIMITATION OF POLLUTANTS IN CLASSIFIED ATTAINMENT AREAS:

302.1 Areas designated as Class I, II or III shall be limited to the following increases in air pollutant concentrations occurring over the baseline concentration, provided that for any period other than an annual period, the applicable maximum allowable increase may be exceeded once per year at any one location:

POLLUTION INCREASE LIMITS IN ATTAINMENT AREAS

Maximum Allowable Increase (micrograms per cubic meter)	
<b>CLASS I</b>	
<b>Particulate Matter-PM<sub>2.5</sub>:</b>	
Annual arithmetic mean	1
24-hr maximum	2
<b>Particulate matter-PM<sub>10</sub>:</b>	
Annual arithmetic mean	4
24 hour maximum	8
<b>Sulfur dioxide:</b>	
Annual arithmetic mean	2
24 hour maximum	5
3 hour maximum	25
<b>Nitrogen dioxide:</b>	
Annual arithmetic mean	2.5

Maximum Allowable Increase (micrograms per cubic meter)	
<b>CLASS II</b>	
<b>Particulate matter-PM<sub>2.5</sub>:</b>	
Annual arithmetic mean	4
24-hr maximum	9
<b>Particulate matter-PM<sub>10</sub>:</b>	
Annual arithmetic mean	17
24 hour maximum	30
<b>Sulfur dioxide:</b>	
Annual arithmetic mean	20
24 hour maximum	91
3 hour maximum	512
<b>Nitrogen dioxide:</b>	
Annual arithmetic mean	25

Maximum Allowable Increase (micrograms per cubic meter)	
<b>CLASS III</b>	
<b>Particulate matter-PM<sub>2.5</sub>:</b>	
Annual arithmetic mean	8
24-hr maximum	18
<b>Particulate matter-PM<sub>10</sub>:</b>	
Annual arithmetic mean	34
24 hour maximum	60
<b>Sulfur dioxide:</b>	
Annual arithmetic mean	40
24 hour maximum	182
3 hour maximum	700
<b>Nitrogen dioxide:</b>	
Annual arithmetic mean	50

302.2 The baseline concentration shall be that ambient concentration level which exists in the baseline area at the time of the



applicable minor source baseline date.

a. The major source baseline date is:

- (1) January 6, 1975, for sulfur dioxide and ~~particulate matter PM<sub>10</sub>; and~~
- (2) February 8, 1988, for nitrogen dioxide.
- (3) October 20, 2010, for PM<sub>2.5</sub>.

b. The minor source baseline date shall be the earliest date after ~~August 7, 1977, for sulfur dioxide and particulate matter and February 8, 1988, for nitrogen dioxide, that either: the trigger date on which a major source as defined in Rule 240 of these rules or major modification subject to 40 CFR 52.21 or Rule 240, Sections 305, 307, and 308 of these rules submits a complete application under the relevant regulations. The trigger date is:~~

- (1) August 7, 1977, for PM<sub>10</sub> and sulfur dioxide.
- (2) February 8, 1988, for nitrogen dioxide.
- (3) October 20, 2011, for PM<sub>2.5</sub>.

- (4) ~~A major source, as defined in Rule 240, Section 210 of these rules, or a major modification submits a complete permit application to the Administrator of EPA under 40 CFR 52.21; or~~
- (2) ~~A major source, as defined in Rule 240, Section 210 of these rules, or a major modification submits a complete permit application to the Control Officer under Rules 200, 210, 240, 245, and 270 of these rules.~~

c. A baseline concentration shall be determined for each pollutant for which there is a minor source baseline date and shall include both:

- (1) The actual emissions representative of sources in existence on the minor source baseline date, except as provided in ~~subsection~~ Section 302.2(d) of this rule; and
- (2) The allowable emissions of major sources, as defined in Rule 240, Section 210 of these rules, which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

d. The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:

- (1) Actual emissions from any major source, as defined in Rule 240, Section 210 of these rules, on which construction commenced after the major source baseline date; and
- (2) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

**302.3** The baseline date shall be established for each pollutant for which maximum allowable increases or other equivalent measures have been established if both:

- a. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under ~~either subsections 302.2(b)(1) or 302.2(b)(2) of this rule~~ 40 CFR 52.21 or Rule 240, Section 308 of these rules; and
- b. In the case of a major source, as defined in Rule 240, Section 210 of these rules, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

**302.4** The baseline area shall be any area, with any intrastate area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act, in which the major source, as defined in Rule 240, Section 210 of these rules, or a major modification establishing the minor source baseline date would construct or would have an air quality impact ~~equal to or greater than 1 ug/m<sup>3</sup> (annual average) of~~ for the pollutant for which the minor source baseline date is established as follows: greater than or equal to 1 microgram per cubic meter (annual average) for sulfur dioxide, nitrogen dioxide or PM<sub>10</sub>; or greater than or equal to 0.3 microgram per cubic meter (annual average) for PM<sub>2.5</sub>. Area redesignation under Section 301 of this rule ~~that would redesignate a baseline cannot~~ may not intersect nor be smaller than the area of impact of any new major source, as defined in Rule 240, Section 210 of these rules, or a major modification



which either:

- a. Establishes a minor source baseline date; or
- b. Is subject to either 40 CFR 52.21 or Rule 240, Section 308 of these rules and would be constructed in Arizona.

**302.5** The maximum allowable concentration of any air pollutant in any area to which ~~subsection~~ Section 302.1 of this rule applies shall not exceed a concentration for each pollutant equal to the concentration permitted under the ~~Maricopa County Ambient Air Quality Standards contained in Rule 510 of these rules~~ national ambient air quality standards.

**302.6** For the purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:

- a. Concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of a natural gas curtailment order which is in effect under the provisions of Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, over the emissions from such sources before the effective date of such order;
- b. The concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from using gas by reason of a natural gas curtailment plan in effect under the Federal Power Act, 16 U.S.C. 792 - 825r, over the emissions from such sources before the effective date of the natural gas curtailment plan;
- c. Concentrations of ~~particulate matter~~ PM<sub>10</sub> attributable to the increase in emissions from construction or other temporary activities of a new or ~~altered~~ modified source;
- d. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and
- e. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides or ~~particulate matter~~ PM<sub>10</sub> from major sources, as defined in Rule 240, Section 210 of these rules, when the following conditions are met:
  - (1) The permit issued to such sources specifies the time period during which the temporary emissions increase of sulfur dioxide, nitrogen oxides or ~~particulate matter~~ PM<sub>10</sub> would occur. Such time period shall not be renewable and shall not exceed 2 years unless a longer period is specifically approved by the Control Officer.
  - (2) No emissions increase shall be approved which would either:
    - (a) Impact any portion of any Class I area or any portion of any other area where an applicable incremental ambient standard is known to be violated in that portion; or
    - (b) Cause or contribute to the violation of a state ambient air quality standard.
  - (3) The permit issued to such sources specifies that at the end of the time period described in ~~subsection~~ Section 302.6(e)(1) of this rule, the emissions levels from the sources would not exceed the levels occurring before the temporary emissions increase was approved.
- f. The exception granted with respect to increment consumption under ~~subsections~~ Sections 302.6(a) and 302.6(b) of this rule shall not apply more than 5 years after the effective date of the order or natural gas curtailment plan on which the exception is based.

**302.7** If the Control Officer determines that the SIP is substantially inadequate to prevent significant deterioration, or that an applicable maximum allowable increase as specified in ~~subsection~~ Section 302.1 of this rule is being violated, the Control Officer shall submit to the Director a proposal to revise the SIP to correct the inadequacy or the violation. The SIP shall be revised within 60 days of such a finding by the Director, or within 60 days following notification by the Control Officer or the Administrator of EPA, or by such later date as prescribed by the Administrator of EPA after consultation with the Director.

**302.8** The Control Officer shall review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable maximum allowable increase is being violated.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**



**SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)**

**REGULATION V AIR QUALITY STANDARDS AND AREA CLASSIFICATION**

**RULE 510**

**AIR QUALITY STANDARDS**

**INDEX**

**SECTION 100 GENERAL**

- 101 PURPOSE
- 102 AVAILABILITY OF INFORMATION

**SECTION 200 DEFINITIONS**

- 201 PRIMARY AMBIENT AIR QUALITY STANDARDS
- 202 SECONDARY AMBIENT AIR QUALITY STANDARDS

**SECTION 300 STANDARDS**

- 301 PARTICULATE MATTER - 2.5 MICRONS OR LESS (PM<sub>2.5</sub>)
- 302 PARTICULATE MATTER 10 MICRONS OR LESS (PM<sub>10</sub>)
- 303 SULFUR OXIDES (SULFUR DIOXIDE)
- 304 OZONE
- 305 CARBON MONOXIDE
- 306 ~~NITROGEN DIOXIDE~~ NITROGEN OXIDES (NITROGEN DIOXIDE)
- 307 LEAD
- 308 POLLUTANT CONCENTRATION DETERMINATIONS
- 309 ADDITIONAL REQUIREMENTS
- 310 INCORPORATIONS BY REFERENCE

**SECTION 400 ADMINISTRATIVE REQUIREMENTS**

- 401 REPORTING OF AMBIENT AIR QUALITY MONITORING DATA

**SECTION 500 MONITORING AND RECORDS (NOT APPLICABLE)**

~~Revised 07/13/88~~

~~Revised 11/01/06~~

Revised 07/13/1988; Revised 11/01/2006; Revised xx/xx/xxxx



MARICOPA COUNTY

AIR POLLUTION CONTROL REGULATIONS

REGULATION V AIR QUALITY STANDARDS AND AREA CLASSIFICATION

RULE 510

AIR QUALITY STANDARDS

SECTION 100 GENERAL

101 PURPOSE: To establish maximum limiting levels for pollutants existing in the ambient air which are necessary to protect human health and public welfare.

102 AVAILABILITY OF INFORMATION: Copies of materials referenced in Sections 310, 401.1, and 401.2 of this rule are available at 1001 North N. Central Avenue Ave., Suite 400, Phoenix, AZ, 85004 or call (602) 506-6010.

SECTION 200 - DEFINITIONS: See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply: For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

201 PRIMARY AMBIENT AIR QUALITY STANDARDS - The ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.

202 SECONDARY AMBIENT AIR QUALITY STANDARDS - The ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.

SECTION 300 STANDARDS: The following are established as the primary and secondary ambient air quality standards for Maricopa County:

301 PARTICULATE MATTER - 2.5 MICRONS OR LESS (PM2.5):

301.1 Primary and Secondary Ambient Air Quality Standards for PM2.5 Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 45 12 micrograms per cubic meter (µg/m³). The standard shall be considered attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 45 12 µg/m³.

301.2 Primary and Secondary Ambient Air Quality Standards for PM2.5 24-hour Average Concentration: The 24-hour average concentration shall be 65 35 µg/m³. The standard shall be considered attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 65 35 µg/m³.

302 PARTICULATE MATTER 10 MICRONS OR LESS (PM10):

302.1 Primary and Secondary Ambient Air Quality Standards for PM10 Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 50 µg/m³. The standard shall be considered attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to 50 µg/m³.

302.2 Primary and Secondary Ambient Air Quality Standards Standard for PM10 24-hour Average Concentration: The 24-hour average concentration shall be 150 µg/m³. This concentration shall not be exceeded more than once per calendar year at any one location. The standard shall be considered attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with 40 CFR 50,



Appendix K, is less than or equal to ~~4~~ one.

**303 SULFUR OXIDES (SULFUR DIOXIDE):**

**303.1 Primary Ambient Air Quality Standards for Sulfur Oxides (Measured as Sulfur Dioxide):**

- a. **Annual Arithmetic Mean Concentration:** The annual arithmetic mean concentration shall be 0.030 parts per million (ppm) (~~80  $\mu\text{g}/\text{m}^3$~~ ) (~~80  $\text{g}/\text{m}^3$~~ ). This concentration shall not be exceeded more than once in a calendar year. The annual arithmetic mean shall be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm shall be rounded up).
- b. **24-hour Concentration:** The maximum 24-hour concentration shall be 0.14 ppm (~~365  $\mu\text{g}/\text{m}^3$~~ ) (~~365  $\text{g}/\text{m}^3$~~ ). This concentration shall not be exceeded more than once per calendar year at any one location. The 24-hour averages shall be determined from successive nonoverlapping 24-hour blocks starting at midnight each calendar day and shall be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm shall be rounded up).
- c. **1-hour Concentration:** The maximum 1-hour concentration shall be 75 parts per billion (ppb) 75 parts per billion (ppb). The one-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of the daily maximum one-hour average concentrations is less than or equal to 75 parts per billion, as determined according to 40 CFR 50, Appendix T.
- d. The standards in Sections 303.1(a) and (b) of this rule shall apply:
  - (1) In an area designated nonattainment for the standard in Sections 303.1(a) and (b) of this rule as of August 23, 2011, and areas not meeting a state implementation plan call for a standard in Sections 303.1(a) and (b) of this rule until the state submits pursuant to section 191 of the Act, and the Administrator approves, a state implementation plan providing for attainment of the standard in Section 303.1(c) of this rule in that area.
  - (2) In areas other than those identified in Section 303.1(d) of this rule, until the effective date of the designation of that area, pursuant to section 107 of the Act, for the standard in Section 303.1(c) of this rule.

**303.2 Secondary Ambient Air Quality Standard for Sulfur Oxides (Measured as Sulfur Dioxide) 3-Hour**

**Concentration:** The maximum 3-hour concentration shall be 0.5 ppm (~~1300  $\mu\text{g}/\text{m}^3$~~ ) (~~1300  $\text{g}/\text{m}^3$~~ ). This concentration shall not be exceeded more than once per calendar year at any one location. The 3-hour averages shall be determined from successive non-overlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

**304 OZONE:**

**Primary and Secondary Ambient Air Quality Standards for Ozone Eight-hour Average Concentration:**

The daily maximum eight-hour average concentration shall be ~~0.08 ppm~~ 0.075 ppm. The standard shall be considered attained at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration, as determined in accordance with 40 CFR 50, Appendix ~~K~~ P, is less than or equal to ~~0.08 ppm~~ 0.075 ppm.

**305 CARBON MONOXIDE:**

**305.1 Primary Ambient Air Quality Standards for Carbon Monoxide:**

- a. **One-hour Average Concentration:** The maximum one-hour average concentration shall be 35 ppm (40  $\text{mg}/\text{m}^3$ ). This concentration shall not be exceeded more than once per year at any one location.
- b. **Eight-hour Average Concentration:** The maximum eight-hour average concentration shall be 9 ppm (10  $\text{mg}/\text{m}^3$ ). This concentration shall not be exceeded more than once per year at any one location. An eight-hour average shall be considered valid if at least 75% of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using 6 or 7 as the divisor.

**305.2** When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in ppm shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.



306 NITROGEN DIOXIDE ~~OXIDES~~ (NITROGEN DIOXIDE):

Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 0.053 ppm (100 µg/m<sup>3</sup>). The standard shall be considered attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete, or upon data derived from manual methods that is at least 75% complete for the scheduled sampling days in each calendar quarter.

**306.1** The primary ambient air quality standards for oxides of nitrogen, measured in the ambient air as nitrogen dioxide, are:

- a. **Annual Concentration:** 53 parts per billion. The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with 40 CFR, Appendix S for the annual standard.
- b. **One Hour Concentration:** 100 parts per billion. The one-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 parts per billion, as determined in accordance with 40 CFR 50, Appendix S.

**306.2** ~~306.2~~ The secondary ambient air quality standard for oxides of nitrogen is 0.053 parts per million (100 micrograms per cubic meter) – annual arithmetic mean.

- a. The standard shall be considered attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up.
- b. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete, or upon data derived from the manual methods, that is at least 75% complete for the scheduled sampling days in each calendar quarter.

307 LEAD:

Primary and Secondary Ambient Air Quality Standards for Lead Quarterly Maximum Arithmetic Mean Concentration: The maximum arithmetic mean concentration for lead and its compounds, measured as elemental lead, shall be 1.5 µg/m<sup>3</sup>, as averaged over a calendar quarter.

**307.1** The primary and secondary ambient air quality standards for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix G and designated in accordance with 40 CFR 53, or by an equivalent designated in accordance with 40 CFR 53.

**307.2** The national primary and secondary ambient air quality standards for lead are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR 50, Appendix R, is less than or equal to 0.15 micrograms per cubic meter.

**307.3** The former primary and secondary ambient air quality standards for lead of 1.5 micrograms per cubic meter averaged over a calendar quarter shall apply to an area until one year after the effective date of the designation of that area, pursuant to section 107 of the Act, for the standards in Section 307.1 of this rule.

308 POLLUTANT CONCENTRATION DETERMINATIONS: Pollutant concentrations shall be measured by the following methods:

**308.1** **Appendices to 40 CFR 50:** Pollutant concentrations shall be measured by the following appendices to 40 CFR 50:

Pollutant	<u>40 CFR 50</u>
Particulate Matter (PM <sub>2.5</sub> )	Appendix L
	<u>Appendix N</u>
Particulate Matter (PM <sub>10</sub> )	Appendix J
	<u>Appendix K</u>



Sulfur Oxides (Sulfur Dioxide)	Appendix A <u>Appendix A-1</u>
Ozone	Appendix D <u>Appendix P</u>
Carbon Monoxide	Appendix C
Nitrogen Dioxide	Appendix F <u>Appendix S</u>
Lead	Appendix G <u>Appendix R</u>

**308.2 Reference or Equivalent Methods:** Pollutant concentrations shall also be measured by:

- a. A method of measurement that has been designated as a reference or equivalent method by the Administrator acting pursuant to 40 CFR 53; or
- b. A method of measurement that, though not designated as a reference or equivalent method, has been approved for use by the Administrator acting pursuant to 40 CFR 58, Appendix C. Such method shall be subject to any restrictions placed on its use by the Administrator.

**308.3 Method Withdrawal:** The cancellation or supersession of designation of a reference or equivalent method by the Administrator acting pursuant to 40 CFR 53.11 or 53.16, shall also amount to a withdrawal of the authorization for use of that method for purposes of this regulation.

**309 ADDITIONAL REQUIREMENTS:**

- 309.1** Quality assurance, monitor siting, and sample probe installation procedures shall be in accordance with the procedures described in the Appendices to 40 CFR 58.
- 309.2** Unless otherwise specified, interpretation of all ambient air quality standards contained in this rule shall be in accordance with 40 CFR 50.
- 309.3** The evaluation of air quality data in terms of procedure, methodology, and concept is to be consistent with methods described in 40 CFR 50.

**310 INCORPORATIONS BY REFERENCE:** The CFR references listed below are incorporated by reference in Appendix G of these rules:

- 40 CFR 50;
- 40 CFR 50, Appendices A through N;
- 40 CFR 53;
- 40 CFR 58.26 and 40 CFR 58.50; and
- 40 CFR 58, all appendices.

**SECTION 400 ADMINISTRATIVE REQUIREMENTS**

**401 REPORTING OF AMBIENT AIR QUALITY MONITORING DATA:**

- 401.1 Annual Air Quality Monitoring Report:** The Control Officer shall submit to the Administrator an annual summary report that at a minimum meets the requirements of 40 CFR 58.26 and 40 CFR 58, Appendix F. The annual report will be made available to the public at the address listed in Section 102 of this rule.
- 401.2 Daily Air Quality Index (AQI) Report:** The Control Officer shall report to the general public an AQI that at a



minimum meets the requirements of 40 CFR 58.50 and 40 CFR 58, Appendix G. The AQI will also be made available to the public at the address listed in Section 102 of this rule.

**SECTION 500 MONITORING AND RECORDS (NOT APPLICABLE)**

**REGULATION VI - EMERGENCY EPISODES**

**RULE 600**

**EMERGENCY EPISODES**

**INDEX**

**SECTION 100 - GENERAL**

- 101 PURPOSE
- 102 EPISODE PROCEDURES GUIDELINES

**SECTION 200 - DEFINITIONS**

- 201 EMERGENCY EPISODE PLAN

**SECTION 300 - STANDARDS**

- 301 EPISODE LEVEL CRITERIA
- 302 CONTROL ACTIONS

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

- 401 EPISODE TERMINATION
- 402 COORDINATION WITH THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY

**SECTION 500 - MONITORING AND RECORDS (NOT INCLUDED)**

~~Revised 07/13/88~~

Revised 07/13/1988; Revised xx/xx/xxxx

**MARICOPA COUNTY**

**AIR POLLUTION CONTROL REGULATIONS**

**REGULATION VI - EMERGENCY EPISODES**

**RULE 600**

**EMERGENCY EPISODES**

**SECTION 100 - GENERAL**

- 101 PURPOSE:** To establish criteria used to determine air pollution emergency episodes and the appropriate control actions. This rule describes control and advisory procedures reached at each of the three episode levels.
- 102 EPISODE PROCEDURES GUIDELINES:** Guidelines for the procedures and communication steps to be followed during an air pollution episode are presented in ~~Appendices D and E of the Arizona Air Pollution Control Implementation Plan, the Arizona Department of Environmental Quality's "Procedures for Prevention of Emergency Episodes," amended as of October 18, 1988 (and no future edition).~~



**SECTION 200 - DEFINITIONS:** ~~For the purpose of this rule, the following definition shall apply:~~ For the purpose of this rule, the following definition shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definition in this rule takes precedence.

**201 EMERGENCY EPISODE PLAN:** A system designed to reduce the levels of air contaminants which may reach or have reached the level which may be harmful to health, and to protect that portion of the population at risk.

**SECTION 300 - STANDARDS**

**301 EPISODE LEVEL CRITERIA:** An air pollution alert, warning or emergency shall be declared when the following air pollutant concentrations are exceeded at any monitoring site and when meteorological conditions indicate that there will be a recurrence of those concentrations for the same pollutant(s) during the subsequent 24-hour period:

EPISODE LEVEL CRITERIA				
<u>Pollutant</u>	<u>Averaging Time</u>	<u>Alert</u>	<u>Warning</u>	<u>Emergency</u>
Sulfur Dioxide (ug/m <sup>3</sup> )	24-hr	800	1,600	2,100
Small Particulates(PM <sub>10</sub> ) (ug/m <sup>3</sup> )	24-hr	350	420	500
Fine Particulates (PM <sub>2.5</sub> ) (ug/m <sup>3</sup> )	24-hr	350	420	500
Total Particulates (ug/m <sup>3</sup> )	24-hr	375	625	875
Sulfur Dioxide and Particulates Combined (ug/m <sup>3</sup> )	24-hr	6.5x10 <sup>4</sup>	26.1x10 <sup>4</sup>	39.3x10 <sup>4</sup>
Ozone (ug/m <sup>3</sup> )	1-hr	400 (0.2ppm)	800 (0.4ppm)	1,000 (0.5ppm)
Nitrogen Dioxide (ug/m <sup>3</sup> )	1-hr	1,130	2,260	3,000
	24-hr	282	565	750
Carbon Monoxide mg/m <sup>3</sup>	8-hr	17 (15 ppm)	34 (20 ppm)	46 (40 ppm)

**302 CONTROL ACTIONS:** When an air pollution alert, warning or emergency has been declared, one or more of the control actions as applicable to the source emitting the pollutant of concern shall be implemented in the affected area.

**302.1 Control Actions - Air Pollution Alert**

- a. All permits to burn shall be suspended until further notice. The forest service shall be notified to postpone slash burning in affected areas.
- b. Incineration shall be limited to the hours of 12 noon to 4:00 p.m.
- c. Those manufacturing facilities with prearranged emission reduction plans as noted in the State Air Pollution Control Implementation Plan shall be notified to initiate alert stage control actions. Other sources shall be notified to minimize emissions by curtailing or deferring operations not on a required schedule and by maximizing the collection efficiency of control equipment. Emissions from batch operations shall be limited to the hours of 12 noon to 4:00 p.m.
- d. The public shall be requested to voluntarily eliminate all unnecessary usage of motor vehicles.

**302.2 Control Actions - Air Pollution Warning**

- a. Burning of refuse, vegetation, trade wastes, and debris shall not be permitted by any person.
- b. Use of incinerators shall be prohibited.
- c. Those manufacturing facilities with prearranged emission reduction plans as noted in the Arizona Air Pollution Control Implementation Plan shall be notified to initiate warning stage control actions. Other sources shall be notified to initiate a 40 percent or greater reduction in emissions by curtailment or cessation of operations. All processing industries shall be requested to effect a maximum reduction in heat load demands.
- d. If possible, power plant generating loads shall be transferred outside the affected area. Power plant production shall be reduced by purchase of available energy from neighboring utilities.
- e. Highway construction and paving activities shall be halted. All soil removal or grading operations at other construction sites shall be postponed.
- f. Dust producing crop preparation and cultivation activities shall be postponed. A maximum reduction in agricultural processing and handling operations shall be effected.



- g. The public shall be requested to voluntarily reduce motor vehicle usage by use of carpools and other means of transportation and elimination of unnecessary operation.

**302.3 Control Actions - Air Pollution Emergency**

- a. Those manufacturing facilities with prearranged emission reduction plans as noted in the Arizona Air Pollution Control Implementation Plan shall be notified to initiate emergency stage control actions. Other manufacturing establishments shall cease operations as directed by the Governor.
- b. As directed by the Governor, all commercial, governmental, and institutional establishments, except those vital for public safety and welfare and enforcement of the emergency episode control actions, shall be closed.
- c. Generating loads at power plants shall be reduced further, resulting from industrial and commercial cutbacks.
- d. All construction shall be halted as directed by the Governor except that which must proceed to avoid emergent physical harm.
- e. As directed by the Governor, use of motor vehicles shall be prohibited except in emergencies with approval of the local police.

**SECTION 400 - ADMINISTRATIVE REQUIREMENTS**

- 401 EPISODE TERMINATION:** Once declared, any status reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At such time, the next lower status will be assumed.
- 402 COORDINATION WITH THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY:** When the conditions justifying the proclamation of an air pollution alert, warning, or emergency are determined to exist in any place in Maricopa County, the Control Officer shall be guided by the following criteria as established by state regulation R18-2-219, and cooperate directly with the State Director, Arizona Department of Environmental Quality in all pertinent areas of control and surveillance.
  - 402.1** If the average wind speed for 24 hours is greater than 9.0 miles per hour, the criteria levels for particulates and sulfur dioxide and particulates combined shall not apply and no source control actions shall be taken.
  - 402.2** If, after an alert or warning episode level has been declared, and air pollution concentrations and meteorological conditions do not deteriorate further, or improve after 48 hours and control actions have been taken, the next higher episode shall be declared and its associated control actions implemented.

**SECTION 500 - MONITORING AND RECORDS (NOT INCLUDED)**

Adopted 07/26/00

Revised 08/22/01

**APPENDIX D**

**List Of Insignificant Activities**

The List of Insignificant Activities is a list of most common insignificant activities. An insignificant activity is any activity, process, or emissions unit that is not subject to a source specific applicable requirement and that emits no more than 0.5 ton per year of hazardous air pollutants (HAPs) and no more than 2 tons per year of a regulated air pollutant. Source specific applicable requirements include requirements for which emissions unit-specific information is needed to determine applicability.

Pursuant to Rule 200 of these rules, a Non-Title V source is not required to list nor to describe insignificant activities in a permit application. If a Non-Title V source's emissions are approaching an applicable requirement, then such Non-Title V source may also be required to include, in a permit application, a description of its insignificant activities and emissions calculations for such insignificant activities.

Pursuant to Rule 200 of these rules, a Title V source, in a permit application, may, rather than supplying detailed information, list and generally group its insignificant activities. However, an application may not omit information regarding insignificant activities that is needed to determine: (1) applicability of or to impose any applicable requirement; (2) whether the source is in compliance with applicable requirements; or (3) the fee amount required under these rules.

An activity, process, or emissions unit that is not included in this list may be considered an insignificant activity, if it meets the definition of



insignificant activity in Rule 100 (General Provisions and Definitions) of these rules and is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA). A source may request approval for the classification of an activity as insignificant by including such a request in its permit application, along with justification that such activity meets the definition of insignificant activity in Rule 100 (General Provisions and Definitions) of these rules.

**Food Processing Equipment:**

1. Any confection cooker and associated venting or control equipment cooking edible products intended for human consumption.
2. Any oven in a food processing operation where less than 1,000 pounds of product are produced per day of operation.

**General Combustion Activities:**

1. All natural gas and/or liquefied petroleum gas fired pieces of equipment over 300,000 BTU per hour, only if the input capacities added together are less than 2,000,000 BTU per hour, the emissions come from fuel burning, and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.
2. Any oil fueled heating piece of equipment (except off spec. oil) with a maximum rate input capacity or an aggregate input capacity of less than:
  - (a) 500,000 BTU/hour if only emissions came from fuel burning, or
  - (b) 1,000,000 BTU/hour if only emissions came from fuel burning and the equipment is used solely for heating buildings for personal comfort or for producing hot water for personal use.

**Surface Coating And Printing Equipment:**

1. Any equipment or activity using no more than one gallon per day of surface coating or any combination of surface coating and solvent, which contains either VOC or hazardous air pollutants (HAPs) or both.

**Solvent Cleaning Equipment:**

1. Any non-vapor cleaning machine (degreaser) or dip tank having a liquid surface area of 1 square foot (0.09 square meters) or less, or having a maximum capacity of 1 gallon (3.79 liters) or less.

**Internal Combustion (IC) Equipment:**

1. IC engine driven compressors, IC engine driven electrical generator sets, and IC engine driven water pumps used only for emergency replacement or standby service (including testing of same), not to exceed 4,000 pounds of NO<sub>x</sub> and CO at 500 hours of operation per year.
2. Any piston type IC engine with a manufacturer's maximum continuous rating of no more than 50 brake horsepower (bhp).

**Laboratories And Pilot Plants:**

1. Lab equipment used exclusively for chemical and physical analyses.

**Storage And Distribution:**

1. Chemical or petroleum storage tanks or containers that hold 250 gallons or less and would have emissions of a regulated air pollutant.
2. Any emissions unit, operation, or activity that handles or stores no more than 12,000 gallons of a liquid with a vapor pressure less than 1.5 psia.
3. Any equipment used exclusively for the storage of unheated organic material with: (1) an initial boiling point of 150° Centigrade (C) (302° Fahrenheit (F)) or greater, as determined by ASTM test method 1078-86; or (2) a vapor pressure of no more than 5 millimeters mercury (mmHg) (0.1 pound per square inch (psi) absolute), as determined by ASTM test method D-2879-86.
4. Any equipment with a capacity of no more than 4,200 gallons (100 barrels) used exclusively to store oil with specific gravity 0.8762 or higher (30° API or lower), as measured by API test method 2547 or ASTM test method D-1298-80.
5. Any equipment used exclusively for the storage of liquefied gases in unvented pressure vessels, except for emergency pressure-relief valves.
6. Any equipment used exclusively to compress or hold dry natural gas. Any ICE or other equipment associated with the dry natural



gas should not be considered an insignificant activity, unless such ICE or other equipment independently qualifies as an insignificant activity.

- 7. Any equipment used exclusively for the storage of fresh, commercial, or purer grade of: (1) sulfuric or phosphoric acid with acid content of no more than 99% by weight; or (2) nitric acid with acid content of no more than 70% by weight.

Miscellaneous Activities:

- 1. Any blast cleaning equipment using a suspension of abrasive material in water and the control equipment venting such blast cleaning equipment.
- 2. Cooling towers: Any water cooling tower which: (1) has a circulation rate of less than 10,000 gallons per minute; and (2) is not used to cool process water, water from barometric jets, or water from barometric condensers.
- 3. Batch mixers with rated capacity of 5 cubic feet or less.
- 4. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons per hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units, which are used to crush or grind any non-metallic minerals.
- 5. Any other activity pursuant to Rule 200 of these rules, which meets all of the following requirements:
  - (a) Is not otherwise subject to a source-specific applicable requirement.
  - (b) Is not needed to determine all applicable requirements, compliance status, or fee amounts.
  - (c) Does not emit more than 0.5 ton per year of hazardous air pollutants (HAPs) or more than 2 tons per year of a regulated air pollutant, and
  - (d) Is approved by the Control Officer and the Administrator of the Environmental Protection Agency (EPA).
- 6. Any brazing, soldering, welding, or cutting torch equipment used in manufacturing and construction activities and with the potential to emit hazardous air pollutant (HAP) metals, provided the total emissions of HAPs do not exceed 0.5 tons per year.
- 7. Hand held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood.
- 8. Any aerosol can puncturing or crushing operation that processes less than 500 cans per day, provided such operation uses a closed loop recovery system.
- 9. Any laboratory fume hood or vent, provided such equipment is used exclusively for the purpose of teaching, research, or quality control.

Adopted 07/26/00

Revised 08/22/01

APPENDIX E

List Of Trivial Activities

The List of Trivial Activities is a list of most common trivial activities. A trivial activity is any activity, process, or emissions unit that has extremely low emissions and is not subject to a source-specific requirement. An activity, process, or emissions unit that is conducted as part of a manufacturing process or is related to the source's primary business activity is not considered trivial.

Pursuant to Rule 200 of these rules, Title V sources and Non-Title V sources are not required, in permit applications, to list trivial activities, to describe trivial activities, nor to include the emissions from trivial activities.

General Combustion Activities:

- 1. Combustion emissions from propulsion of mobile sources, except for vessel emissions from outer continental shelf sources.

Surface Coating And Printing Equipment:

- 1. Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compounds (VOC) or hazardous air pollutants (HAPs).

**Cleaning Equipment:**

1. Laundry activities, except for dry-cleaning and steam boilers.

**Internal Combustion Equipment:**

1. Internal combustion (IC) engines used for landscaping purposes.
2. Emergency (backup) electrical generators at residential locations.

**Testing And Monitoring Equipment:**

1. Routine calibration and maintenance of laboratory equipment or other analytical instruments.
2. Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.
3. Hydraulic and hydrostatic testing equipment.
4. Environmental chambers not using HAP gases.
5. Shock chambers.
6. Humidity chambers.
7. Solar simulators.
8. Vents from continuous emissions monitors and other analyzers.

**Office Equipment:**

1. Air conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act.
2. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.
3. Consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproduction.
4. Bathroom/toilet vent emissions.
5. Tobacco smoking rooms and areas.
6. Consumer use of paper trimmers/binders.

**Repair And Maintenance:**

1. Janitorial services and consumer use of janitorial products.
2. Plant maintenance and upkeep activities (e.g., groundskeeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. Cleaning and painting activities qualify, if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners and/or operators must still get a permit, if otherwise required.
3. Repair or maintenance shop activities not related to the source's primary business activity (excluding emissions from surface coating or degreasing (solvent metal cleaning) activities) and not otherwise triggering a permit modification.

**Storage And Distribution:**

1. Storage tanks, vessels, containers holding or storing liquid substances that will not emit any VOC or HAPs. Exemptions for storage tanks containing petroleum liquids or other VOCs should be based on size limits and vapor pressure of liquids stored and are not appropriate for this list.
2. Demineralized water tanks and demineralizer vents.
3. Boiler water treatment operations, not including cooling towers.

**Hand Operated Equipment:**



- 1. Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic.
- 2. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation.
- 3. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device.
- 4. Air compressors and pneumatically operated equipment, including hand tools.

Food Equipment:

- 1. Non-commercial food preparation.

Water And Waste Water Treatment:

- 1. Process water filtration systems and demineralizers.
- 2. Oxygen scavenging (de-aeration) of water.

Emergency Equipment:

- 1. Fire suppression systems.
- 2. Emergency road flares.

Roadways And Motor Vehicles:

- 1. Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted.

Miscellaneous Activities:

- 1. Blacksmith forges.
- 2. Brazing, soldering and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals.
- 3. Batteries and battery charging stations, except at battery manufacturing plants.
- 4. Storage tanks, reservoirs, and pumping and handling equipment, of any size, containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
- 5. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
- 6. Drop hammers or hydraulic presses for forging or metalworking.
- 7. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.
- 8. CO<sub>2</sub> lasers, used only on metals and other materials which do not emit HAPs in the process.
- 9. Electric or steam heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves, or the boilers delivering the steam.
- 10. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants.
- 11. Laser trimmers using dust collection to prevent fugitive emissions.
- 12. Ozone generators.
- 13. Steam vents and safety relief valves.
- 14. Steam leaks.
- 15. Steam cleaning operations.
- 16. Steam sterilizers.
- 17. Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment.
- 18. Bench-scale laboratory equipment used for physical or chemical analysis, but not lab fume hoods or vents.

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**REGISTER INDEXES**

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The *Register* is published by volume in a calendar year (See “Information” in the front of each issue for a more detailed explanation).

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

PN = Proposed new Section  
PM = Proposed amended Section  
PR = Proposed repealed Section  
P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
SPM = Supplemental proposed amended Section  
SPR = Supplemental proposed repealed Section  
SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**

FN = Final new Section  
FM = Final amended Section  
FR = Final repealed Section  
F# = Final renumbered Section

**SUMMARY RULEMAKING****PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
PSMM = Proposed Summary amended Section  
PSMR = Proposed Summary repealed Section  
PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**

FSMN = Final Summary new Section  
FSMM = Final Summary amended Section  
FSMR = Final Summary repealed Section  
FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING****PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
PEM = Proposed Expedited amended Section  
PER = Proposed Expedited repealed Section  
PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
SPEM = Supplemental Proposed Expedited amended Section  
SPER = Supplemental Proposed Expedited repealed Section  
SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**

FEN = Final Expedited new Section  
FEM = Final Expedited amended Section  
FER = Final Expedited repealed Section  
FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING****EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
PXM = Proposed Exempt amended Section  
PXR = Proposed Exempt repealed Section  
PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
SPXR = Supplemental Proposed Exempt repealed Section  
SPXM = Supplemental Proposed Exempt amended Section  
SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULMAKING**

FXN = Final Exempt new Section  
FXM = Final Exempt amended Section  
FXR = Final Exempt repealed Section  
FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**

EN = Emergency new Section  
EM = Emergency amended Section  
ER = Emergency repealed Section  
E# = Emergency renumbered Section  
EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

TN = Terminated proposed new Sections  
TM = Terminated proposed amended Section  
TR = Terminated proposed repealed Section  
T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**

EXP = Rules have expired

*See also “emergency expired” under emergency rulemaking*

**CORRECTIONS**

C = Corrections to Published Rules

## 2015 Arizona Administrative Register Volume 21 Page Guide

Issue 1, Jan. 2, 2015.....1-46	Issue 11, March 13, 2015.....375-406	Issue 21, May 22, 2015.....707-742
Issue 2, Jan. 9, 2015 ..... 47-112	Issue 12, March 20, 2015.....407-432	Issue 22, May 29, 2015.....743-774
Issue 3, Jan. 16, 2015..... 113-152	Issue 13, March 27, 2015.....433-482	Issue 23, June 5, 2015.....775-818
Issue 4, Jan. 23, 2015 ..... 153-172	Issue 14, April 3, 2015.....483-516	Issue 24, June 12, 2015.....819-864
Issue 5, Jan. 30, 2015 ..... 173-196	Issue 15, April 10, 2015.....517-538	Issue 25, June 19, 2015.....865-916
Issue 6, Feb. 6, 2015..... 197-228	Issue 16, April 17, 2015.....539-566	Issue 26, June 26, 2015.....917-954
Issue 7, Feb. 13, 2015.....229-262	Issue 17, April 24, 2015.....567-606	Issue 27, July 3, 2015.....955-996
Issue 8, Feb. 20, 2015.....263-284	Issue 18, May 1, 2015.....607-632	Issue 28, July 10, 2015.....997-1072
Issue 9, Feb. 27, 2015.....285-320	Issue 19, May 8, 2015.....633-666	Issue 29, July 17, 2015.....1073-1146
Issue 10, March 6, 2015.....321-374	Issue 20, May 15, 2015.....667-706	Issue 30, July 24, 2015.....1147-1220

### RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the *Register* issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

#### THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 30 OF VOLUME 21.

<p><b>Arizona Health Care Cost Containment System - Administration</b></p> <p>R9-22-730. PXM-5; PXM-491; FXM-637; PXM-1041</p> <p>R9-22-1301. PM-823</p> <p>R9-22-1303. PM-823</p> <p>R9-22-1304. PM-823</p> <p><b>Arizona Health Care Cost Containment System - Arizona Long-term Care System</b></p> <p>R9-28-202. PM-487</p> <p>R9-28-206. PM-487</p> <p><b>Behavioral Health Examiners, Board of</b></p> <p>R4-6-602. EM-521</p> <p><b>Barbers, Board of</b></p> <p>R4-5-101. PM-869</p> <p>R4-5-102. PM-869</p> <p>R4-5-103. PM-869</p> <p>R4-5-104. PM-869</p> <p>R4-5-105. PR-869</p> <p>R4-5-106. PM-869</p> <p>R4-5-107. PM-869</p> <p>R4-5-108. PM-869</p> <p>Table 1. PN-869</p> <p>R4-5-109. P#-869; PM-869</p> <p>R4-5-201. PM-869</p> <p>R4-5-202. PM-869</p> <p>R4-5-203. PM-869</p> <p>R4-5-204. P#-869</p> <p>R4-5-301. PM-869</p> <p>R4-5-302. PM-869</p> <p>R4-5-303. PM-869</p>	<p>R4-5-304. PM-869</p> <p>R4-5-305. PN-869</p> <p>R4-5-401. PM-869</p> <p>R4-5-402. PM-869</p> <p>R4-5-403. PM-869</p> <p>R4-5-404. PM-869</p> <p>R4-5-405. PM-869</p> <p>Exhibit 1. PM-869</p> <p>Exhibit 2. PM-869</p> <p>R4-5-406. PM-869</p> <p>R4-5-407. PM-869</p> <p>R4-5-408. PM-869</p> <p>R4-5-409. PM-869</p> <p>R4-5-410. PR-869</p> <p>R4-5-411. PM-869</p> <p>R4-5-501. PM-869</p> <p>R4-5-502. PM-869</p> <p><b>Clean Elections Commission, Citizens</b></p> <p>R2-20-107. PXM-779</p> <p>R2-20-109. PXM-781</p> <p>R2-20-110. PXM-785</p> <p>R2-20-111. PXM-787</p> <p>R2-20-113. PXN-789</p> <p>R2-20-204. PXM-790</p> <p>R2-20-205. PXM-831</p> <p>R2-20-206. PXM-792</p> <p>R2-20-402.01. PXM-833</p> <p>R2-20-703. PXM-834</p> <p>R2-20-704. PXM-836</p> <p><b>Collateral Pool, Statewide</b></p> <p>R2-14-101. FN-233</p> <p>R2-14-102. FN-233</p> <p>R2-14-103. FN-233</p> <p>R2-14-104. FN-233</p>	<p>R2-14-105. FN-233</p> <p>R2-14-106. FN-233</p> <p>R2-14-107. FN-233</p> <p>R2-14-108. FN-233</p> <p>R2-14-109. FN-233</p> <p><b>Corporation Commission - Fixed Utilities</b></p> <p>R14-2-1805. FM-379</p> <p>R14-2-1812. FM-379</p> <p><b>Corporation Commission - Transportation</b></p> <p>R14-5-202. PM-674</p> <p>R14-5-203. PM-674</p> <p>R14-5-204. PM-674</p> <p>R14-5-205. PM-674</p> <p>R14-5-207. PM-674</p> <p><b>Dental Examiners, State Board of</b></p> <p>R4-11-1202. FM-921</p> <p>R4-11-1701. PM-671</p> <p><b>Economic Security, Department of - State Assistance Programs</b></p> <p>R6-13-201. EXP-157</p> <p>R6-13-202. EXP-157</p> <p>R6-13-203. EXP-157</p> <p>R6-13-204. EXP-157</p> <p>R6-13-205. EXP-157</p> <p>R6-13-206. EXP-157</p> <p>R6-13-207. EXP-157</p> <p>R6-13-208. EXP-157</p> <p>R6-13-209. EXP-157</p> <p>R6-13-210. EXP-157</p> <p>R6-13-211. EXP-157</p> <p>R6-13-212. EXP-157</p> <p>R6-13-213. EXP-157</p> <p>R6-13-214. EXP-157</p>
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R4-18-501.	PM-201	R12-2-202.	FR-573;	R15-2C-202.	EXP-465
R4-18-502.	PM-201		FN-573	R15-2C-204.	EXP-465
R4-18-904.	EM-51;	R12-2-203.	FR-573;	<b>Secretary of State, Office of</b>	
	EM-928		FN-573	R1-1-101.	FM-117
<b>Power Authority, Arizona</b>		R12-2-204.	FR-573;	R1-1-103.	FM-117
R12-14-602.	FR-297		FN-573	R1-1-104.	FM-117
R12-14-603.	FN-297	R12-2-205.	FR-573;	R1-1-105.	FM-117
R12-14-604.	FN-297		FN-573	R1-1-106.	FM-117
R12-14-605.	FN-297	R12-2-206.	FR-573;	R1-1-107.	FM-117
R12-14-606.	FN-297		FN-573	R1-1-109.	FM-117
R12-14-607.	FN-297	R12-2-207.	FR-573;	R1-1-110.	FM-117
R12-14-608.	FN-297		FN-573	R1-1-114.	FM-117
R12-14-609.	FN-297	R12-2-208.	FN-573	R1-1-202.	FM-117
R12-14-610.	FN-297	R12-2-301.	FR-573;	R1-1-205.	FM-117
R12-14-611.	FN-297		FN-573	R1-1-211.	FM-117
R12-14-612.	FN-297	R12-2-302.	FN-573	R1-1-302.	FM-117
R12-14-613.	FN-297	R12-2-303.	FN-573	R1-1-401.	FM-117
R12-14-614.	FN-297	R12-2-304.	FN-573	R1-1-414.	FM-117
R12-14-615.	FN-297	R12-2-305.	FN-573	R1-1-502.	FM-117
R12-14-616.	FN-297	R12-2-401.	FR-573;	R1-1-801.	FR-117;
R12-14-617.	FN-297		FN-573		FN-117
R12-14-618.	FN-297	R12-2-402.	FR-573;	R1-1-802.	FN-117
R12-14-619.	FN-297		FN-573	R1-1-803.	FN-117
R12-14-620.	FN-297	R12-2-403.	FR-573;	R1-1-1001.	FM-117
R12-14-621.	FN-297		FN-573	<b>State Real Estate Department</b>	
R12-14-622.	FN-297	R12-2-404.	FR-573;	R4-28-405.	EXP-757
R12-14-623.	FN-297		FN-573	<b>Transportation, Department of - Commercial Programs</b>	
R12-14-624.	FN-297	R12-2-405.	FR-573;	R17-5-301.	FXM-1096
R12-14-625.	FN-297		FN-573	R17-5-302.	FXM-1096
R12-14-626.	FN-297	R12-2-406.	FR-573;	R17-5-303.	FXN-1096
R12-14-627.	FN-297		FN-573	R17-5-304.	FXN-1096
R12-14-628.	FN-297	R12-2-501.	FR-573	R17-5-305.	FXN-1096
R12-14-629.	FN-297	R12-2-502.	FR-573	R17-5-306.	FXN-1096
R12-14-630.	FN-297	R12-2-503.	FR-573	R17-5-307.	FXN-1096
R12-14-631.	FN-297	R12-2-504.	FR-573	R17-5-308.	FXN-1096
R12-14-632.	FN-297	R12-2-505.	FR-573	R17-5-309.	FXN-1096
<b>Public Safety, Department of - Concealed Weapons Permits</b>		R12-2-506.	FR-573	R17-5-310.	FXN-1096
R13-9-302.	EXP-795	R12-2-601.	FR-573	R17-5-311.	FXN-1096
R13-9-305.	EXP-795	R12-2-602.	FR-573	R17-5-312.	FXN-1096
R13-9-307.	EXP-795	R12-2-603.	FR-573	R17-5-313.	FXN-1096
R13-9-308.	EXP-795	R12-2-604.	FR-573	R17-5-314.	FXN-1096
R13-9-309.	EXP-795	R12-2-605.	FR-573	R17-5-315.	FXN-1096
R13-9-310.	EXP-795	<b>Retirement System Board, State</b>		R17-5-316.	FXN-1096
<b>Racing Commission, Arizona</b>		R2-8-104.	PM-959	R17-5-317.	FXN-1096
R19-2-205.	FXM-640	R2-8-115.	PM-959	R17-5-318.	FXN-1096
R19-2-401.	FXM-643	R2-8-118.	PM-959	R17-5-319.	FXN-1096
<b>Radiation Regulatory Agency</b>		R2-8-120.	PM-959	R17-5-320.	FXN-1096
R12-1-1215.	FM-289	R2-8-123.	PM-959	R17-5-321.	FXN-1096
Table A.	FM-289	R2-8-126.	PM-959	<b>Transportation, Department of - Title, Registration, and Driver Licenses</b>	
R12-1-1302.	FM-289	R2-8-401.	PM-959	R17-4-401.	FXM-1092
R12-1-1306.	FM-289	R2-8-501.	PM-959	R17-4-404.	FXM-1092
<b>Radiation Regulatory Agency - Medical Radiologic Technology Board of Examiners</b>		R2-8-601.	PM-959	<b>Weights and Measures, Department of</b>	
R12-2-101.	FM-573	R2-8-701.	PM-959	R20-2-101.	PM-437
R12-2-102.	FM-573	<b>Revenue, Department of - General Administration</b>		R20-2-901.	PM-437
R12-2-104.	FR-573;	R15-10-108.	EXP-1197	R20-2-902.	PM-437
	FN-573	R15-10-109.	EXP-1197	R20-2-903.	PM-437
		R15-10-118.	EXP-1197	R20-2-904.	PM-437
R12-2-201.	FR-573;	R15-10-202.	EXP-1197	R20-2-906.	PM-437
	FN-573	<b>Revenue, Department of - Income and Withholding Tax Section</b>		R20-2-907.	PM-437

R20-2-908.	PM-437	R20-2-1004.	FN-437	R20-2-1011.	FN-437
R20-2-909.	PM-437	R20-2-1005.	FN-437	R20-2-1012.	FN-437
R20-2-910.	PM-437	R20-2-1006.	FN-437	R20-2-1013.	FN-437
R20-2-913.	FN-437	R20-2-1007.	FN-437	Table 1.	FN-437
R20-2-1001.	FN-437	R20-2-1008.	FN-437		
R20-2-1002.	FN-437	R20-2-1009.	FN-437		
R20-2-1003.	FN-437	R20-2-1010.	FN-437		

**OTHER NOTICES AND PUBLIC RECORDS INDEX**

Other notices related to rulemakings are listed in the Index by notice type, agency/county and by volume page number. Agency policy statements and proposed delegation agreements are included in this section of the Index by volume page number.

Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index as published by volume page number.

**THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 30 OF VOLUME 21.**

**Agency Guidance Documents, Notices of**

**Health Services, Department of;** pp. 22-23, 325-326, 647  
**Revenue, Department of;** pp. 890-893

**Agency Ombudsman, Notices of**

**Child Safety, Department of;** pp. 466, 1054  
**Early Childhood Development and Health Board;** p. 25  
**Game and Fish Commission;** p. 142  
**Health Services, Department of;** p. 498  
**Lottery Commission, State;** p. 526  
**Psychologist Examiners, Board of;** p. 25  
**Registrar of Contractors;** p. 729

**County Notices Pursuant to A.R.S. § 49-112**

**Maricopa County;** p. 984  
**Pima County;** pp. 469-471, 852-853  
**Pinal County;** pp. 422, 501-506, 802-808, 902-906

**Governor's Office**

**Executive Order:** pp. 26-27, 102-103, 143-144 (E.O. #2012-03); 163-164 (E.O. #2015-01); 216 (E.O. #2015-02); 552-553 (E.O. #2015-03); 760-761 (E.O. #2015-04); 975 (E.O. #2015-05);  
**Proclamations:** pp. 615-621; 652-654; 693-696; 798-801, 847-851, 899-901, 976-983; 1059-1060, 1130-1134, 1203-1207

**Governor's Regulatory Review Council**

**Notices of Action Taken:** pp. 193, 317, 479-480, 563-564, 771, 951, 1217

**Oral Proceeding on Proposed Rulemaking, Notices of**

**Child Safety, Department of;** 1055  
**Optometry, Board of;** p. 9  
**Psychologist Examiners, Board of;** p. 1199

**Proposed Delegation Agreement, Notices of**

**Environmental Quality, Department of;** p. 267-269, 496, 894-895, 1124

**Public Information, Notices of**

**Agriculture, Department of - Livestock & Crop Conservation Grant Program;** p. 896  
**Arizona Health Care Cost Containment System;** p. 727, 840, 1051  
**Child Safety, Arizona Department of;** p. 1051  
**Emergency and Military Affairs, Department of - Division of Military Affairs;** p. 159  
**Environmental Quality, Department of;** pp. 11-20, 77-87  
**Environmental Quality, Department of - Pesticides and Water Pollution Control;** p. 687-689  
**Environmental Quality, Department of - Water Pollution Control;** p. 1126  
**Environmental Quality, Department of - Water Quality Control;** pp. 327-360, 840-842  
**Environmental Quality, Department of - Water Quality Standards;** p. 160  
**Health Services, Department of;** pp. 21, 177-179, 241, 361-362, 413  
**Health Services, Department of - Health Programs Services;** p. 611  
**Optometry, Board of;** p. 11

**Secretary of State, Office of the;** p. 160-161

**Rulemaking Docket Opening, Notices of**

**Arizona Health Care Cost Containment System - Administration;** p. 839  
**Arizona Health Care Cost Containment System - Arizona Long-term Care System;** p. 495  
**Barbers, Board of;** p. 889  
**Board of Dental Examiners, State;** p. 524  
**Corporation Commission, Arizona - Transportation;** p. 685  
**Cosmetology, Board of;** p. 1122  
**Emergency and Military Affairs, Department of - Division of Emergency Management;** p. 1198  
**Fire, Building and Life Safety, Department of;** p. 1123  
**Game and Fish Commission;** p. 759, 1049  
**Lottery Commission, Arizona State;** pp. 972, 973  
**Physicians Medical Board, Naturopathic;** p. 215  
**Public Safety, Department of - School Buses;** p. 646  
**Retirement System Board, State;** p. 726, 931  
**Weights and Measures, Department of;** p. 412  
**Substantive Policy Statement, Notices of**  
**Environmental Quality, Department of;** pp. 88-101, 137-139, 162, 307, 591, 612, 690  
**Game and Fish Commission;** p. 141

**Greater Arizona Development Authority;** pp. 391-392

**Health Services, Department of;** pp. 140, 180-182, 242-249, 270-272, 416-419, 648, 843-844

**Insurance, Department of;** p. 591-593

**Nursing, Board of;** p. 136

**Psychologist Examiners, Board of;** p. 24

**Real Estate, Department of;** p. 551

**Revenue, Department of;** p. 932-939

**Technical Registration, Board of;** pp. 414-415

**Water Infrastructure Finance Authority;** pp. 393-395

**Water Resources, Department of;** p. 183



RULE EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

Table with 12 columns: January (Date Filed, Effective Date), February (Date Filed, Effective Date), March (Date Filed, Effective Date), April (Date Filed, Effective Date), May (Date Filed, Effective Date), June (Date Filed, Effective Date). Rows list dates from 1/1 to 1/31 and corresponding effective dates.



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from April 17, 2015 to October 30, 2015.



## GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and *Register* deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5:00 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit [www.grrc.state.az.us](http://www.grrc.state.az.us).

DEADLINE TO BE PLACED ON COUNCIL AGENDA	FINAL MATERIALS DUE FROM AGENCIES	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
November 17, 2014	December 17, 2014	December 30, 2014	January 6, 2015
December 15, 2014	January 14, 2015	January 27, 2015	February 3, 2015
January 20, 2015	February 11, 2015	February 24, 2015	March 3, 2015
February 17, 2015	March 18, 2015	March 31, 2015	April 7, 2015
March 16, 2015	April 15, 2015	April 28, 2015	May 5, 2015
April 20, 2015	May 13, 2015	May 28, 2015	June 2, 2015
May 18, 2015	June 17, 2015	June 30, 2015	July 7, 2015
June 15, 2015	July 15, 2015	July 28, 2015	August 4, 2015
July 20, 2015	August 12, 2015	August 25, 2015	September 1, 2015
August 17, 2015	September 16, 2015	September 29, 2015	October 6, 2015
September 21, 2015	October 14, 2015	October 27, 2015	November 3, 2015
October 19, 2015	November 12, 2015	November 24, 2015	December 1, 2015
November 16, 2015	December 16, 2015	December 29, 2015	January 5, 2016